



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Economy and Fair Work Committee

Wednesday 30 October 2024

Session 6



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Wednesday 30 October 2024

CONTENTS

	Col.
INTERESTS.....	1
DECISION ON TAKING BUSINESS IN PRIVATE	2
REGISTERS OF SCOTLAND.....	3

ECONOMY AND FAIR WORK COMMITTEE

27th Meeting 2024, Session 6

CONVENER

Claire Baker (Mid Scotland and Fife) (Lab)

DEPUTY CONVENER

*Michelle Thomson (Falkirk East) (SNP)

COMMITTEE MEMBERS

- *Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
- *Murdo Fraser (Mid Scotland and Fife) (Con)
- *Jamie Halcro Johnston (Highlands and Islands) (Con)
- *Gordon MacDonald (Edinburgh Pentlands) (SNP)
- *Lorna Slater (Lothian) (Green)
- *Colin Smyth (South Scotland) (Lab)
- *Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jennifer Henderson (Registers of Scotland)
Chris Kerr (Registers of Scotland)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament
Economy and Fair Work
Committee

Wednesday 30 October 2024

*[The Deputy Convener opened the meeting at
09:30]*

Interests

The Deputy Convener (Michelle Thomson): Good morning, and welcome to the 27th meeting in 2024 of the Economy and Fair Work Committee. We have received apologies from our convener, Claire Baker, who is absent due to other parliamentary business. As the deputy convener, I will convene the meeting in her place.

The first item of business is a declaration of interests by Jamie Halcro Johnston, who is a newly reappointed member of the committee. He replaces Brian Whittle, and I put on record the committee's thanks to Brian for his contribution. I welcome back Jamie Halcro Johnston and invite him to declare any relevant interests.

Jamie Halcro Johnston (Highlands and Islands) (Con): Thank you, deputy convener. I have nothing to declare other than the fact that I am a partner in a farming business and the owner of a registered croft.

The Deputy Convener: Thank you for noting that.

**Decision on Taking Business in
Private**

09:31

The Deputy Convener: Our next item of business is a decision on whether to take in private item 4, which is consideration of today's evidence, and whether to consider in private at next week's meeting an approach paper on the legislative consent memorandum for the Product Regulation and Metrology Bill. Are members content to take those items in private?

Members indicated agreement.

Registers of Scotland

09:31

The Deputy Convener: Our main item of business is an evidence session with Registers of Scotland on its activities and performance. Registers of Scotland is a non-ministerial office that is part of the Scottish Administration and is directly accountable to the Scottish Parliament. Responsibility for scrutiny of it falls mainly within this committee's remit.

I welcome Jennifer Henderson, the keeper of the registers of Scotland, and Chris Kerr, the accountable officer for Registers of Scotland. I understand that Ms Henderson would like to make a short opening statement.

Jennifer Henderson (Registers of Scotland): Thank you for the opportunity to give an update on ROS's progress, and hello to committee members whom we have not met before. I am joined by our accountable officer, Chris Kerr, who will be able to offer insight on ROS's finances and provide details on issues such as managing case work and delivering the benefits of a completed land register.

I will start with a short update on our financial position. We continue to maintain a financially self-sustainable position. The last financial year was the third consecutive year in which we achieved a break-even position, and we are on track to break even this financial year. ROS's remaining cost neutral means that the Scottish Government can focus its funding on other areas of public expenditure.

In relation to our open case work, reducing the volume and age of our case work remains our number 1 priority. Having previously stabilised the volume, we reached, in the last financial year, a key milestone in our aim of eliminating long-standing open case work, as our volume of such case work went into decline. Since our previous committee appearance, we have removed more than 27,000 cases from our stock of open case work. We continue to set ourselves more ambitious targets on our older case work, and we are making good progress. Overall volumes continue to reduce, 90 per cent of our registrations are completed within 35 days and we are ahead of target in relation to our key performance indicator for clearing older case work.

Of course, what matters is how our customers feel about that progress. We continue to achieve a high customer satisfaction score from legal professionals and citizens. Our recent autumn survey produced a score of 82.6 out of 100, which is an increase on the score from our spring survey and is higher than United Kingdom all-sector and

public sector averages. We are committed to consistently improving our products and services for customers. Our digital journey has continued at pace, which is making it easier for customers to submit applications and access the data that is held in our registers.

In parallel, we continue to work towards land register completion and, in the past year, we have made further progress towards delivering the benefits of a completed land register. Our figure for total land mass coverage is now more than 95 per cent, which is an increase of more than 5 per cent since we previously met the committee, in June 2023.

Our unlocking sasines data is proving useful to a variety of customers, and we intend to provide the data in an even more accessible way on our Scotland's land information service platform. We will release access for business users in the coming months and then consider how to make the information accessible to the public.

I will give a quick update on our new registers. We have reached the end of the transition period for our newest register—the register of persons holding a controlled interest in land—and we are preparing to deliver two new registers to support the Moveable Transactions (Scotland) Act 2023. The building of those new registers is progressing as anticipated.

We could not achieve any of that without our people, and we continue to ensure that our people, processes, policies and products are fit for the future. In the last financial year, we achieved a 20 per cent increase in productivity, which was driven largely by our enhanced digital capability, alongside a focus on colleague development and performance management. We have also retained our "We invest in people" and "We invest in wellbeing" gold status.

Finally, I will mention public service reform. ROS has been meeting the ambitions of the public service reform agenda for some time, but we have given it even greater focus in the light of on-going challenges with public finances. In the past year, we have focused our efforts on creating greater efficiencies and achieving greater value for money in areas such as digitisation, procurement, sustainability and workforce planning. We have also made improvements to our estates.

Thank you for giving me the opportunity to make an opening statement. Chris Kerr and I look forward to answering your questions.

The Deputy Convener: Thank you very much. I will open with a question on the subject that you opened with, which is the wider financial climate. You sounded quite optimistic, but the considerable macroeconomic uncertainty and the tumultuous times that we have been going through must have

had an impact on your ability to plan your finances and keep focused on your strategic objectives. Do you have sufficient flexibility to manage a variety of incoming risks as a result of the financial climate?

Jennifer Henderson: At headline level, we do. As the committee will be aware, the biggest factor that shapes our income is what happens in the housing market, and we are well used to managing fluctuations in that regard. When we prepare our five-year financial plans, we always provide low, medium and high estimates, using the Scottish Fiscal Commission's information, based on what could happen in the property market, and we ensure that our planned expenditure to deliver our services fits within those estimates. If the housing market speeds up or slows down in a given financial year, we are well versed in managing that either by pulling forward future planned expenditure, if it turns out that we have more income to invest in getting ahead with some of our improvements, or by thinking about what expenditure we will push into future years if the housing market slows down.

Chris Kerr might wish to provide a bit more detail.

Chris Kerr (Registers of Scotland): That was a very full answer. We model on a rolling five-year horizon, which, as Jennifer Henderson said, ensures that we can manage, as long as our income is within the upper and lower bounds, which it is in the normal run of events. The last time that it was not was during the pandemic, which was unanticipated. However, broadly, through the general economic cycle, our income is within the upper and lower bounds, so we are able to adjust our expenditure accordingly.

The Deputy Convener: You have clearly articulated what happens when income is within the normal bounds, but how much flexibility do you have in not normal times? What you have described about the range of parameters is exactly what I would expect you to say, but how much flexibility do you have should abnormal times occur, which, invariably, they do, because that is the nature of things?

