

Presenter: Thomas Crago (Customer Training Executive)

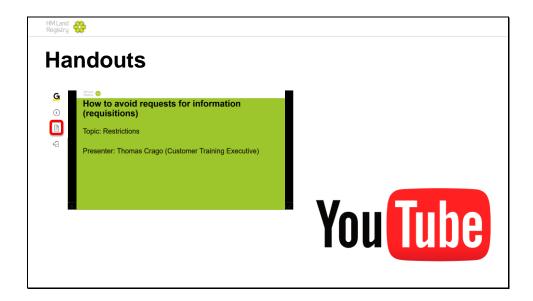
© Crown Copyright: HM Land Registry, 2023

The information and material provided in these workshops is licensed under the Non-Commercial Government Licence for public sector information. To view this licence, visit https://www.nationalarchives.gov.uk/doc/non-commercial-government-licence/version/2/.

The Information is licensed 'as is' and the Information Provider excludes all representations, warranties, obligations and liabilities in relation to the Information to the maximum extent permitted by law.

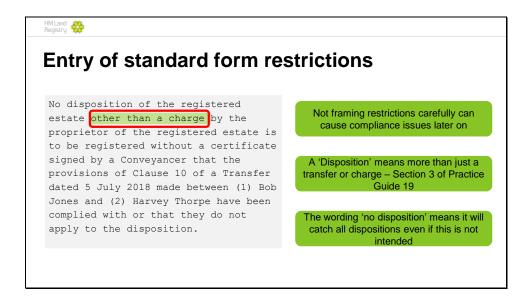
The Information Provider is not liable for any errors or omissions in the Information and shall not be liable for any loss, injury or damage of any kind caused by its use. The Information Provider does not guarantee the continued supply of the Information.

The information and material provided in these workshops is correct at the date of publication, June 2023.



The slides and speaker notes from the session have been uploaded as a handout. You can access the handout from our <a href="https://example.com/hmm.nc

YouTube watchers can click the link in the description below the <u>video</u>.



There are numerous issues around restriction compliance including:

- the wrong forms being used when applying to register a restriction;
- not lodging the required consent or certificate in compliance with an existing restriction; and
- no evidence provided to show how joint tenants hold land. When drafting deeds think carefully about whether a restriction is actually required, because once it's entered onto the register, some restrictions will remain there even with a change of ownership application.

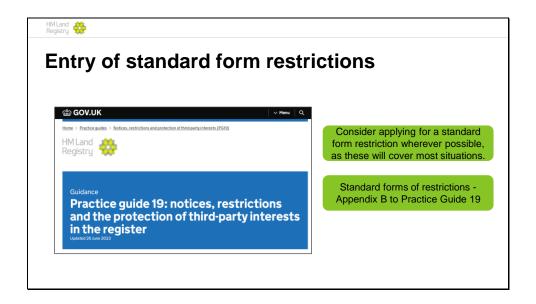
If a restriction is required, you need to think about how it should be worded.

Sometimes it can be difficult to get evidence to comply with a restriction in the register because it has been worded too broadly and catches more disposals than intended.

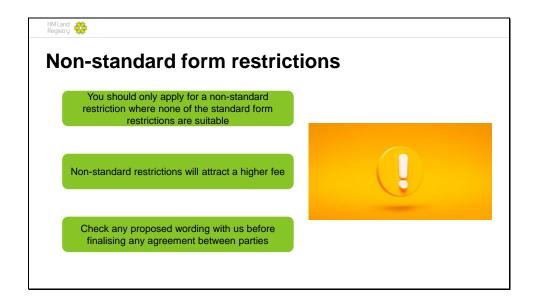
A "disposition" means more than just a transfer or charge, which is often all you want to catch. The term "disposition" also includes the grant of a registrable lease or a deed of grant of easement. Section 3 of Practice Guide 19 goes into further detail about what constitutes a disposition.

The wording 'no disposition' means it will catch all dispositions even if this is not intended. For example, consider whether the restriction is it intended to catch a specific disposal, such as a Transfer, or all other dispositions?

For instance, if a charge is not intended to be 'caught' by the restriction, the wording 'No disposition of the registered estate other than a charge' is appropriate. An example of this wording is now on screen.

