

LESSONS FROM THE TENURE SUPPORT CENTRE – 5 YEARS ON



First, a thank you to the TSC's current and past partners

Funding partners



Private sector partners





WHY THE NEED FOR A TSC?

WHY THE NEED FOR A TSC?

6.7 Million

residential
properties on
Deeds Registry in
South Africa

+/- 4 Million

properties built *by*
government and given to
poor households

+/- 2 Million

Of these govt. subsidized
properties on the Deeds Registry



Most directly redistributive
government programme



Most significant asset to low-
income households



Huge wealth and economic
potential



Expensive, inaccessible system
to maintain title deeds



Large-scale title deed backlog on
govt. subsidised properties (+/-
1.1 Million)



Low-income households unable
to realise the full benefit of their
housing assets

HOW SIGNIFICANT IS THE CHALLENGE AT A NEIGHBOURHOOD LEVEL?

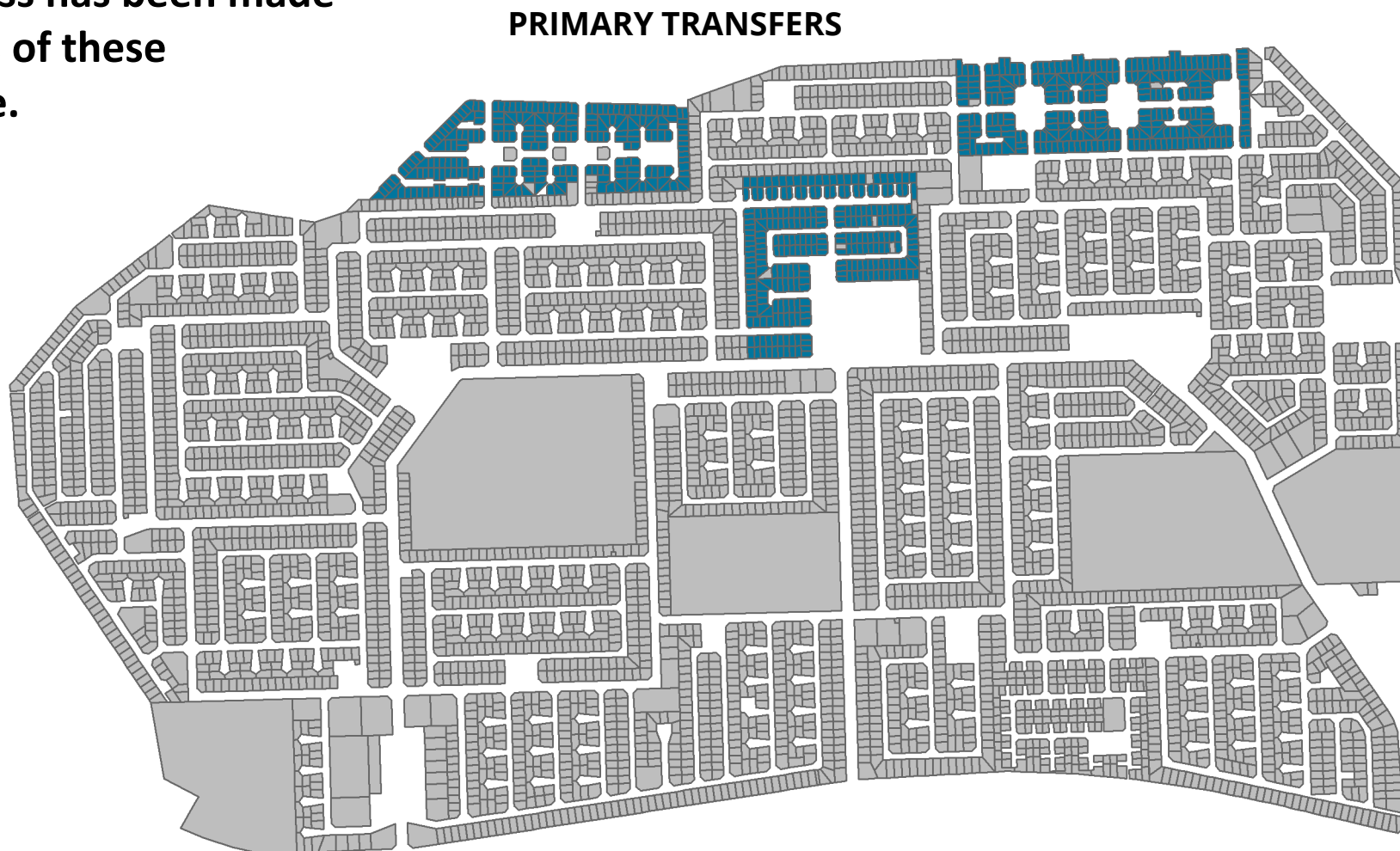
There are **5 510** properties in Makhaza, Khayelitsha which have a combined value of **R1.3 billion**



STUDY AREA: MAKHAZA, KHAYELITSHA

In 2019 the TSC partnered with the City of Cape Town to conduct occupancy surveys, validate beneficiaries and categorise cases for transfer in three areas comprising **780 properties** where **no title deeds had been issued**. Properties in this area are **valued at around R200 000***.