Chris Kerr: We have a reasonable amount of flexibility. As the keeper set out to the Parliament and to Scottish ministers when the organisation was reclassified a number of years ago, the backstop position is use of the Scottish consolidated fund, although Jennifer Henderson and I consider that part of our job is to ensure that we do not require to call on that fund unless there are truly exceptional circumstances.

The Deputy Convener: That makes the position clear.

I note for people who are watching that statutory fees were last updated in 2021, and there is no annual inflationary uplift, so do you anticipate the need for further statutory fee increases in the near future? Overall, inflation has largely stabilised, but inflation relating to staff costs has not, particularly in areas in which there might be shortages, such as digital. Is there a need for a further uplift in statutory fees in the near future?

Jennifer Henderson: There will not be, in the near future. As Chris Kerr said, part of our job is to drive efficiency in the business so that if, for example, we provide pay rises, we can achieve efficiencies to offset those extra costs. As Chris Kerr said, we typically work on a five-year cycle of planning, so we will, of course, look at whether fees might need to rise in 2025-26, but I should be clear that fees are a matter for Scottish ministers. All that we can do is advise that our cost profile means that our fees might need to change, but it is for ministers to decide whether to take that advice. We have no plans to do anything with our fees in the near future.

The Deputy Convener: You regularly update your income and expenditure projections. Your central forecasts previously showed your income and costs steadily rising—not surprisingly—but they now show your income falling back after 2026-27. Can you give us a bit of a flavour of what is behind those projections? I suspect that we already know, but I would like you to put something on the record.

Jennifer Henderson: When ROS dispatches cases, income is released. We anticipate clearing our stock of open case work in the next three years, by the end of the corporate plan period, which will provide some extra income. Thereafter, the assumption with our income forecasts is that we will just be servicing what the housing market gives us each year, dealing with everything in the year that it comes in.

The Deputy Convener: My last question is about Scottish Government support. Your year 3 delivery plan states that you require

"nil resource budget and minimal amounts of capital and ring-fenced budgets to deliver our strategic objectives."

Following on from my earlier points, I note that, if your income projections are at the lower end of the scale, you will not be able to recover your costs. Given that your income projections have already reduced, how confident are you that you will be able to recover your costs in the forthcoming years? I am trying to probe a bit about how you balance the cost to income ratio and how it affects you.

Chris Kerr: We are confident about our ability to recover costs. As the keeper mentioned, we

have managed to do that in the past three years, and we are on track to do it again this year.

It is right to say that, when we clear the open case work, we will have less of a buffer, but our current modelling does not include income that will come from the new registers relating to moveable transactions, which are due to commence roughly next spring, subject to ministerial approval. As we clear the open case work, we are starting to look at other commercial services that the organisation can offer. We already offer some commercial services in competition with the market, and we are looking to do more of that. Given that both those things, particularly the moveable transactions registers, are not as closely related to the housing market as our core registers, we think that we will have sufficient flexibility to continue to broadly break even year on year.

The Deputy Convener: Thank you. I will bring in Murdo Fraser for a quick supplementary to my question.

Murdo Fraser (Mid Scotland and Fife) (Con): Good morning. I should declare an interest. I am a member of the Law Society of Scotland, although not currently practising, and in my previous life spent many hours dealing with Registers of Scotland, in a very satisfactory manner, I should say. There are no complaints there.

My question is a follow-up to the question about finances. Before 2020, I think, ROS had built up a very substantial reserve, which, if I remember correctly, was well into the tens of millions. You will remember the exact figure. The Scottish Government came in and helped itself to that and took that money to be part of the consolidated accounts to spend on revenue. ROS has moved to a different model now and is no longer a trading fund. If we were suddenly to get a dramatic slump in the property market, you would not have those reserves to rely upon. The question that follows from that is, does that mean that you would have to go back to the Scottish Government to ask for resource to fill a potential black hole in your trading account?

Jennifer Henderson: That is exactly the position, as Chris Kerr articulated earlier. When we were reclassified and could no longer hold a reserve, the risk of a catastrophic shortfall in our ability to fund our service moved to sitting with the Scottish consolidated fund and that is where we would go. I will add that that is why we work very hard to do good modelling and it is also why we are working hard to drive in more financial sustainability. Some of the things that we will introduce—for example, automation of how we process case work—means that our costs potentially can come down and we are less impacted by the fluctuations in the housing market. What you say is correct, however; that

would be the position if there was a catastrophic failure, as indeed we saw in the pandemic period when the housing market just ground to a halt for three months and we had very little income.

09:45

Murdo Fraser: Is it your general approach simply to balance your accounts year to year, so that you are not having to look at adjusting the level of fees to take account of fluctuations in market activity?

Jennifer Henderson: Absolutely. We look to break even every year. Last year was a good example, when the housing market slowed slightly towards the end of the year and the way we manage our costs meant that we were able to slow down the delivery of some things and move them into the future year. We always maintain a focus on making sure that what we are fundamentally delivering is the front-line service to our customers.

Colin Smyth (South Scotland) (Lab): Good morning. I will ask a couple of questions about your staffing projections. The delivery plan sets out the projected size and composition of the workforce over the five-year period and 2025-26 is set to see a notable shift of staff resources from operational to digital and data. At 6 per cent, your staff turnover is quite low and there is not a lot of detail in the plan on how the shift in staffing will be delivered. Are you on track to deliver that change and to do so entirely without compulsory redundancies? Can you say more about how it will be managed and implemented?

Jennifer Henderson: The short answer is, yes, we are on track to deliver the staffing plan that is in the delivery plan. The committee will be aware from previous evidence sessions that we currently rely on a reasonably large number of contingent workers in our digital space. We are putting a lot of effort—I hope that we will get the opportunity to explore that a little bit more—into how we might convert some of those roles into permanent roles.

On the operational head count, we are retaining the number of people we need in order to deliver, but as we bring some element of automation in to our delivery, we will in the future need fewer people for operational delivery but more people to service the digital systems that underpin the delivery. We have quite a lot of work going on to do the strategic workforce planning that allows us to know exactly when people will retire, how successful our recruitment campaigns will be and what the attrition rate is in different areas of the function, and crunching all of that modelling gives us the confidence that we are on track to deliver.

Colin Smyth: Are you doing that without any compulsory redundancies?

Jennifer Henderson: Correct.

Colin Smyth: You mentioned issues around agency staff costs and a planned reduction in those, but I notice that in 2023 the cost of agency and temporary staff was £23.5 million, which is 28 per cent of your total staff cost. That is up from 23 per cent in the previous year. Can you say more about why, when you say that you want to reduce the overall reliance on agency staff, we have seen an increase in that cost?

Jennifer Henderson: I am sure that Chris Kerr will come in and add some detail to this answer. We currently rely on agency staff to deliver and they are an effective mechanism for building and delivering our digital systems. As we have already discussed, we cover our costs and our customers want that level of service from us. Agency staff get more expensive, however. They get pay rises, as staff do in other organisations, and we need to pay the market rate to get the people with the skills that we need. That is part of the reason why those costs have risen.

We have also had some extra work going on. Chris Kerr mentioned the building of the moveable transactions register. There are specific temporary people with us doing the build work in the digital space, but once that work is finished and the register has been delivered, those people will not need to be employed by us.