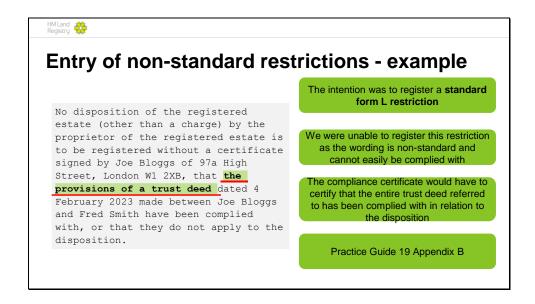


Standard form restrictions are worded in a clear manner so that anyone inspecting the register can determine whether a given application will be caught by its terms and, if so, what action needs to be taken to allow the application to proceed. Therefore, consider applying for a standard form restriction wherever possible, as these will cover most situations. You can find specific standard form wording in Appendix B to Practice Guide 19.



You should only apply for a non-standard restriction where none of the standard form restrictions are suitable. It's worth noting that, if you are applying for a non-standard restriction, this will attract a higher fee than a standard form restriction.

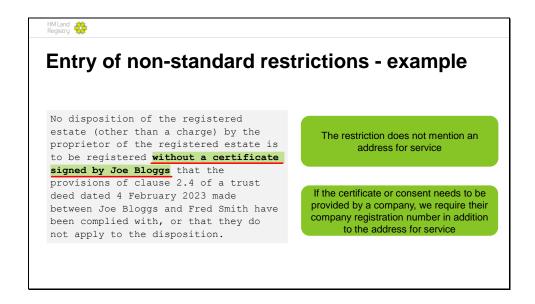
We also recommend checking the proposed wording with us before finalising any agreement between parties, as it can be difficult to renegotiate the terms of an unacceptable restriction once such an agreement has been made. You can do this by contacting us in your usual way prior to submitting your application.



In this example, the intention was to register a standard form L restriction. Unfortunately, HM Land Registry cannot register this restriction as the wording is non-standard and the restriction cannot easily be complied with.

As you can see from the highlighted text, the certificate of compliance would have to certify that the disposition being registered complies with the provisions of the entire trust deed referred to in the restriction, which would be difficult to ascertain.

As set out in <u>Practice Guide 19</u>, using the correct, standard wording refers to the specific clause(s) of the deed's provisions. The party giving compliance is able to determine whether this had been done, and so will have no issue giving the compliance certificate.

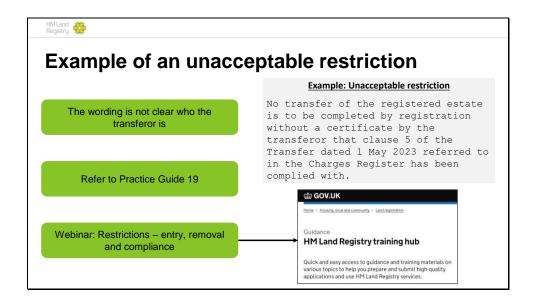


In this example, you can see that the previous issue has been corrected as the specific clause has been stated.

However, now the compliance certificate has to be signed by Joe Bloggs, but there is no address for service for this person, making it difficult to contact them to obtain the certificate. Therefore, this point would generate a requisition.

If the certificate or consent needs to be given by a company, we need their company registration number in addition to the address for service.

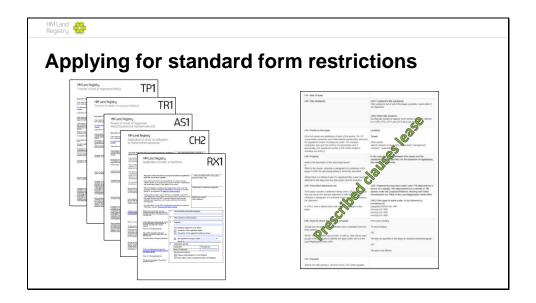
This is because the company registration number is unique and can be used to locate the company even if their address has changed, or if the company name is common for example "General Building Supplies Ltd".



In this example, the wording applied for is unacceptable because it is not clear who the transferor is. It could refer to the transferor at the time the restriction was registered, or the transferor at the time of the disposition that is caught by the restriction. Since restrictions often stay on the register despite a change of ownership, these could be different people.

Again, if you are in any doubt as to the acceptable wording for a restriction, please refer to Practice Guide 19 for full details on the standard forms we will accept.

