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### By Email

Claire Baker, MSP  
Convener

Economy and Fair Work Committee  
[economyandfairwork.committee@parliament.scot](mailto:economyandfairwork.committee@parliament.scot)

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Reply to: Edinburgh Office  
Department: Senior Management  
Contact: Jennifer Henderson  
Telephone: 0131 357 8199  
Email: [Jennifer.henderson@ros.gov.uk](mailto:Jennifer.henderson@ros.gov.uk)  
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Dear Convener

## EFW COMMITTEE – ROS RESPONSE TO EVIDENCE SESSION – SEPT 2022

Thank you for the opportunity to attend the Economy and Fair Work Committee on Wednesday 07 September 2022 to give evidence. During the session I committed to follow up on several points, and I am pleased to advise that the further information requested can be found below.

### Income and Expenditure

In the evidence session the Committee noted that it would like to see more information on the income and expenditure projections as set out in the corporate plan. I said that I would be happy to consider what further information we could provide. As noted in the session our workforce planning activity is ongoing. With this in mind, we will respond privately with the information we are able to share at this point in time.

### Registration open case work, Expedite process and Rejections

I would like to take the opportunity to note that significantly reducing the volume of open casework is my top priority. As we discussed at the session, the legal effect of registration backdates to the day on which we receive the application. This means an owner can still go ahead with selling, re-mortgaging or making changes to their land or property. However, I do not underestimate the fact that transacting on an open application or resolving an issue with an open application can be time consuming and difficult for the solicitors involved and I am grateful for the work they do. For my part I am committed to doing everything I possibly can to minimise the impact on solicitors and their clients whilst we are delivering our plan to clear the open casework.

In the evidence session there was particular discussion around two topics related to open casework; expedite and rejections. I thought it would be helpful to set out some additional detail on those subjects.

## Expedite

There are some cases when delay to completing an application may cause a person a specific problem, such as:

- financial loss or hardship
- the loss of future transactions
- personal loss or hardship

Our service allows customers to submit a request for that application to be expedited in those circumstances. The decision on whether to expedite a case depends solely on the merits of the application. It either meets the stated criteria or it does not. We don't, for example, refuse based on how long it might take or the complexity, though plainly those factors will influence the time to completion.

We work with customers to ensure that all relevant information which may support a request is included so that we have everything we need to make an appropriate judgement. If a case fails to meet the criteria and we are required to refuse an expedite request, we continue to work with the customer. Further discussions will take place so that all alternative means to resolve the issue are explored. In most cases this will address the customer's need.

Although our expedite process works well, we are currently taking steps to improve it. These steps are focussed on working closely with users of the service to ensure that they are clear on the information we require to expedite a case, and on ensuring we work to a completion timescale which is relevant for each individual transaction. Some expedites will require to be completed within 24 hours, whereas others may have a longer lead time (such as those which are requested because of the settlement date of a pending transaction). I have included further data on expedite numbers below. You will see that the percentage of expedites put in context of the overall number of land register applications despatched is low. We will monitor the impact of the improvements we are making to the expedite service and will include updates where relevant in my regular updates to the committee.

Financial Year	Intake	% Approved	EXP Percentage Despatched v LR Despatches
2018-19	749	71%	0.26%
2019-20	2,193	60%	0.34%
2020-21	1,627	52%	0.31%
2021-22	2,599	49%	0.34%
2022-23	903	65%	0.49%

## Rejection

Rejections happen where there is a mistake made by the applicant in the application form or the deed. They can be fundamental errors (such as where a person attempts to sell land they do not own) or they can be more administrative in nature (a deed has been improperly witnessed for example). The vast majority are administrative.

We have processes in place to catch mistakes as early in our process as possible. Minimising rejections helps reduce the amount of additional work for all parties. Accordingly, we are working closely with our customers to ensure they have the data and information they need to avoid mistakes and the resulting rejections.

Solicitors are also becoming increasingly familiar with digital ways of working. This is supported by our new submission systems (Register Land and Property) which will help by increasing standardisation and automation thereby further reducing the potential for errors.

Where we have been unable to identify a rejection early enough in the process (within the first three months) we will seek to avoid rejection where that is possible and in the best interests of the application. In the rare circumstance where a case does have to be rejected, we have an effective process to ensure they can be fast-tracked through the system when they are re-submitted. This happens automatically and does not require a separate expedite request.

The table below contains the total number of cases rejected outside a three-month window since June 2018. It is then broken down by percentage/year. The most important aspect for customers is avoiding a rejection after intake, where the case may have been with RoS for a period of time. You will see from the figures that the percentage rejection after 3 months is extremely low. In all cases any options for avoiding rejection will be discussed with the applicant and, in many of the cases which are rejected, the applicant will have chosen that option as the best available.

This data includes all applications rejected from our casework system. This means that it includes cases which have been rejected for internal administration purposes but where there has been no legal rejection. For example, where no deed has been rejected but we have cleared administrative applications which were not required and would have no impact on the applicant.

