



Executive Manager: Jan Riise
Director of Corporate Services: Christine Ferguson

Governance & Law
Corporate Services Department
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Mr Stuart Hill
(request-1223086-0d32e052@whatdotheyknow.com)

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If calling please ask for
Michael Hodgson
Direct Dial: 01595 744095
Email: michael.hodgson@shetland.gov.uk

Our Ref: FOI 16238

Date: 20 January 2025

Your Ref:

Dear Mr Hill,

Freedom of Information (Scotland) Act 2002 (hereinafter the "2002 Act")
Shetland Islands Council (hereinafter the "Council"): first instance determination

I refer to your email addressed to the Council's Administrative Services inbox (Administrative.Services@shetland.gov.uk), as received on 8 January 2025 at 16:31 (hereinafter your "Request Email"), which has been recorded as a freedom of information request and treated accordingly.

Your request

1. In the Request Email, you asked as follows:

Dear Shetland Islands Council,

I am having difficulty finding proof that Shetland is part of Scotland. According to The Laws of Scotland, Stair Memorial Encyclopaedia, Vol.18(42), "The Crown's sovereignty over Scotland and its dominium eminens, its ultimate tenurial superiority, are the same thing, are identical concepts.

At Volume 18(47) it states that "The dominium eminens or ultimate superiority of the Crown is allodial, because not held of a higher lord, except of God".

I want to know:

- 1) Do you accept The Laws of Scotland, Stair Memorial Encyclopaedia as a binding authority? and*
- 2) Am I correct in thinking that the Crown's sovereignty is the same as its allodial ownership?*
- 3) Am I correct in thinking that, for the Crown to have sovereignty in Shetland, it must have allodial ownership of Shetland?*
- 4) If I am correct at 2) and 3) above, do you have proof that the Crown holds the allodial title of Shetland?*

Your chief legal officer refuses to give me an answer on this matter. If proof exists, it must be easy to produce.

Yours faithfully,

Council response

2. I refer to the Request Email, as set out in the above table, and acknowledge that the 2002 Act provides a right of access to recorded information. With this fundamental aspect of the 2002 Act in mind, I have assessed that you are not requesting recorded information but are instead seeking a legal opinion and/or advice relative to your own understanding of the constitutional status of the Shetland Islands vis-à-vis Scotland.
3. As a result of my assessment, as set out in paragraph 2 above, please treat this letter as constituting notice pursuant to section 17 of the 2002 Act that **the information requested is "not held"** by the Council.
4. In cognisance of the Council's duty under section 15 of the 2002 Act, and bearing in mind the ostensibly constitutional nature of what you have asked about in the Request Email, you may instead wish to direct your queries or concerns in respect of same to the Scottish or UK Governments.
5. Incidentally, whereas not forming part of my assessment relative to the Request Email, above, I understand that Mr Riise has already been in touch with you to provide details confirming the Council's ownership of certain heritable property in Shetland; all as would be evidenced by way of formal deeds or titles recorded at either the General Register of Sasines or the Land Register of Scotland. Again, in cognisance of the said section 15, you may wish to direct any concerns you may have on this matter to the Keeper of the Registers of Scotland and/or the Police Service of Scotland should you believe that the Council's title to any particular heritable property is in any way fraudulent.
6. In respect of formal documentation evidencing heritable proprietorship of land and/or buildings in Shetland belonging to a third party (namely the Crown), the Council has no information in respect of such matters and, relative to same, I would refer you back to the terms of paragraph 3 above.

Right of review

7. If you are dissatisfied with the handling of this first instance freedom of information request, you can ask for a review. A request for a review must be submitted within 40 working days and should be put in writing to the Council's Executive Manager - Governance and Law (details can be found in the enclosed **Appendix 1**).
8. If you remain dissatisfied after a review, you have the right to apply to the Scottish Information Commissioner for a decision. Details about how to do this are also contained within the said **Appendix 1**.

Yours sincerely,

X 

Michael James Hodgson
Solicitor, Shetland Islands Council
Signed by: Hodgson Michael@Governance & Law

Enclosures (1): *Appendix 1: SIC appeals leaflet*