Significant progress has been made with the transfers of these properties to date.



Roughly **one in three properties** is registered in the name of a deceased person. The value of dead capital in the area is **R290 million**

DECEASED OWNERS

- Deceased, property valued below R250 000 (small estate threshold)
- Deceased, property valued in excess of R250 000



1 155 properties
R165 million

365 properties
R124 million

Note: Based on analysis of Deeds Office data and Home Affairs data in 2019. Map blurred to maintain anonymity of occupant / owner



There are **467** corrective transfers that are yet to occur on expropriated properties

CORRECTIVE TRANSFERS

- Subsidy approved
- Subsidy failed



65 properties
R13 million

402 properties
R62 million

Note: Based on City of Cape Town records. Map blurred to maintain anonymity of occupant / owner



Data from an occupancy survey conducted in 2014 indicates that a further **732** properties were either illegally occupied or sold informally. No doubt more have transacted informally since 2014

ILLEGALLY OCCUPIED OR SOLD INFORMALLY

732 properties
R99 million



Note: Survey conducted by City of Cape Town. Map blurred to maintain anonymity of occupant / owner

Of the 5 510 properties in Makhaza, north of Govan Mbeki Rd, at least 2 406 or **44% have one or more title deed problems**. The value of this dead capital is **R440 million**

COMPROMISED TENURE IN MAKHAZA

- No known title deed problem
- One or more title deed problems



2 406 properties
R440 million

There are millions of low-income property owners in urban areas across South Africa. Many cannot access or maintain secure title to their properties



PROBLEM 1

TRANSFERRING TITLE TO RDP BENEFICIARIES

PROBLEM 2

TITLE DEED MAINTENANCE

LIFE EVENTS



Death



Marriage



Divorce



Relocate



Financial position changes



Improve, buy or sell properties



The **TSC offers support at two levels**: support to municipalities to resolve title deed backlog projects, and support to individual clients



PROBLEM 1

TRANSFERRING TITLE TO RDP BENEFICIARIES

- Occupancy surveys
- Beneficiary validation and case categorisation
- Signing sale agreements
- Individual case resolution where occupant ≠ beneficiary



PROBLEM 2

TITLE DEED MAINTENANCE

- **TSC walk in support office** currently operating out of FNB branch in Khayelitsha Mall



LIFE EVENTS



Death



Marriage



Divorce



Relocate



Financial position changes



Buy and sell properties

The TSC is one of a few initiatives trying to address the titling challenge



- No direct assistance on transfers
- Referral point to conveyancers (or via the TSC to conveyancers)



- Mandeni and KwaDukuza Municipality pilots
- Pop up walk-in centres for data collection
- Case resolution for cases logged during pilot
- Primary transfer project
 - Land legal audit
 - Beneficiary validation
 - Conveyancing and transfers
- Policy and regulatory reform (local & national)
- ~ **400 title deeds**



- Khayelitsha pilot turned permanent walk-in support centre (with capacity to service clients across City of Cape Town)
- Individual case resolution
- Broader housing support (subsidy applications, mortgage applications, Wills)
- Primary transfer project
 - Occupancy surveys
 - Beneficiary validation
 - Case resolution for on-sales and deceased estate cases
 - Conveyancing and transfers
- Administrative, policy and regulatory reform (local & national)
- ~ **686 title deeds (plus 5 as of this morning!)**



- Primary transfer projects
 - Engagement with municipalities to identify problem projects
 - Funding for municipalities to validate beneficiaries and conduct transfers
- **10 000 title deeds issued**



MTRS Programme*

Engagement with Metros to:

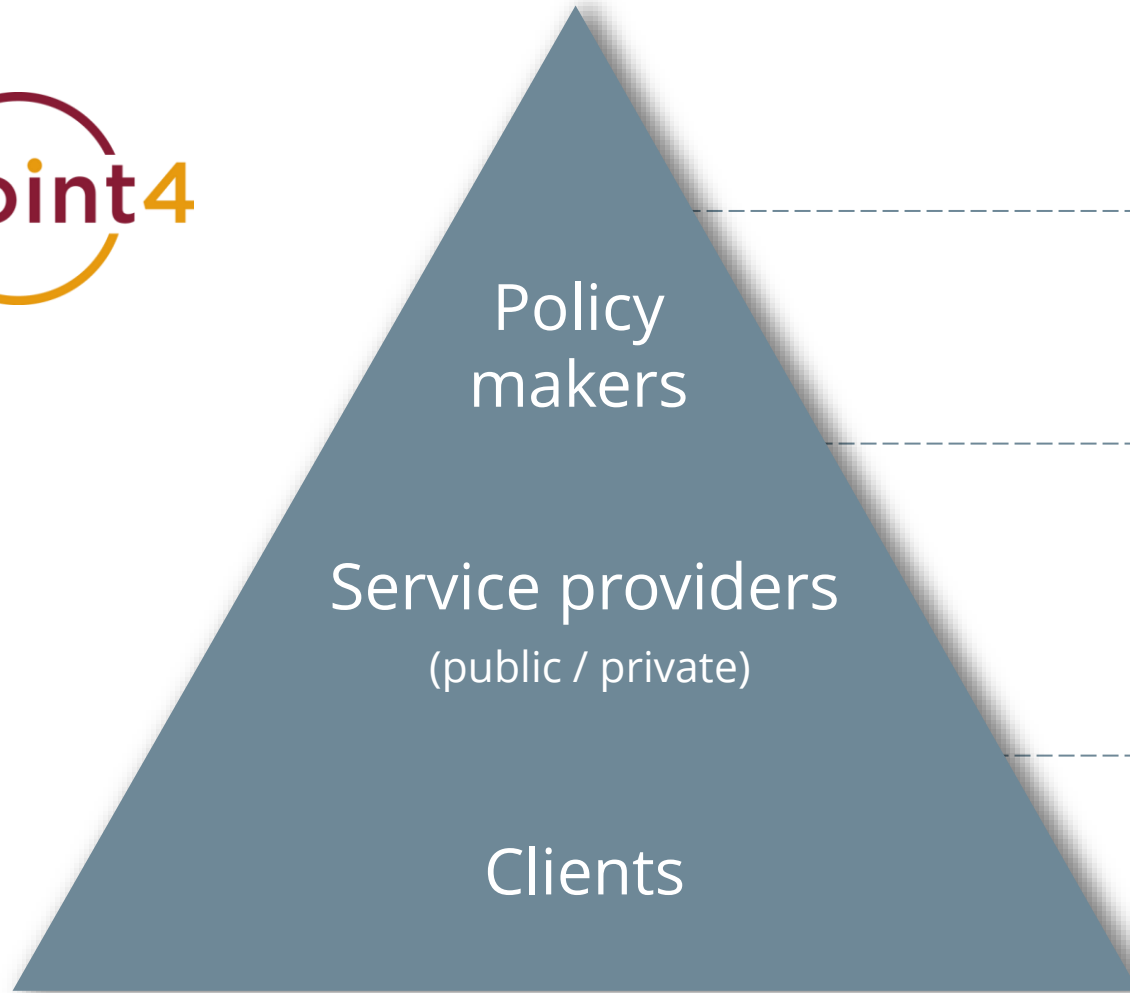
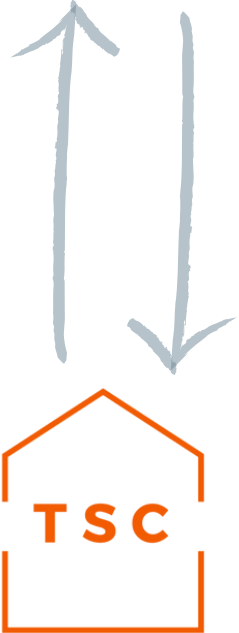
- Quantify backlogs
- Consider institutional enhancements
- Identify problem projects
- Inform Operation Vulindlela IGR reforms

*With World Bank & SECO funding

Operation Vulindlela

- Policy and regulatory reform (national)

The vision



Office of the Presidency
National Treasury
Human Settlements

Multi-department engagement
within the City and Province
Private sector servicing models
and products

Resolving client cases &
documenting experiences

Drive change by documenting and sharing the learnings from the TSC's day-to-day interactions with clients and the challenges they face in resolving their title deed challenges

For individual clients, the TSC offers an **affordable** and **accessible** route to the **formal property transfer system**

Value of property: R250 000

| | Normal charges | Indigent & state pensioners | HH income < R 8 000 / month | HH income > R8 000 / month |
|--|-----------------|-----------------------------|-----------------------------|----------------------------|
| Conveyancing fee¹ | R8 440 | No charge | No charge | R6 000 |
| Disbursement costs²: | R1 344 | No charge to the client | R1 300 – R1 800 | |
| - Rate clearance certificate | R630 incl. vat | | | |
| - Deeds Office fee | R642 Vat exempt | | | |
| - Deeds Search | R72 incl. vat | | | |
| Total cost of transfer | R9 784 | | R 1 300 – R1 800 | R6 000 |

[1] As per recommended guidelines published by the Law Society of South Africa. [2] Excludes any postage and petties

In addition to **unlocking the 'dead capital'** that was trapped in these housing assets, there is an immeasurable impact on our clients' **peace of mind**



Property value:
R213 000



Property value:
R216 000



Property value:
R313 000



Property value:
R202 000



Property value:
R210 000



Property value:
R315 000



Property value:
R195 000



Property value:
R219 000

13 December 2022

Lisa TSC

➔ Forwarded

Good morning Lisa,



I have the good news for you ... finally i received the call from Kets Channe that everything is done i must come to fetch my papers. I'm so so happy Lisa 🥹🥹,

if wasn't you.... 🙏 !! it's like a dream to me , i don't know how I'm going to thank you for your love and caring but i believe that I'm owing you a lot. God be with you all the time and give you more blessings