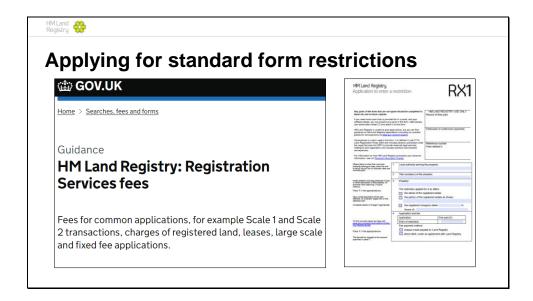
For further guidance, see our useful webinar <u>Restrictions -entry</u>, <u>removal and compliance</u>. We also have bitesize webinars on Restrictions on our Training hub on GOV.UK.



So how do you make an application?

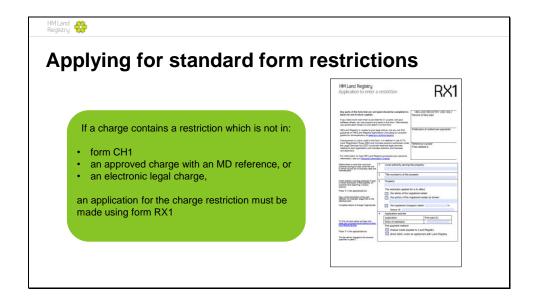
To apply for a standard form of restriction, you can use one of our prescribed forms, such as a transfer, assent or charge. You can also apply for a standard restriction in clause LR13 of a prescribed clause lease. However, if a restriction is contained in the body of the lease but not applied for in clause 13, it will be ignored.

You can also use form RX1 to apply for standard restrictions in any other situation and you must always apply for non-standard restrictions using form RX1.



If form RX1 is submitted in respect of a standard restriction, and it is part of and submitted at the same time as an application that attracts a scale fee, such as a transfer or charge, no further fee is payable.

A standalone form RX1 for any restriction other than a standard Form A restriction attracts a fixed fee as set out in the current Land Registration Fee Order, which you'll find on our website at GOV.UK. There is also a fees calculator on GOV.UK to help you calculate the correct fee for your application.



If a charge contains a restriction which is not in:

- form CH1,
- an approved charge with an MD reference, or
- an electronic legal charge, an application for the charge restriction must be made using form RX1.

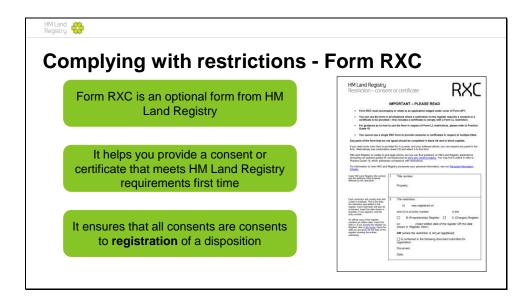


If there is an existing restriction in the register, read the wording carefully to check if it catches your disposition, and that you provide us with the right evidence from the correct party. For example, does a restriction specifically require a consent? If it does, we cannot act on a conveyancer's certificate. The restriction on screen is a Form L restriction. This is a common standard form restriction and is often entered when compliance with the particular terms of a deed is required in order to allow registration of a disposition.

Where a restriction requires a certificate that a particular deed has been entered into, we often receive a copy of the deed with no other evidence of compliance. It may appear that sending the deed to HM Land Registry suggests compliance, but in fact we cannot make that judgment and must insist on the certificate matching what is set out in the restriction.

Remember that to satisfy a consent restriction, the consent supplied should be to the registration of the disposition, rather than simply to the disposition.

This is because a consent to the disposition itself is between the parties to the transaction and does not affect registration. Also ensure that consent is given to the registration of each disposition applied for, for example a transfer and a charge. A good way to secure an acceptable consent is to use form RXC which, when completed correctly, ensures that you have covered all the elements required.



Form RXC will help you provide consents or certificates that meet HM Land Registry requirements at the first time of asking, which means we won't need to raise requisitions over incomplete or uncertain documents.

More information on form RXC is available in our webinar "Introducing Form RXC" and in Practice Guide 19.



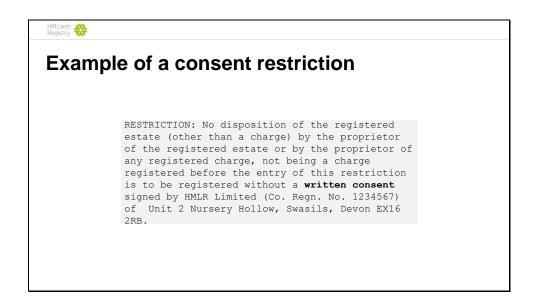
Here is an example of a standard certificate restriction that may appear in the register.