There is a set of reasons why costs have risen, but the real plan is that, going forward, we would want to employ permanent civil servants to do that digital work. We have been doing two things. We have been working out our employee value proposition, which is about why people would want to come and work for us permanently and, in particular, why someone with digital skills would want to come and work for us. We have also been looking at our pay and grading framework for digital staff to make sure that, while it will not be possible to pay the market rate for a digital job, we are at least competitive in the public sector, so that if someone has digital skills and wants to bring their talent into the public sector, ROS is somewhere that they would want to come.

We have had some success in recent months with jobs in the digital space to which, historically, we have never been able to attract permanent talent. We are now successfully getting permanent people, so the number of contractors is starting to come down and we hope to see that accelerating. I want to be clear with the committee, however, that we will always want some non-permanent staff in our digital workforce, partly because digital technology moves on and you want people who can bring the very latest thinking. Some of the way to achieve that is to retain some people on a temporary basis who bring new skills and

expertise, transfer it to the permanent colleagues and then move on to other work.

Colin Smyth: Of the two reasons that you give for agency staff, one is that you are bringing people in to do a specific piece of work and when that is done, they leave. The other is that you are relying on agency staff because you cannot recruit people to do the digital jobs. What proportion of your agency staff are people who are doing one-off pieces of work and what percentage is covering the fact that you are not employing permanent staff to do a job that is likely to continue in the future?

Jennifer Henderson: Do you want to come in, Chris?

Colin Smyth: The costs are quite significant—equivalent to 150 full-time agency/contingent staff. Based on the figure that I mentioned earlier of £23.5 million, that comes to an average of £156,400 per agency/contingent staff. That is a pretty substantial share of your expenditure.

Chris Kerr: We think that somewhere between 50 and 70 per cent of those posts, subject to the work that the keeper outlined that we have to do, can be brought in-house to be civil servants. There are two reasons to do that. Partly it is to reduce the cost, but it is also to address the operational risk around how frequently people in those roles can move and to retain more of them in-house.

The reason for being in this position is that the organisation had a lot of legacy technology that had to be stabilised and improved and we had to invest, for a period, in specialist resource to do that work. Having done that, I think that we are now at a tipping point where we can start to move, as the keeper outlined, to a different mix of digital workers. We will need some contingent workers for stand-alone pieces of work—new registers would be a good example—but the vast majority of our business as usual digital work will most likely be done by in-house colleagues who are civil servants.

Colin Smyth: Just to be clear, what is your overall projection for the number of agency/contingent staff who are likely to be in place over the next few years? What share of your staffing costs is that likely to be? It is 28 per cent at the moment. What is your projection for the proportion of your overall staffing costs being due to agency staff?

Chris Kerr: I do not have those projections in front of me. I am happy to write to the committee with that information. Certainly, we would expect to see the share coming down and we are modelling how likely that is and how much it will come down by. As the keeper mentioned, there are challenges at times with filling those roles in the marketplace in general, but particularly in the

public sector, given the rates that we can pay. There are challenges there. That is why the keeper mentioned the employee value proposition and other factors that may pull people to the organisation. We are working through the detail now and are happy to share it with the committee when we have it.

Jennifer Henderson: To give you some confidence in our ability to do this, I will add that our total digital workforce is about 300 people and about half of those are contingent workers. We have approximately 150 people who are employed as permanent civil servants. We retain them well, they enjoy working for us and in fact they will be our biggest advocates when we go out to the market to try to persuade people that they want to come and bring their digital skills to us. We will ask people to look at the colleagues we already have, how their careers have developed and why they work for ROS. The shift that we are looking for is, as Chris Kerr said, to take about half of those 150 people and get them on to the permanent staff.

Colin Smyth: You have got a double challenge. You want to get the temporary staffing numbers down, but you want to overall increase your digital staffing levels. That seems incredibly challenging and I will be keen to see what your projections for those numbers are for the next few years.

The Deputy Convener: You will write the committee with that. Thank you very much.

Jennifer Henderson: We do not underestimate the challenge. We know that it is difficult and, as organisations become more digital, the war for the talent of the people who can deliver that kind of technology will become more competitive. ROS needs to try to make sure that it is on the front foot and has a good proposition about why people would want to come and work for us as opposed to taking their talent elsewhere.

Murdo Fraser: I want to move on to ask questions about your success in dealing with applications turnaround time. I was looking at the data that we have been provided with about your key performance indicators and how well you are meeting those. To contextualise this, it might be quite helpful if you gave us a flavour of how you are dealing with new applications in the context of the backlog that we have heard about. We have been told that the oldest case in the backlog goes back to February 2018. How do cases end up in the backlog? What are you doing to address that, and how does that interrelate with dealing quickly with new applications?

Jennifer Henderson: I will kick off, but I am sure that Chris Kerr will want to elaborate on the details. The most important thing, which we have always said, is that we need to do what our customers need. Predominantly—you will be well

aware of this, Mr Fraser—our customers are solicitors, who have a range of cases and applications that they bring to us. In most cases, they bring them to us and get them back within 35 days; 90 per cent of cases are turned around within 35 days.

Fundamentally, we deal with three types of cases. If something is already on the land register, it comes in and goes out as a dealing with whole. Those cases come in and go out very quickly. The complexity comes for a first registration: something that is not yet on the land register and needs to be brought on to it. As you can see in our key performance indicators data, for new cases, we have set ourselves a target to turn around a certain percentage of those, and we seek to increase that target. Even most of the more complex new cases that come to us come in and go out within 35 days. It is the same for transfer of part cases, where someone is selling off a piece of their land and creating a new title from that. Those require much more expert work from ROS colleagues.

We have twin targets at the moment. We have targets for clearing the cases that have been with us for too long, and we have targets for ensuring that we are keeping pace with the new work. The fundamental reason why something might not have been done within the 35-day target initially is capacity: we simply did not have enough people with the right skills to keep pace with the volume of cases coming in the door. What we are managing to do now—successfully, because it shows up in the numbers—is automate the simple cases and upskill colleagues who have built their experience on simple cases to deal with more complex cases, so that we have a larger number of staff who can do the complex cases. Those colleagues are dividing their time between working through the older cases and keeping pace with the new cases. As we bring in more automation, we upskill more colleagues and, in essence, get more colleagues.

We will eventually get to a position where all the long-standing open casework is gone, and it is all the complex stuff, and we have the right capacity at the right skill level to deal with the volume of new cases that come in the door.

I am sorry: however I try to explain this, I always make it sound more complicated than it is. Does that help?

Murdo Fraser: Yes, it does. Just so that I understand this properly—and for people watching the meeting—is there a reason for the backlog? Are the cases that have been put aside more complex, or is it just stuff that has built up historically due to lack of capacity?

10:00

Jennifer Henderson: It is primarily stuff that has built up historically because of lack of capacity. We are clear that there will always be some cases that, from the very minute that they come in the door, will take us longer than 35 days to deal with. Someone could be working on them flat out for six months. We want to get to the position where, when a case comes in the door and we can see that it is one of those, we can have a conversation straight away with the customer who submits it and say, "This is a six-month turnaround case. Is that okay? We are putting people on it." Perhaps Chris Kerr would like to add to that.