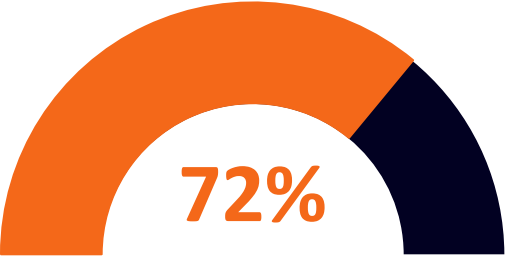


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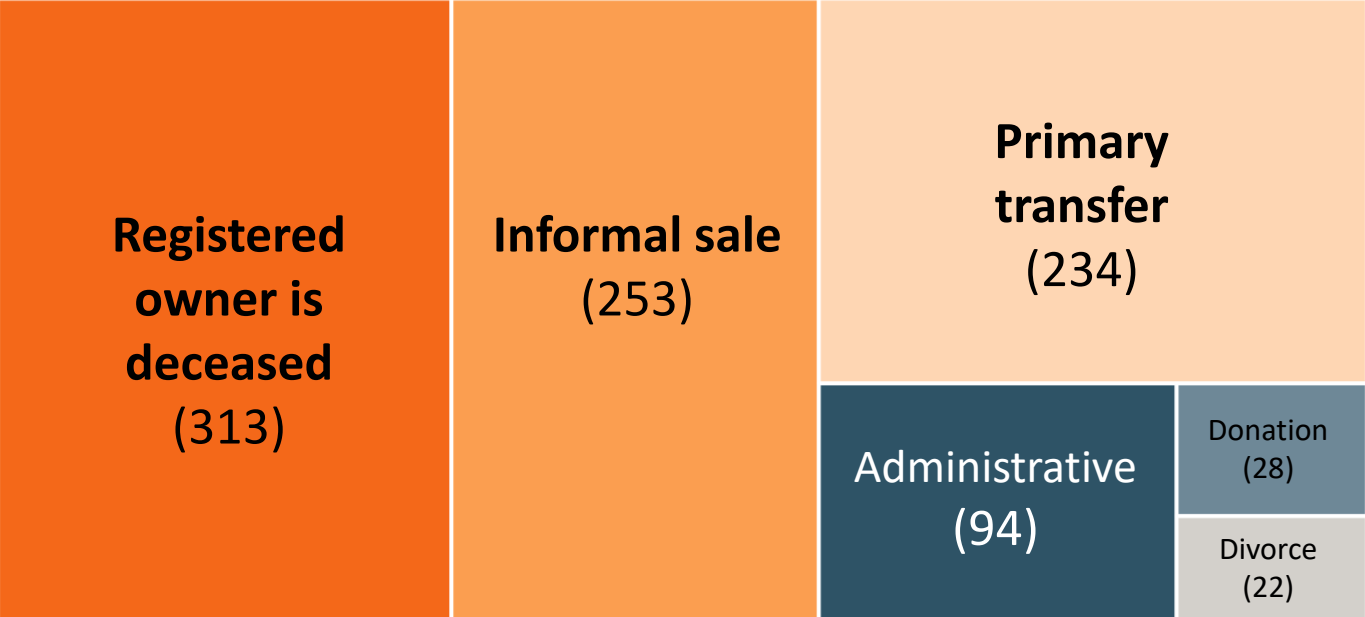
TSC CLIENTS & CASE TYPES

Of the 1 027 walk in client cases logged to date....



Have a problem with their title deed

Often a single case can have **multiple title deed problems**. The most common problems ...



Number of cases with type of title deed problem
(one case many have multiple problems)

Client demographics

Income

- 46%** Clients fall within the pro bono threshold (HH income < R8 000 / pm)
- 18%** State pensioners / disability grant recipients
- 12%** Above pro bono threshold

Gender

57% Are single women

Age



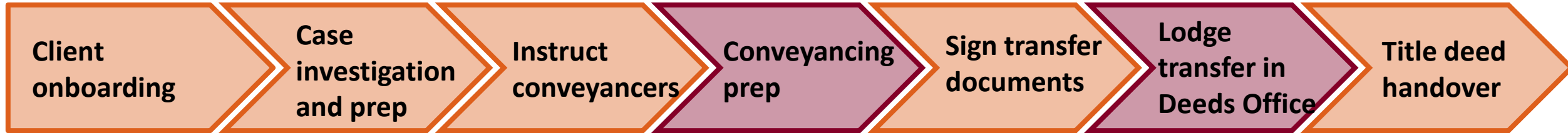
Sample: Income analysis on finalised and instructed cases. Age and Gender analysis conducted on full client base





TSC MODEL

The TSC conducts all the necessary **pre-conveyancing work**, with conveyancing offered by partner law firms on a pro-bono or reduced cost basis for TSC clients