Period	Rejections over 3m	Apps Received in Period	% rejected over 3m
June 2018 - July 2022	3,602	1,380,658	0.3%

**2017 Casework - Strategy, Timeline and Demonstrating Progress**

In the evidence session the Committee requested “an outline of your specific strategy for dealing with cases from 2017 and reflect on what threads of that will influence your strategy for dealing with backlog cases from subsequent years.”

A key driver of our strategy is the ongoing work that we continue to do with partners in the legal community. I have regular meetings with the Law Society of Scotland, and we engage and listen to solicitors on a daily basis in the course of our collective work and shared goals.

Taking on board the feedback from Scotland’s legal community, our plan is to ringfence our volume of existing open casework and then begin to drive it down, placing a stronger emphasis on dealing with new cases more quickly to stem the flow of cases being added to the total.

Only 1% of cases from 2017 remain open and KPI reports show we are clearing pre-2022 cases at the rate we anticipated each quarter. The strategy is predicated on us building capacity and then using that additional capacity to accelerate the rate at which we are clearing our oldest cases, balanced with the need to complete expedite applications. That strategy is working, and we have begun to free colleagues up from

other tasks to work on 2017 cases in particular. However, I do recognise that more requires to be done there.

To help us in this important work, we encourage the legal and conveyancing community to continue to embrace the digital service roll out. The increasing digitalisation of our services will support us to achieve our targets as this will allow us to free up colleagues who will be able to focus on more complex cases. We are encouraged that we are starting to see results in this area of our strategy, and we are approaching the point at which we will start to be able to utilise additional staff capacity to work on the more complex cases.

In the meantime, we will continue to have close communication with solicitors to ensure that we act in an agile and responsive manner so that they can get applications completed when they need them. As noted above, by means of additional support we also have our expedite service and our no rejections beyond three months policy.

The Committee noted that we cannot get rid of our backlog by simply updating our terminology. I absolutely agree. Our change in terminology was made with our customers in mind and coincided with the introduction of our new performance pages. The new page on open casework provides greater context around the total volumes of applications that RoS completes. By communicating messages around the volume of casework (all new cases entering RoS minus all existing cases cleared) we will present a more rounded picture of those applications which have been completed and those that are still 'open' and undergoing registration.

Using this language will better convey to our customers that although a case may have taken a while to complete it is still active. It will also reassure customers that we are doing everything we can to ensure that our total volume of casework stabilises and doesn't grow any further, thereby not adding to the backlog.

The Committee asked when we would be able to show figures on casework progress on pre 2022 cases. This is already available on our [performance pages](#) and is updated on a monthly basis.

In terms of our future projections, we expect the clearance of 2017 cases to accelerate and are moving more people on to that work now. We will keep the effectiveness of that under close review and report regularly to the committee on the progress. We will also continue to provide numbers on the 2017 cases in our monthly updates to you.

## **Risk Management**

We agreed that we would provide you with information privately around our risk management as this contains some sensitive information. I have written to you separately on this topic.

## **Data and Transparency**

RoS was disappointed to hear that the Committee felt that there were areas where our transparency could be improved. Transparency is one of our guiding principles and we take our accountability to the committee extremely seriously.

We would also note that in Audit Scotland's latest external annual audit report they concluded we operate in an open and transparent manner and our website provides easy access to key information. It was published on 07 October and is now available on their [website](#). We encourage the Committee to read the findings.

We acknowledge that there were elements of our Corporate Plan projections in which we were unable to provide figures as planning is still underway. However, overall, I would suggest to the Committee that RoS has made significant efforts to live up to best practice around transparency.

In addition to the recently launched performance pages on the website, I would note that in the month prior to the evidence session, RoS received and responded to around 76 questions from SPICe. I also made myself available, alongside Chris Kerr – RoS' Registration and Policy Director, for a one-to-one session with the SPICe researcher which lasted 75 mins.

We hope that this information plus the additional information provided in the private response will reassure the Committee regarding our commitment to transparency.

### **Land Register Completion**

The Committee noted that levels of land register completion vary across Scotland. To further expand on the points raised in the session I have noted some additional information below which you may find helpful. Variation may be due to a variety of factors, such as:

- the land register was introduced in stages over a number of years. This means not all areas in Scotland entered the register at the same time
- different parts of the country will have different types of property stock. For example, social housing or large rural estates. Property of this type is unlikely to change hands on a regular basis
- property market forces impact differently across the country

I would also note that the figures quoted on our website are a combination of land that is in the land register, casework which is currently in progress at RoS and data unlocked through Unlocking Sasines.

### **Committee Dates**

RoS publish our Annual Report and Accounts late September and our Corporate plan late March on an annual basis. I note that our last Committee Appearances have fallen shortly ahead of these publications going live. In order for the Committee to have the most up to date information to refer to in their lines of questioning, I wonder if the Committee would consider scheduling our future appearances following these publications. I will revert to the Committee to decide if this is a possibility that be considered for future evidence sessions.

I hope that this information is helpful to your continued scrutiny, however if I can provide the Committee with anything further, please let me know.

Yours sincerely



**JENNIFER HENDERSON**  
**Keeper of the Registers of Scotland**