Chris Kerr: I will briefly add that the alternative approach would simply be to work from the oldest cases forward. The approach that we are taking is to deal with the whole problem—squeezing down the whole problem at the same time. There are three fundamental reasons why we are doing that.

The first reason is that we judge that that approach is more efficient and effective. I will give you a short example of that. If we have 10 applications that are in the same geographic area but from different years, it is more efficient to deal with those 10 at the same time because there will be commonality in the underlying mapping and—probably—in the title conditions. When it comes to how quickly we can solve the problem, it makes more sense to do those 10 in a run than it does to work on them purely year by year.

The second reason is about the flexibility that the approach gives us to deal with expedites. We have spoken to the committee before about cases that are not quite expedites—cases that our customers tell us are particularly important for a given reason but perhaps do not quite meet the expedite threshold. The approach gives us the flexibility to deal with those cases.

The third reason is that we judge that the approach mitigates the risk of a new backlog growing. One of the challenges that the organisation has had in the past from focusing purely on the oldest casework was that a backlog of new casework grew at the same time.

For those three reasons, we are taking this approach of dealing with the casework in total rather than working from one end to the other, and, as the keeper mentioned, the data shows that it is working at the moment. Customer support for it is strong, and we have taken the position from a total casework volume of 142,000 cases at one point to about 106,000 to 107,000 cases this week. We think that it is working. We must continue to be flexible and responsive to what customers tell us, but that is the general approach.

Murdo Fraser: That is helpful in contextualising it. I have one or two follow-up questions on specifics. On your KPIs, your target in March 2024 for first registrations was 80 per cent. However, your performance for July to September was just 66.6 per cent. Is there a reason why you are quite far off reaching the target?

Chris Kerr: I will contextualise the KPIs, if I may. As the keeper has outlined, the position that we want to get to is one in which somewhere in the region of 80 per cent to 90 per cent of our casework is done within 35 days, which aligns to the advance notice period. That would cover the vast majority of residential conveyancing and other things, and would give those customers absolute certainty that their cases will be done in that period. For the very complex cases that cannot be done in that period, we want to wrap a dedicated service around them that will stop them perpetuating, and, as part of that, we will agree a timeline for that work with the applicant.

That is the context for the KPIs and where we are trying to get to with them. While we are doing the balancing of the up-front cases and the backlog cases, it is difficult for the KPIs to work perfectly because we will always be judging where to put the effort against new cases or old cases.

Specifically on first registrations, there are two reasons for not reaching the target. The first reason is a management choice to focus on more older first registrations than newer ones to ensure that we clear the backlog.

The second reason is that, since we set that KPI, the split between standard and complex first registrations has changed. When we set it, the ratio was about 80:20 of standard work to complex work. That has now shifted to about 70:30, so the complexity of the work that we see in first registration cases is increasing. That is probably not a surprise, because a lot of the easier-to-register properties have already come through sasines, and we are left with properties that are more difficult—with boundary issues, perhaps, or small gaps between properties. In due course, as we get into the final straight of completing the register, we will probably need to remodel first registrations to take account of the changing complexity of the casework.

Murdo Fraser: Looking ahead, when do you expect to meet your KPI of 80 per cent?

Chris Kerr: Subject to the judgment that I mentioned around the choice between older and new cases, we expect to be there or thereabouts by the end of this financial year.

Murdo Fraser: I have one more question on the backlog. Your target is to clear the backlog by February 2027. Are you on track to do that?

Chris Kerr: Yes, we are.

Murdo Fraser: Thank you.

Jamie Halcro Johnston: Good morning. What assessment do you make of the economic impact of the backlog on your customers and on the wider economy?

Jennifer Henderson: It is important to note—this is probably what we should always say up front about any cases that have not been processed—that such cases are taken on to the application record on the day that we receive them. All the economic activity that could flow from that—somebody remortgaging or somebody choosing to sell—can still go ahead even while a case awaits registration. There is a different scheme in other jurisdictions. There is no negative economic impact by virtue of a case taking time to go through the registration process because all that stuff can still happen.

Economic impact is the reason why we also have the expedite process. In the very rare cases where somebody could potentially have financial detriment as a result of their case not being registered, we can accelerate it through and ensure that it does not have that effect.

At individual customer level, we do not believe that there is an economic impact as a result of a case awaiting registration. If you roll that up into a macro piece, there is no economic impact on lending in Scotland. The housing market in Scotland all still proceeds as normal, and the backlog does not have an impact on it. However, it is for other organisations to assess the wider economic impact on the housing market and everything else, which is not something that we specialise in.

Jamie Halcro Johnston: That is very clear. You are suggesting that there is no economic impact, and, in cases in which there might be, you prioritise those. Is that the position of the organisations and other stakeholders that you work with, or have they raised concerns with you?

Jennifer Henderson: We work very closely with the Law Society of Scotland and UK Finance, which is representative of individual lenders. They are very satisfied with our approach in clearing the open casework and seeing that we get to a point at which, as Chris Kerr described, it has gone and it stays gone. We have the expedite process for those cases in which there is potentially a problem, and they are satisfied that that is a sensible approach.

Sometimes, our individual customers, particularly our legal professional customers, get in touch about something. I will give you an example. We had a solicitor who was retiring and who wanted, quite understandably, to ensure that,

when he retired, he did not have cases left. That is a good example of where we expedited. We just got the cases done so that he could wind up his business or sell it on. We are there to help when someone has an individual set of specific circumstances in which the backlog is impacting on them.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning. I have some questions about the digital journey that you are undertaking. Our papers tell us that you have been delivering the services in relation to the discharge of standard securities and so on, which are a great benefit to the public. Do you intend to provide more access to the digital content that you have in the back office, if you know what I mean? Do you plan to digitise all the content that you have? What is your progress on digitising your services and providing access and what is your progress on digitising the content that is behind the scenes?

Jennifer Henderson: Again, Chris Kerr and I will probably do a double act in answering that. On where we are on our digital journey, I always think of it in three parts. First, there is how customers submit things to us. As part of what we did during Covid, we brought in a digital submission service. We have now significantly enhanced that, so the vast majority of cases now come to us digitally.

Secondly, what matters to customers is how cases are processed. We have always had digital tools for that. Well, I say “always”, but that is not true if we look back far enough. Once upon a time, people used paint and ink to do land titles. However, for quite a long time, our colleagues have worked with digital systems to process cases. We have done a lot of work to enhance those systems, particularly through introducing technology that presents to a colleague what the title sheet should look like, which enables them to say, “Yes, that looks right”, rather than having to manually type lots of things in. We are on a journey to get all of that done.

Thirdly, there is the bit that bridges that, which is where we might be able to automate. Where can we have a colleague not need to look at a title at all? We are now automating lots of discharges. We have rolled out automation for adding on a standard security, and later this year we will get to automating dispositions—not all of them, but a subset of our dealing with whole dispositions. That is, again, part of where the capacity is coming from.

The final piece of the puzzle is how we digitise the access to our records. For several years now, we have had both professional and citizen ability to digitally interrogate the land register, the crofting register and some of our other registers and to download digital titles if people wish. The other element of that is our bulk-use customers. The

lending community would like to take all the data around their lending book from us, so we have been building application program interfaces to allow our data to directly feed into their data, all under suitable licensing conditions.

We are still on that journey, but we feel that we now have all the building blocks in place. The thing that we are quite excited about is how much automation and that kind of technology will help to accelerate things.