TSC client team:

Sona: frontline client assistance and liaison, community engagement

Lisa: legal support, case management, stakeholder engagement



Conveyancing partner

Dedicated paralegal (paid-for resource by TSC)

Masters Clerk (currently pro bono support, moving to dedicated paid-for resource)

Conveyancer (pro bono support)

The TSC interacts with **various entities** throughout the process



The **TSC has developed into an important referral point** for local community stakeholders as well as for government housing departments

Top 10 referral channels

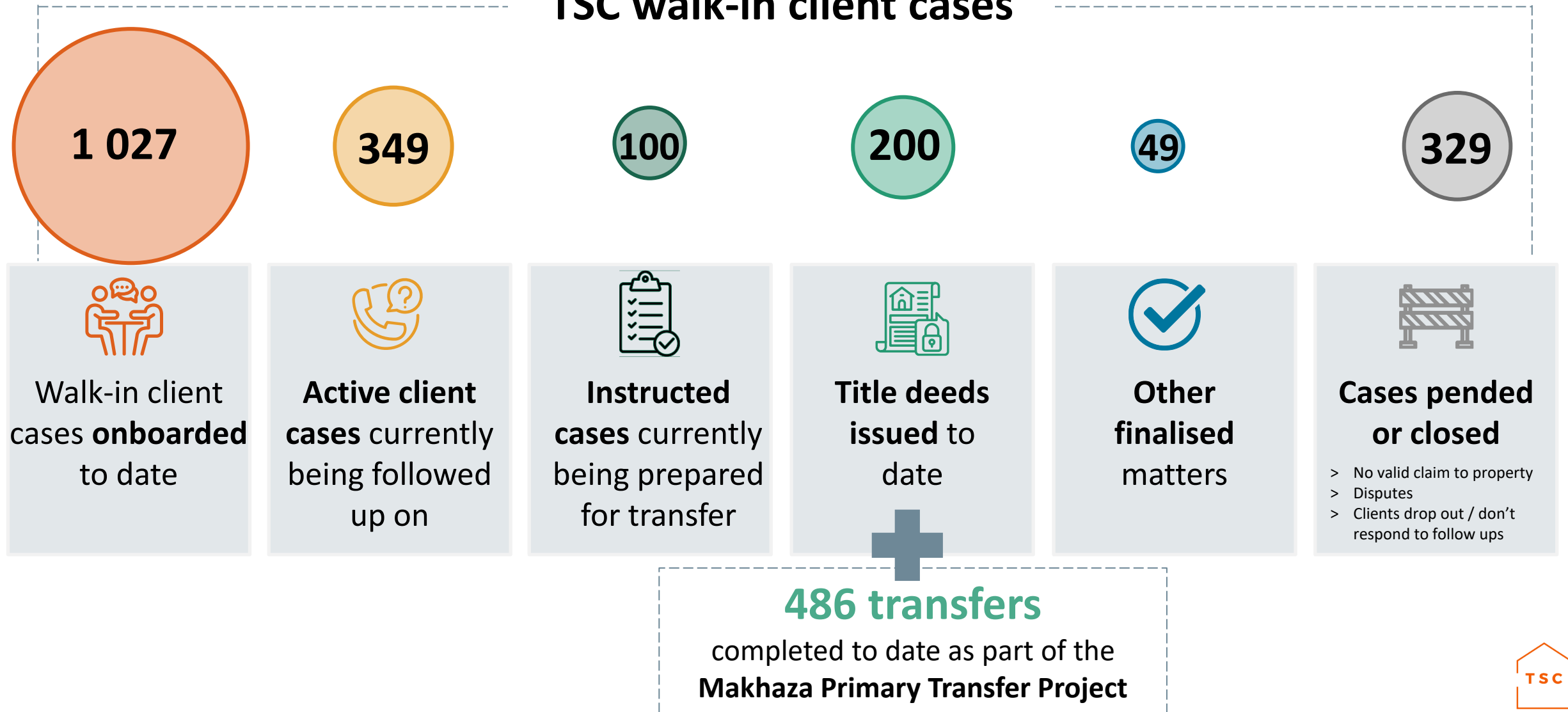
- | | |
|------------------------------------|---------------------------------------|
| 1. Client referral / word of mouth | 6. City / Province housing department |
| 2. Local radio | 7. Makhaza primary transfer project |
| 3. Community meeting | 8. Estate agents |
| 4. Street committee | 9. TSC staff |
| 5. Ikamva Labantu | 10. Facebook |



TSC received 43 referrals between June – Aug 2023 from individuals who attended the City’s recent title deed roadshow and were referred on to the TSC

A lot can be achieved by a small, dedicated team tackling some of the hardest title deed cases