In this restriction, a certificate by AB Freehold Company Limited is required before the application to register a Transfer (or any other disposition apart from a charge) can be made.



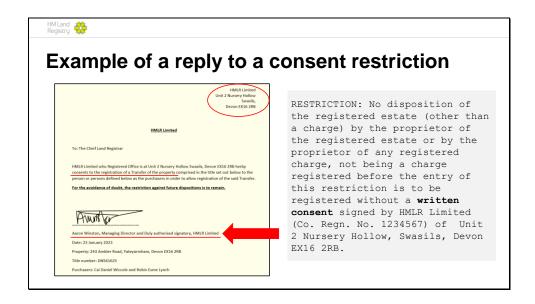
This is a good example of a certificate reply from AB Freehold Company Limited.

It clearly states the name and address of the company, they confirm to the provisions set out in the restriction and a secretary of the company has signed the certificate, stating their role underneath.



Also, here is an example of a standard consent restriction that may appear in the register.

In this restriction, a written consent by HMLR Limited is required before the application to register a Transfer (or any other disposition apart from a charge) can be made.



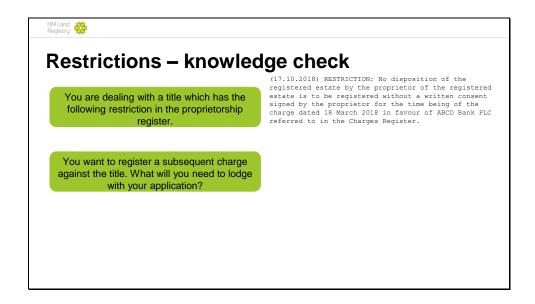
This is a good example of a consent reply from HMLR Limited. It clearly states the name and address of the company, what they are consenting to and the Director of the company has signed the consent, stating his role alongside.



This slide shows panel 10 of form TR1 (Transfer of Whole) and the form asks you to specify how the joint tenants hold the land. Similar panels are provided on other forms.

We often receive applications where there is more than one transferee but no supporting information on how they are to hold the property. We will only send a requisition for this information if we need to raise other points as well. If there are no other requisition points, we enter a Form A restriction - as shown on the screen now - by default and send a letter to inform you.

Once we register the Form A restriction, you will need to submit a fresh application to remove it if it's not required. You can avoid unnecessary work by being clear about whether you need a Form A restriction when you send us the application.



It's now time for a quick knowledge check on restrictions.

Please can you consider the following questions.

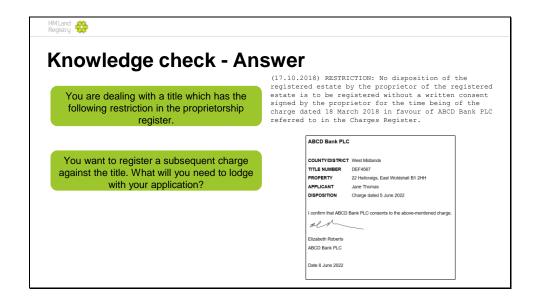
You are dealing with a title which has the following restriction in the proprietorship register.

You want to register a subsequent charge against the title.

What will you need to lodge with your application?

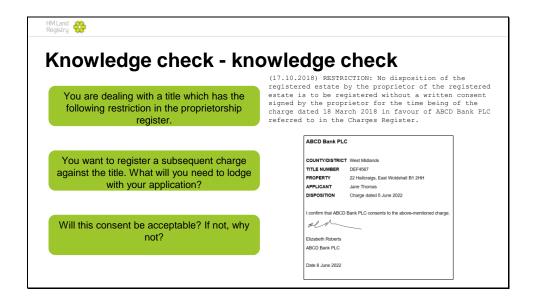
Please pause the video to give yourself time to consider the question and write down an answer.

When you're ready, press play and we'll view the answer.

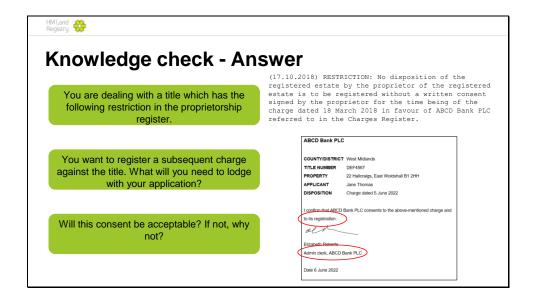


The answer is:

You'll need to lodge a consent to the charge.