On the records that sit behind all of that, we digitised all our records a while ago. If someone goes on to our ScotLIS system and orders up a sasine record, they can download it digitally and use it, but we are now starting to think about people downloading a digital document versus their downloading digital data. One of our colleagues used to describe it as “documents to data”. We are on that journey, as well.

We have lots of plates spinning on all of that, and it is part of our plan over the next few years. That brings me back to why we need digital staff, because there is definitely more to do in getting all of our digital services in the best place they can possibly be.

Did I miss anything there, Chris?

Chris Kerr: No.

Willie Coffey: You have probably guessed what I am going to ask next. The more we digitise, the greater the risk is. I do not need to remind you of what happened to the Scottish Environment Protection Agency with the cyberattack on its records that caused a huge problem with a minimum cost of, we think, £5 million. Have you done a risk assessment of this? I am not asking you to give the committee any of the details, but are you engaged in risk assessment and the proper protection of data to ensure that you have safe and secure back-ups of everything that you are digitising?

Jennifer Henderson: Yes—100 per cent. You will appreciate that I do not want to go into lots of detail on that, but I assure the committee that we have extremely comprehensive risk assessments around our cybersecurity. Our team in the digital space do lots and lots of work to keep pace with the threat. They engage really well through the National Cyber Security Centre to understand what is happening in other organisations and where the threat is coming from.

The other important thing that we do is to rehearse and plan recovery exercises. Our teams do a lot of work on how, if something happened, we would restore from back-ups and bring systems back up. We also practise the management of an incident. Who would need to be informed? By way of an example, if something

happened, how would the committee be told that we had a problem and what was being done? We have a very thorough risk assessment.

The other thing is that, any time we are moving data around digitally, it is subject to a very rigorous information governance risk assessment to make sure that everyone who is involved knows what needs to happen and that it will be secure. We would always say that the threat keeps evolving so we can never let our guard down on that.

Willie Coffey: That is very reassuring.

Your business reports mention some investment in artificial intelligence. The amounts of money are small, at £10,000 and then £40,000. I am curious to understand what that is about. What are you doing by way of investing in AI?

10:15

Jennifer Henderson: The thing that we are experimenting with at the moment is a system called Copilot, which suggests actions that you might want to take. We are looking at whether, when a customer phones us and says, “I have this complex case—what do I need to do with it?”, AI can interrogate all of our very large set of user manuals and help the customer service agent to provide a response more quickly. We are also looking at the use of AI in governance. How might it help with minuting meetings and things like that, as a way of reducing the workload? I think that we will extend our look at where we want to use AI, but at the moment we are dipping our toe in the water to see what is out there and how it could help.

Willie Coffey: I hope that any recommendations from such systems will be overseen by human beings to determine whether the course of action is, in fact, the best one.

Jennifer Henderson: It is extremely important to emphasise that that is absolutely the case. AI is being used as an assistant to suggest what could be done. AI is good at some stuff but, for much of it, we need a human to say, “Is this the right thing and should I proceed on that basis?”

Willie Coffey: I am glad to hear that.

My final question is probably more of a legal one, so you may not be able to answer it. When a person passes away and they do not have a successor to inherit their house or other property, where does ownership lie? Does the person remain on the register as the owner despite the fact that they are deceased and there are no known successor? In that situation, who is responsible for upkeep and maintenance of the property? You might not be able to answer that, but I am very curious to know the answer.

Jennifer Henderson: Chris Kerr is the lawyer, so I am looking at him.

Chris Kerr: Ultimately, the property will fall to the Crown under the doctrine of ultimus haeres. It is possible that a person might appear on the register for a while because we will not necessarily know until we are informed and given sufficient evidence that the person has died but, ultimately, it will fall to the Crown. In Scotland, such property is administered by the King's and Lord Treasurer's Remembrancer.

Willie Coffey: I am familiar with some of that, but who makes an entry to record the death if no one else takes any action on it? In recent years, I have had several such cases with you and the register still seems to show named people who are no longer with us, sadly.

Chris Kerr: It will unless someone who knows what has happened informs us. Technically, that would be an inaccuracy in the register that is subject to rectification, but the keeper needs evidence to do that. In recent years, the KLTR has become more interventionist in that space. It has had a couple of projects recently whereby it has been trying to identify such properties more regularly and bring them back into economic use, so work is on-going in that space. However, it is not directly a matter for the keeper; it is a matter for the wider public sector. Ultimately, we need someone to tell us. That is the position.

Willie Coffey: The problem is that there is rarely someone to tell you, other than people like us, perhaps, who are representing constituent interests. However, thank you for trying to answer that question.

Jamie Halcro Johnston: With the digitisation, how do you evaluate duplication? Do you have an administrative process to avoid or reduce duplication in applications and the like? Have you already got on top of that?

Chris Kerr: In general, we have improved the position, but there is still more to do. Last time we were in front of the committee, we talked about our rejection rate being higher than we wanted it to be, and that was to do with the information that comes in to us from applicants not always being in the right order or the right format. That has improved a lot over the last period. Our biggest challenge is probably superfluous information being submitted to us as part of the application process. People will submit digitally but include bundles of deeds that are not necessarily relative to the title, and we will not know that until we have made the assessment. We are doing some work on that.

Once the work is in the organisation, we have some quality checks. I suppose that that represents a degree of duplication, but it is positive duplication in the sense that we want to

make sure that the information is right. In general, our process is mostly single handle and we have eliminated non-value-added duplication.

Jamie Halcro Johnston: The amounts of money for AI that Willie Coffey mentioned are relatively small. Do you anticipate that, if what you are trying works, they will increase significantly over the next few years?

Jennifer Henderson: I am at risk of speculating, but I would say that that is potentially the case. The next logical step, having brought in automation, is to understand where AI technology can support more efficient working, but we recognise that it is a new technology and that good safeguards need to be in place. Scotland is forward looking in having an AI register so that the public know when AI is being used. We also want to learn lessons from where other countries have introduced AI with unintended consequences.

I return to Mr Coffey's question. When does a human need to come into the loop to make the ultimate decision on something? However, AI is probably the next big technology that is coming and we will want to make sure that we adopt it where appropriate.

The Deputy Convener: I have a final question on that before I bring in Lorna Slater. What is framing your strategic approach to AI? Who are you bringing in to help you to determine that strategic approach? It sounds to me as if, at the moment, you are trying some things in a fairly small, limited manner. As Willie Coffey pointed out, the spend is relatively low, but how are you managing the risk that AI will, almost, be done to you rather than your using it proactively? Can you tell me a little more about your strategic thinking?

Jennifer Henderson: For exactly that reason, we have established an AI working group within ROS that reports into our information security group, and it is making sure that it is accessing the relevant subject matter experts. It is hearing from other organisations about how they are adopting AI and it is developing our AI strategy for us so that we will be clear that how ROS wants and chooses to use AI will be part of what we do strategically. While we are doing that thinking, we are also doing a little bit of experimenting to understand where things that other organisations are telling us they have used with good effect could support us.

The Deputy Convener: Do you have a date for that strategy being developed?

Jennifer Henderson: Off the top of my head, no, but it is part of the next phrase of our overall digital strategy. Perhaps I could revert to you in writing on when we expect to have that.

The Deputy Convener: That would be helpful. Thank you.