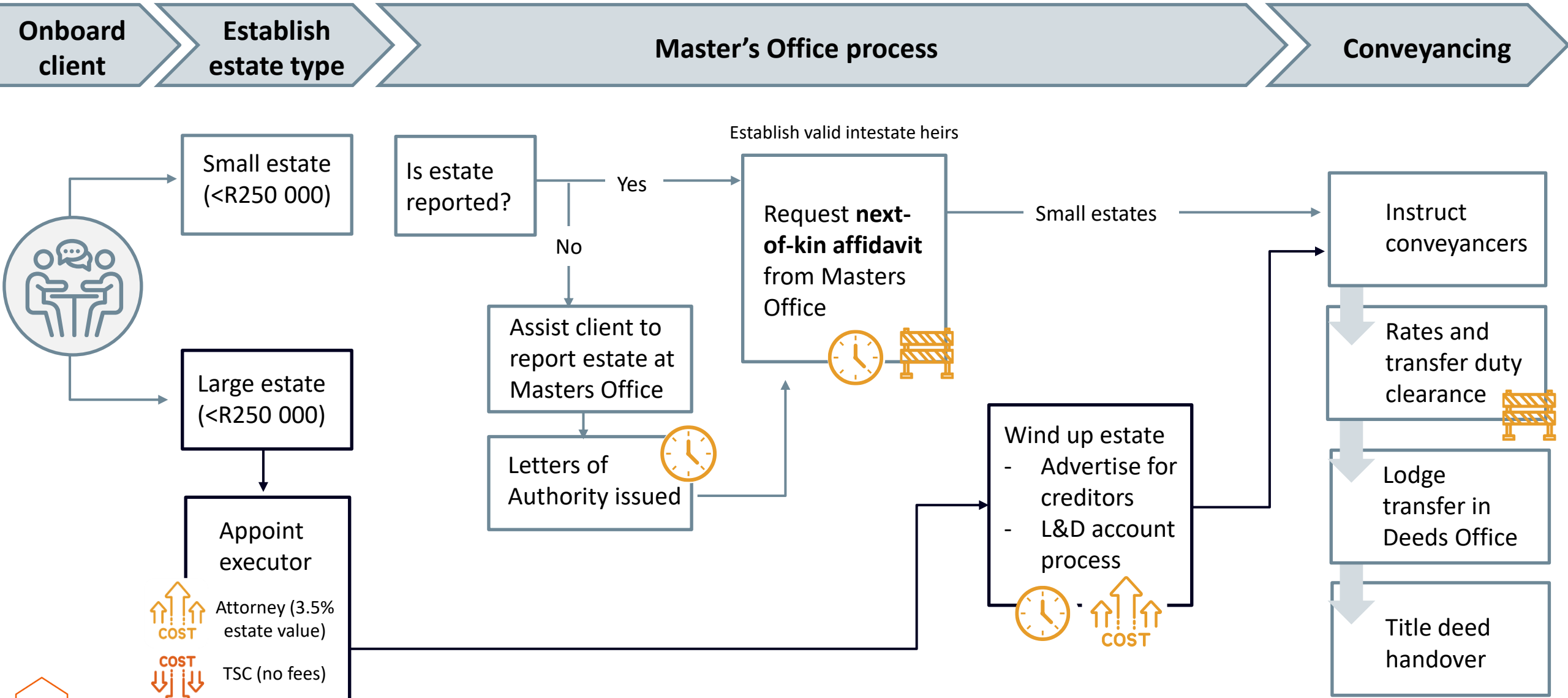
TSC walk-in client cases





LEARNINGS: DECEASED PROPERTY OWNERS

Where the property owner is deceased, the Master's Office plays a critical role



SIMPLIFIED, ILLUSTRATIVE PROCESS WHERE REGISTERED PROPERTY OWNER IS DECEASED



We've tracked the elapsed time on **64 document requests submitted to the Masters Office** since June 2021...

...to date we've received **25% of the documents requested**

» Average elapsed time: 7 – 8 months

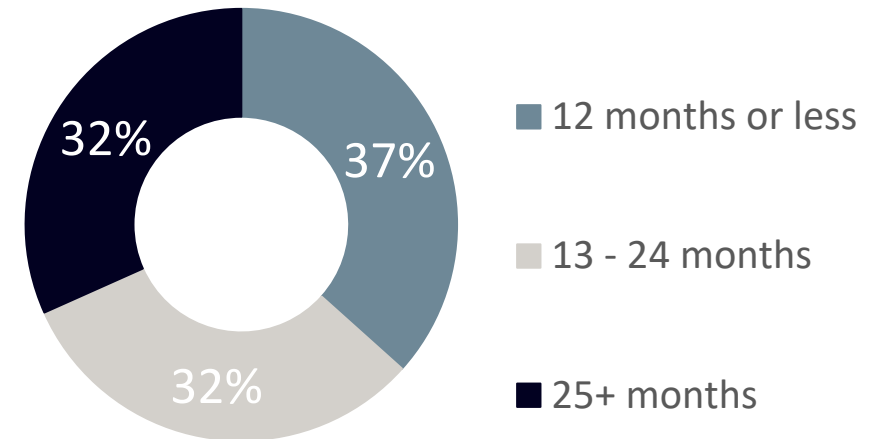
» 23% of document requests have been outstanding for more than a year