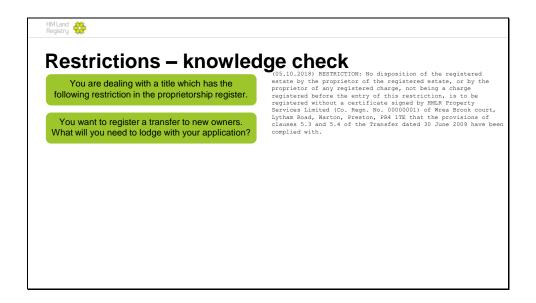
Next, will this consent be <u>acceptable</u>? If not, why not? Again, please pause the video to give yourself time to consider the question and write down an answer. When you're ready, press play and we'll view the answer.



Time for the answer:

So, it is imperative that a consent is not only to the disposition itself but also to its registration.

The person signing the consent must give their name and status within the organisation.

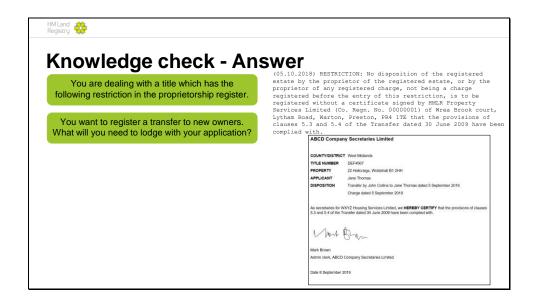


Last knowledge check to go through now. The question is, you're dealing with a title which has the following restriction in the proprietorship register.

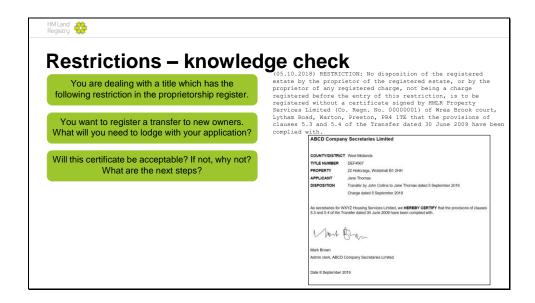
You want to register a transfer to new owners. What will you need to lodge with your application?

Again, please pause the video to give yourself time to consider the question and write down an answer.

When you're ready, press play and we'll view the answer.

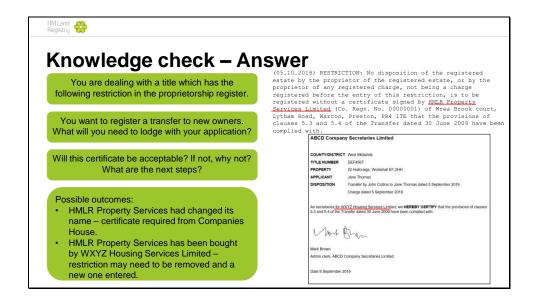


The answer is: A certificate.



Next question, will this certificate be acceptable? If not, why not? What are the next steps?

Again, please pause the video to give yourself time to consider the question and write down an answer Then, press play when you're ready to view the answer.



It is not by the beneficiary of the restriction. Possible outcomes:

- HMLR Property Services has changed its name certificate required from Companies House.
- HMLR Property Services has been bought by WXYZ
 Housing Services Limited restriction may need to be
 removed and a new one entered.

Help and Guidance	Registry 🧣
Relevant legislation	
Land Registration Act 2002 (LRA 2002)	
Land Registration Rules 2003 (LRR 20	03)
HM Land Registry Training Hub	https://www.gov.uk/guidance/hm-land-registry-training-hub
HM Land Registry Practice Guides	www.gov.uk/topic/land-registration/practice-guides
Webinar recordings	www.gotostage.com/channel/HMLR
Email alerts	https://public.govdelivery.com/accounts/UKGOVUK_LR/subscriber/new
Electronic Signatures webinar	https://register.gotowebinar.com/register/1495784845089918295?source=hub
Digital Registration Service	https://www.gov.uk/guidance/digital-registration-service

That's the end of the session. We've covered a lot of detail in this presentation so make sure you download the handout which includes the slides and speaker notes and useful links that will help you submit quality applications. Thank you for watching.