Jennifer Henderson: We are certainly happy to share it. We envisage publishing the document once we have created it.

Lorna Slater (Lothian) (Green): Thank you for coming to see us this morning. I have some questions to help me to more fully understand the work that you do. The newest operational register, the register of persons holding a controlled interest in land, is such an important tool in allowing us to increase biodiversity, get to net zero, look out for community interests and manage deer and invasive species—all those good things. How complete was the register at its launch? What is its functional state? How useful is it as a tool for doing those things? How is it progressing and being improved?

Jennifer Henderson: The question about completeness is interesting. When we set out to launch the register, part of the idea was to understand how many pieces of land there were with someone who was not the named owner on the register making decisions about that land. There was a transition phase—after the launch of the register, there were two years before it became a criminal offence for someone not to be registered if they needed to be registered. We did a lot of work with Scottish Government colleagues to publicise the register. For example, we talked to bowling clubs and organisations that might have needed to register.

Our position is that the register was as complete as it could be at the March 2024 transition deadline. Clearly, the position with some land changes, so the register does not stop at that point. It will be updated as other bits of land come into its scope.

An indication that things might be missing from the register would be lots of people inquiring about why a bit of land was not on the register, but that is not happening. We get the odd inquiry and, when we do, we look into it and ask the registered or recorded person whether something is missing. We do not see any evidence that lots of people missed registering.

In relation to how the register is used, it is a fully digital register, so people who want to interrogate it and get information from it can do so. That happens, and we assume that those people are looking up individual bits of land and using the information in the register to find out whom they need to contact to have a conversation about that land. The joy of having a fully digital process that does not need the involvement of a human in Registers of Scotland is that we are not sighted on how people might be using the information that they gain from the register.

Does that help?

Lorna Slater: It does. That is great.

I am interested in how things are working. I would like to better understand the process of moving a property from the sasine register to the land register. How complicated is it? What steps do you need to go through to make that happen? I completely understand the pragmatic approach in having the functional register—that makes total sense—but I would like to understand what challenges there are in moving between them.

Jennifer Henderson: I will provide a quick bit of context, but Chris Kerr will be much better than me at explaining the detail. The fundamental process that brings a piece of land from the sasine register to the land register is the first registration process. Chris Kerr will explain what needs to happen in that regard.

We have estimated how many pieces of land in Scotland will ever really transact. Our estimate of functional completion is 80-something per cent—from memory, I think that the figure is 87 per cent, but I will check that while Chris Kerr is speaking. We think that everything that typically transacts is on the register, but there is a bit of work to do in relation to land that has not transacted in a number of years. Chris Kerr will explain why some land might not have transacted, but we are getting there with regard to functional completion.

There is a wider question about general completion of the land register and how we deal with pieces of land that almost never transact, which are likely to be subject to the voluntary registration process. If he does not mind, I will ask Chris Kerr to briefly describe the difference between first registration and voluntary registration.

Chris Kerr: The main difference between first registration and voluntary registration is that voluntary registration is done by the owner outwith any transaction, whereas first registrations are triggered because the property sells or because some other trigger applies.

Broadly speaking, moving land from the sasine register to the land register involves doing two things. First, you need to establish the precise boundaries of the plot of land. With a relatively modern sasine title, that might be straightforward because the title might already include a plan, so the process might be relatively simple. At the other end of the spectrum, the sasine description might be in writing only, be 100 years old and say something like, “0.1 of a hectare in the parish of X bounded by land owned by Jennifer Henderson”, so, from that, you would have to work out that plot of land’s current boundaries. The first thing relates to boundaries and mapping.

The second thing involves trying to establish the rights and encumbrances that apply to the plot of land. For example, are there any servitude rights of access over other plots, or are there other extant encumbrances—burdens and conditions—that affect that plot of land? Again, that work will be more or less complex depending on the age and location of the title. If the title has been established for a long time, you might need to read through deeds on parchment that is 100 or 200 years old to establish, in the first place, whether there are any conditions. You then have to reach a judgment on whether they are still relevant and extant, whether they have been snipped away at by statute over the years or whether, for some other reason—a negative prescription, for example—they are no longer effective. You take that information and we put it on the register.

That work is done principally by the applicant. We check the information, to a degree, to satisfy ourselves that it is accurate before we replicate it on the register. There is quite a spectrum from cases that are very easy to ones that are really difficult and time consuming.

10:30

Lorna Slater: You are just over halfway in completing the register. Have you done the easy half—the low-hanging fruit—and is it the hard stuff that is left? I realise that what is left is land that is non-functional and less likely to transact, so it is low risk. Is completing the register not terribly urgent or difficult, with it just being ticked away at, or will completing it be really difficult? I am trying to understand the scale of the challenge.

Jennifer Henderson: We will answer that between us. It is useful to know that the land registration legislation that introduced the land register is from 1979, and counties then came on to the register year by year. In 1981—more than 40 years ago—the first counties came on to it. Typically, in a 40-year period, it is likely that almost all the residential property in an area will have transferred. Not all of the properties will have done so, because some houses will have had people living in them for more than 40 years, but, in the fairly near term, we can imagine that that will finish off and all the residential property in the county will be complete.

However, the last counties did not come on to the land register until 2001, so we have had only just over 20 years of transactions for those counties, and lots of people live in a property for more than 20 years. The residential stuff that is yet to come in those counties is not fundamentally difficult—we would expect to get it in and out within 35 days when it lands with us—but it will just take time to get that done.

There are other triggers. Remortgaging and other things can trigger a first registration, but that is not complex. The complex stuff that is yet to come involves property that has not transacted in hundreds of years. If, for whatever reason, such a property came through, we would want to provide a dedicated service for it. People might come forward with a voluntary registration, and we would wrap a dedicated service around that. If the property comes forward because it has transacted, it will be much more complex.

I will give an example. At the moment, we are dealing with a case in our building that involves going through boxes and boxes and boxes of deeds, because it is a big estate that has not transacted in hundreds of years, and we are dealing with the registration.

The scales are very different. Left to come, we have a mixture of the difficult stuff—although there is not very much of that—and a fair amount of the more straightforward things.

Lorna Slater: Out of curiosity, are certain classifications of property typically more challenging, such as large estates, tenement flats or derelict land?

Jennifer Henderson: Chris, do you want to describe the split in complexity?

Chris Kerr: There is a mix. Large estates tend to be complex properties that do not have physical boundaries that coincide with legal boundaries. By that, I mean that, if there is a fence or a wall, it is a lot easier than it is when there is no marking on the legal boundary, because there can then be challenges relating to the tolerance of the ordnance map and such things. Tenement flats are relatively straightforward. Complexity tends to come from titles where the ordnance survey base map is on a larger scale than we would prefer, and those titles tend to be for large estates. There can be complexity with all sorts of other transactions, for individual reasons, but that is the general rule of thumb.

The Deputy Convener: Murdo Fraser and Kevin Stewart have supplementary questions.

Murdo Fraser: I guess that some of the land that does not transact is larger estates that are perhaps held in trust and never transfer, but a lot of it must be public sector land held by the state—perhaps the Forestry and Land Scotland, a local authority or a health board. Do we know what percentage of land that does not transact is public sector land, and is the public sector being proactive about moving towards registration?