TSC CASE INSIGHTS

Time to resolve cases: deceased estates

| | |
|----------|----------------------|
| Shortest | 5 – 7 months |
| Longest | 4+ years (52 months) |
| Average | 20 months |

Number of months from onboarding date to title deed handover



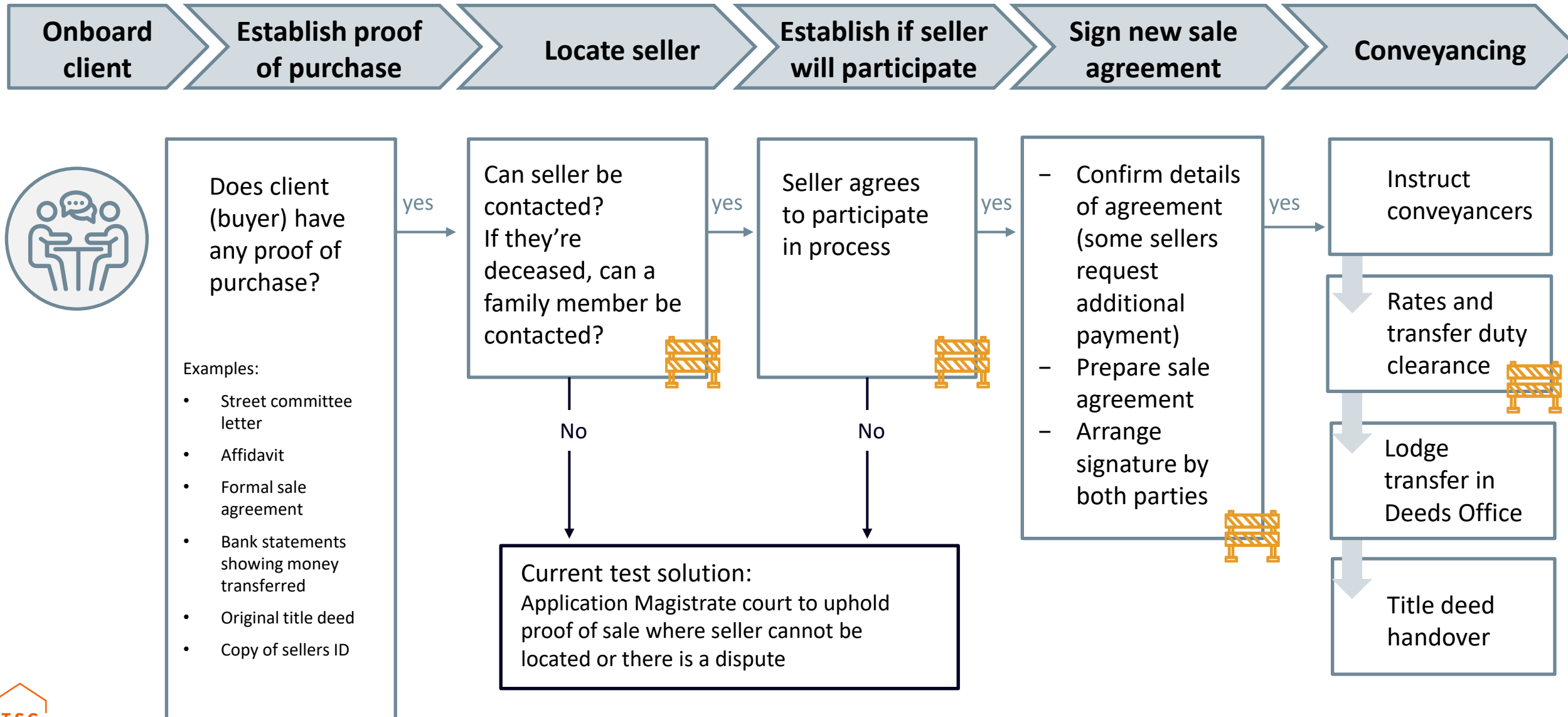
Key learnings: Deceased property owners

1. This is a **huge issue** that lower-income households across the country need assistance with
2. The **function of the Masters Office is critical**, but the process is currently (very) slow, inefficient, and lacks transparency (the only way to check up on a case is to **physically visit the Masters Office** in the prescribed time - 3 days a week from 9am – 12.30pm)
3. There is **real opportunity for improved efficiencies through digitization in the Masters Office**
4. The TSC has wound up large estates **at lower cost** to the client (TSC strips out the 3.5% estate fee for clients). But **without the TSC, costs would be prohibitive for lower income households**. As property prices rise and more estates exceed the Small Estate Threshold this problem will become more significant
5. No mechanism for dealing with disputes on estates (exists in a minority of TSC cases)
6. Many clients prefer donation transfers over Wills due to fear of family disputes



