

**Follow up letter from Mr J Keith Robertson to the Economy and Fair Work Committee,
31 August 2022**

Registers of Scotland - the registration arrear

Following my letter to the Committee of 17 June 2022, there have been two further developments in relation to matters raised in my letter.

Firstly, I received an answer to a Freedom of Information request for a breakdown by age since submission, of rejections by Registers of Scotland after three months from application date. The letter with this information is attached. As will be seen, in the six months from the start of this year, there 181 rejections of deeds lodged between 2017 and 2020, an average of thirty per month. That can hardly be described as a rare occurrence and can have potentially serious consequences for the parties concerned, as set out in my letter.

Whilst it was always anticipated when the 2012 Act was passed, that rejection of applications would occur, it was expected that this would happen within a relatively short time of a few weeks at most. It was never, ever anticipated that rejection might occur five years after the application was lodged, as appears to have happened to seven 2017 applications between January and June this year. It is hard to imagine how the parties concerned would even begin to sort out the problems caused by such rejection.

Secondly, there is the question of the consequences of these extreme registration delays. The Keeper in each of her follow-up reports stresses to the Committee that *"the legal effect of registration backdates to the date when I received the application and homeowners are not restricted from doing anything with their property whilst the application is outstanding."*

In addition to the possible rejection consequences mentioned in my letter, the delay in registration can have other detrimental effects. I was recently contacted by a fellow solicitor who told me of problems encountered by her client in enforcing a right of access where the land over which access was to be taken had been sold on. The deed creating the right of access was one of those in the registration arrear and, until the registration of the right of access was entered in the title of both properties (dual registration), the right of access could not be enforced. As many of the applications stuck in the arrear relate to transfers of part of a property, it seems reasonable to suppose that a good number of these will contain rights of access, wayleave etc, making them vulnerable to just such a scenario.

It does seem therefore that Registers of Scotland should be giving eradication of the arrear a much higher priority than they presently appear to do. Concentrating resources on current applications and aiming to complete these within thirty-five days appears inequitable when set against applicants who prepaid registration dues in 2017, have already been waiting for five years and will face a wait of several more years.

Yours et cetera

J Keith Robertson

retired solicitor

Date: 31 August 2022

Our Ref: CW-2022-289

Dear Keith Robertson

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

Thank you for your email request dated 4 August 2022 requesting information held by Registers of Scotland (RoS). Your request has been considered under the Freedom of Information (Scotland) Act 2002 (FOISA).

You asked for;

- '1. provide a breakdown of these 96 rejections by year of application?
2. advise how many similar Land Register rejections there have been since 1st January 2022 with a breakdown by year of application'

In relation to information on the [RoS stats page](#) about rejections in June 2022.

Response to your request

1. A breakdown of the June rejections are below.

June 2022	
	No. Rejections over 3m+
2017	2
2018	14
2019	4
2020	7
2021	39
2022	30
Total	96

Of these 96 rejections, there have been 13 re-submissions under the same title number 13 applications, 5 have been completed (5.2%).

For applications that have been with us for more than 3 months, these are reviewed by our senior registration officers to ensure that there is no other option but to reject the application. The main reason for rejections are:

- Withdrawn at agent's request
- Not capable of being registered

The small number of cases that this does happen, we contact the customer to inform them. Once the issue has been resolved on re-submission, we arrange for the application to be expedited to ensure that their application is processed as quickly as possible.

2. A breakdown of the rejections from January to June 2022.

Jan - Jun 2022	
	No. Rejections over 3m+
2017	7
2018	38
2019	51
2020	85
2021	269
2022	52
Total	502

Review

If you require a review of our response to your request for information, please send your request, explaining your reason for requesting a review, to:
FOI.Requests@ros.gov.uk.

Your request for review should be made within 40 working days of receipt of this response and we will respond within 20 working days of receipt of your request. The review will be undertaken by a member of staff who was not involved in the original decision-making process. If you are not satisfied with our review, you then have the right to make a formal complaint to the Scottish Information Commissioner.

Yours sincerely

Information Governance Team