Jennifer Henderson: We will need to revert to you on the percentage question, but on whether the public sector has been proactive in getting its land registered, the answer is yes. In fact, Forestry

and Land Scotland is done—all its land is registered. There was a big push in the five years between 2014, when the Land Registration (Scotland) Act 2012 came in, and 2019, for the public sector to get all its land on the register.

We have previously written to the committee to say that many of the large public bodies were able to do that, but a number of local authorities found that to be a challenge because it is not a trivial cost to them to do that—that is not about our fees. We are still working with a number of local authorities that are gradually putting their land on, not least because in some cases some of it is potentially attractive for them to sell and it is useful to get it registered before they sell it to potentially do something with it.

Kevin Stewart (Aberdeen Central) (SNP): I want to tease out a little more information on some of the areas where there may be contention. You said that 95 per cent of the land mass is covered. You stated in an email to the Scottish Parliament Information Centre that

“The remaining 4.4 per cent is comprised of smaller and older parcels of land which would be extremely time consuming and costly to complete, hence not representing best value for spend of public funds.”

Such parcels of land may often be used as ransom strips in other dealings. You say that dealing with them does not represent best value, but I imagine that some cases are taking you a very long time to resolve. Could you comment on that?

Jennifer Henderson: I will set a bit of context and then I will ask Chris Kerr to come in—he is giving me the nod.

When we talk about being at 95 per cent land mass coverage, that comprises three things: land that is on the land register; cases that we are working on—we know that we have them in-house and we are putting them on the land register; and the work that we did called unlocking sasines, which is about land that has not transacted for a long time. We have worked with the people who hold the spatial data for that land, and we have matched the spatial data up to our sasine records so that we now have a map that covers all of that work.

The 4.4 per cent that is left is land where nobody has come forward to say they have the spatial data for it. In the sasine register we can see that someone, somewhere owns that bit of land, but we cannot map it because we have no basis on which to do it. What we mean by “it would be expensive and time consuming,” is that we have no basis on which to map that land until someone comes forward with a registration. Chris may want to—

Kevin Stewart: Before you go on, I want to give you an example. I will not give you an example from today because that would probably cause a great deal of grief, but I will go back to when I was first elected to Aberdeen City Council some 25 years ago. There was a small community who wanted to see street lighting on a certain path and it was impossible to decide ownership. At the time, I was very much in favour of the street lighting going in and persuaded the council to do that. An old solicitor at Aberdeen City Council said, “As soon as we do that, whoever owns that land will come forward and suddenly say, ‘You do not have my permission to do so and I am charging the council £X to do so.’” And that is exactly what happened.

Not dissimilar things happen in today’s day and age. The old solicitor back in the day said that those ransom strips were everywhere and had deliberately been kept. How many of those smaller and older parcels of land may be used as ransom strips that stop folk from doing things in their vicinity and even the likes of local authorities or other public services doing things in the vicinity of those bits and pieces of land?

Jennifer Henderson: Perhaps I can tell you how we would respond if you came to us with a question about who owned a strip of land. That is an enquiry that we deal with fairly regularly. For something that is in the sasine register, we have excellent teams of people who could look at the relevant sasine titles and come back to you with an answer on who owns that piece of land. In Mr Coffey’s example, potentially that person is not with us any more and we have not had the register updated, but we would be able to give you an answer of who is currently registered in the sasine register as the legal owner of that piece of land.

We could not currently tell you how far their title might extend, because we would search for the specific piece of land you had asked us about and provide an answer on ownership. As per Ms Slater’s question, if that ownership had someone sitting behind it making decisions about that land, that would also potentially appear in the register of persons holding a controlled interest in land and might give you a different route to go and ask questions. We can answer ownership questions, even when we do not have the land mapped, but Chris Kerr may want to come in on the broader ransom strip question.

Chris Kerr: I would not add terribly much to that, other than to say that the point that the keeper makes is that we are trying to judge the appropriate amount of effort that we should put in and the appropriate amount of public money that we should spend on trying to identify and unlock titles and sasines on our own authority, rather than because someone asks us to do that. In the

scenario where someone has a property enquiry about a piece of land, we will always answer that, but the question is how much effort we put into trying to identify those small and difficult areas. In a lot of cases—as you will probably have experienced—the sasine register will be open to different interpretations. It is not unusual for parties who appear from the sasine records to be the owner to say, “No, we do not own that, we have not possessed it.” Very often, sasine descriptions—I gave you an example of one earlier—might overlap slightly. That is a consequence of the history of that register and the conveyancing process. I am not convinced that there is a huge amount that we can do other than to respond, when people ask us, with the information that we hold.

Kevin Stewart: You say that you will be able to look at the sasine register now and get an inkling of where ownership lies. What is the difference between being able to do that now, compared to a quarter of a century ago when that was not the case? What is different in terms of your setup? Obviously there have been digital changes. What else has taken place in that time so that you are more confident now than was the case 25 years ago?

Chris Kerr: I think that it should have been achievable 25 years ago, although I cannot speak directly to that. Probably the process of land registration has helped because if you think of the same area now—not knowing where it is, but just given the general direction of travel—there will be land registered titles somewhere in that area that help you to focus in on where the sasine titles have come from and what the roots of those titles are. Subject to the general complexities—sometimes sasine deeds are difficult to interpret, they might overlap, people might have an interest in saying that they do not own a property when potentially they do—I would have thought that an experienced searcher would have been able to do that then. Certainly, we think that we would be able to do it now, within those demarcations.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Convener, you will be happy to hear that I have only a few questions to clarify some points because most of my questions have been covered.

Firstly, keeper, in your opening statement, you said that ROS has achieved land mass coverage of just over 95 per cent. Last year, when you were in front of the committee that coverage was just over 90 per cent. Given the difficulties you have expressed, how have you covered another 5 per cent? Is that from the backlog, is it from the register of sasine transfers? How have you closed that 5 per cent?

Jennifer Henderson: It is a bit of both. I am just looking up the exact figures. Every year we add between 1 and 2 per cent land mass to the land register, so some of it is land register. Obviously, we then get more work in progress. Someone sells off a field and they build a set of houses on it and we register all of them. Predominantly, it is that we are getting more genuine land registered titles. A little bit of it will be some additional unlocking of sasine data that has come in to us. We have a very good relationship with the rural payments folk in the Scottish Government who were able to share some of their data with us, but looking at our figures here, most of it has come from increasing actual land registered land mass.

Gordon MacDonald: Do you see the remaining 4.4 per cent that you spoke to Kevin Stewart about earlier gradually being nibbled away or are you at a point where it is not worth trying to investigate because of the costs involved?

Jennifer Henderson: A little bit of it may get nibbled away. If land that has never transacted and for which nobody has come forward with the mapping data that we can use for unlocking sasines, suddenly gets sold and we are asked to register it, it will come on to the register. For the most part, however, it will not and we will need to think in the future about what we want to do. I often say that no jurisdiction in the world—with maybe a couple of exceptions—has ever achieved complete land mass coverage. There will always be little bits of land that sit between strips of land and the question is, what happens to them?

10:45

Gordon MacDonald: Given that I do not have a legal background, I am looking for a bit of clarification. In relation to the second category of land and property, which is covered by the unlocking sasines project, you said that there is no state guarantee of title. What does that mean?

Jennifer Henderson: I will let Chris Kerr explain that.

Chris Kerr: The statutory scheme for the land register has a state guarantee—a warranty to applicants. Essentially, if you are registered as the owner of a title on the land register and it turns out, for one reason or another, that you are not the owner, you will be compensated for that under the statutory scheme. The principal reason for having that guarantee is that it facilitates transactions. A person who purchases from you does not need to look behind your title because they can purchase from you secure in the knowledge that, even if there is a latent problem with the title, the statutory scheme will cover that. That applies only to the land register and not to the sasine register.

Gordon MacDonald: Is that because there is no proof of ownership?

Chris Kerr: Partly. It is to do with the history of the legislation. Land registration was introduced to deal with two principal weaknesses of the sasine system. The first was the lack of a map, and the second was the lack of a state guarantee. As the keeper mentioned, most jurisdictions have some form of state guarantee. The guarantees work slightly differently in different jurisdictions, but most jurisdictions have one.

Gordon MacDonald: My final question is on the register of persons holding a controlled interest in land. You have highlighted that people will be able to identify online who owns individual pieces of land, but will you produce any summary information about the pattern of land ownership and who owns land, from local authorities to foreign-owned companies?

Jennifer Henderson: Registers of Scotland produces some reporting around land ownership. We produce reports such as our overseas ownership report semi-regularly, and we are always looking at what would be useful for the people who use our data. To give you an example, there was recently some interest in understanding the patterns of transfer on islands, so we produced a separate report that looked at how the islands housing market compares with that of the wider country. If there are things that people want to know, we are now in a position to produce reporting on that.

Gordon MacDonald: Am I right in thinking that that is done on request and that you do not produce such information annually?

Jennifer Henderson: With any of our reporting, it takes a little bit of time to set it up, because we pride ourselves on making sure that everything has been validated statistically. Therefore, we tend to wait for someone to suggest that a particular report would be a helpful one to have. Once we have set something up, it becomes easy to run it on a semi-regular basis if we see that there is an interest in a report on that issue. If members of the committee have issues that they would like to be reported on, we would be very happy to pull that data.

The Deputy Convener: There are a couple of points that I want to pick up on with some rapid-fire questions. Your latest data shows that the rate of rejection of applications dropped to 6.9 per cent from 7.9 per cent between the years 2022-23 and 2023-24. Do you have any insight into that reduction? What are your plans to get the rejection rate back down to the 5 or 6 per cent level that it was at in previous years?

Jennifer Henderson: We think that two things have driven the reduction. With the systems

through which people submit data, we make it ever more difficult for them to make a mistake. That flushes out some of the things that people might typically get wrong. We continue to work very closely with solicitors on the 10 most common mistakes that we see and how to get rid of them. Every time we see mistakes, we think, "Could we build something into the system that stops people doing this?"

The next thing that we hope that we can do relates to what happens when solicitors fill in an application form and send us a deed. Sometimes the information on those two things does not match, and we think that we ought to be able to push the checking of that upstream, so that solicitors cannot press "Send" if there are mismatches. At the moment, if there is a mismatch, we spot that and reject the application. The introduction of automation could help with such checking—that might be another good example of where AI could help us.

The Deputy Convener: Indeed. Kevin Stewart has a quick question before I ask my last few questions.

Kevin Stewart: Yes, I do. It comes back to Gordon MacDonald's question and the answer that you gave about compensation. What happens in cases of fraudulent disposition—I think that that is the term—of which there have been examples in recent times in the north-east of Scotland and in West Lothian, if I remember rightly? How do you deal with those?

Chris Kerr: Such cases would be subject to the statutory scheme on the assumption that the grantee—that is, the person who is purchasing—is innocent and not involved in the fraud. There are different scenarios, one of which involves impersonation fraud. Thankfully, that is rare, but it has happened on occasion.

In general under the current scheme, the true owner—the person who has been defrauded—will, in most cases, get the property back, and the defrauded purchaser will get financial compensation. In most schemes in the world, it is necessary to draw a line between the mud and the money, as they are sometimes called—in other words, to distinguish between who gets the property and who gets the financial compensation. That is the way that the scheme in Scotland is currently balanced.

Kevin Stewart: How do you react to any allegations of fraudulent disposition? How much of a priority is it for you to find the true answer for people who are obviously in very difficult positions?

Chris Kerr: I would say that it is a top priority. In general in such cases, by the time the registrar—the keeper—becomes involved, the police would

already have become involved. Usually, the courts would be involved, too. In such circumstances, our role would be to provide evidence for any court case that was pending and to respond on the back of that. Quite often, the courts will declare the deeds to be fraudulent—that happens in most cases of fraudulent disposition. The keeper can then respond on the back of that by updating the register and compensating the relevant parties. In addition, the keeper has powers to pursue the fraudster for compensation for the money that she has paid out. We do that on occasion, when it is open to us to do so. Those individuals may or may not have assets that make that worth while, but we consider that case by case.

Kevin Stewart: The question that I asked was whether that would be a priority for you. Obviously, everyone else will have to go through the process. That would be a priority for you, would it?

Chris Kerr: Yes.

The Deputy Convener: I want to pick up on the citizen score, which I know that you have done a lot of work on. We understand the fact that you have had different sample sizes. When do you plan to put in place a KPI for the citizen score? How will that appear to members of the public, so that they, too, can track improvement in that?

Jennifer Henderson: I am planning to do that for our plan for the next financial year. When we roll out our year 4 delivery plan, I will set a target for a citizen score. Having run the citizen survey several times, we are now in a position to know that we have a statistically significant sample.

In addition, critically, we know what causes dissatisfaction among citizen customers and, therefore, what we need to do to improve the score. I am keen to set a score that would involve improving from a baseline, and I think that we are now in that position. With our most recent citizen score, we got some really valuable insight about the user-friendliness of our website for citizens in a particular age demographic. We are now seeking to improve that, so we hope that we will see a further improvement in the citizen score next time. We now know what we need to do to drive improvement.

The Deputy Convener: Thank you. My last question concerns the unlocking sasines work. A key part of your statement is that 95.6 per cent of land mass coverage has been reached. However, people can access the data only if they specifically contact you to request it. What plans do you have for making sure that it appears on mainstream platforms such as ScotLIS?

Jennifer Henderson: In the next few months, we plan to get that data up on ScotLIS. The committee will be aware that there are two versions of ScotLIS, which draw from the same

data source. There is a citizen version and a professional version. We will get the data up for professionals first, because it is professionals who have been using it up until now, and then we will look at how we can make it available to citizens.

The Deputy Convener: Can you give us a flavour of what the differential in timings for your business customers and your citizen customers might be?

Jennifer Henderson: I anticipate that, once we have done the work to add that data on to ScotLIS professional, the same technical work will be involved for the citizen side. On the citizen side, we will want to be careful to provide clarity for citizens on what the data tells them, what they can do with it and so on. We will want to ensure that we have done some work with the very good people who do user experience testing to understand how citizens might use that data and how they might tie it up with our RCI data and so on.

I would say that that data will be available to citizens months after it is available to professionals, rather than ages afterwards, but if it would be helpful, we could revert to the committee in writing with a specific timeframe.

The Deputy Convener: That would be very helpful. Thank you very much.

That brings us to the end of today's evidence session. I thank Jennifer Henderson and Chris Kerr for joining us and for all the information that they have provided. We now move into private session.

10:56

Meeting continued in private until 11:04.

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Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447

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