LEARNINGS: INFORMAL SALES

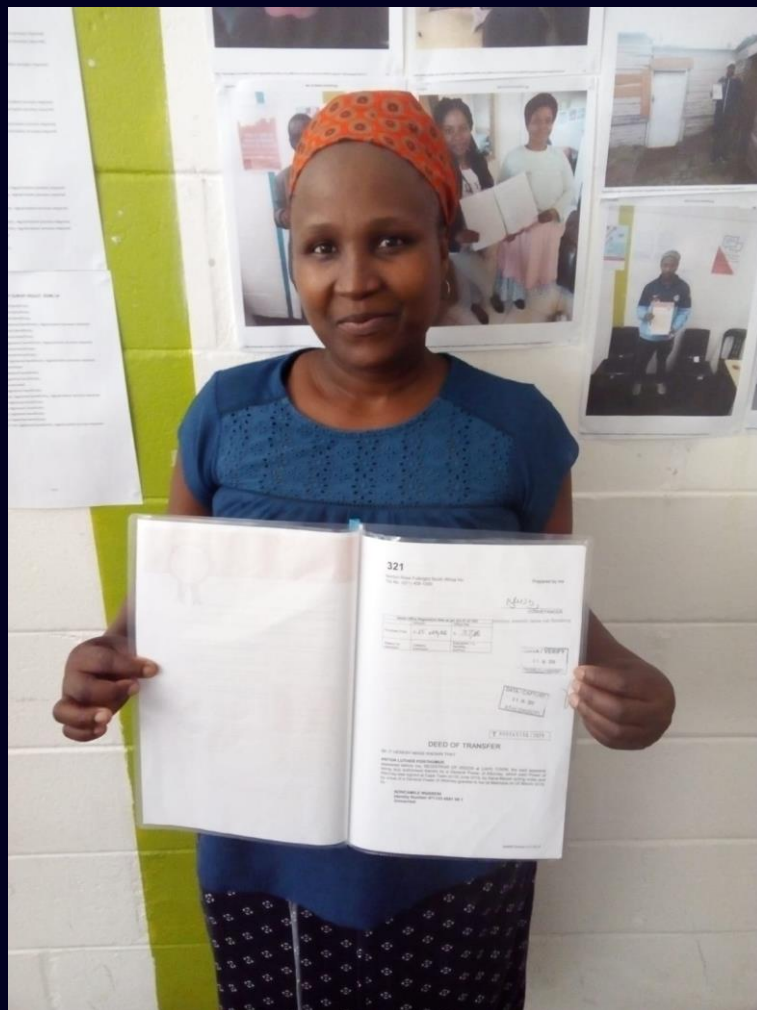
REGULARISING INFORMAL SALES: “Not impossible”



TSC CASE INSIGHTS

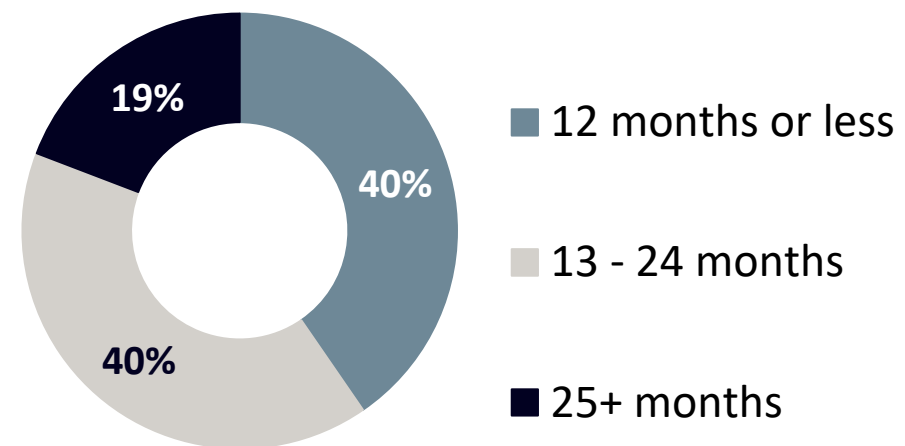
Time to resolve cases: informal sales

| | |
|----------|----------------------|
| Shortest | 2 – 3 months |
| Longest | 3+ years (46 months) |
| Average | 17 months |



Informal sale regularised by the TSC 12 years after the original transaction took place

Number of months from onboarding date to title deed handover



Sample: 52 finalised informal sale cases

Key learnings: Regularising informal sales

Historic informal sales

1. Very messy, but some can and should be resolved
2. Cost of formal registration is a contributing factor to why the property was never transferred in the first place
3. Need to **create legal precedent** for cases where there are disputes or sellers can't be located. We are testing an application to the magistrate court (a similar case has recently been tested successfully in the High Court)
4. The **Land Titles Adjustment Act is not considered a viable route** for stuck informal sale cases (several administrative challenges, only makes sense if bring a batch of cases to a commissioner, need at least two missing links in the transaction)

Key learnings: Regularising informal sales

Current sales

1. Buyers are increasingly aware of the risks, but money is still changing hands prior to transfer due to liquidity constraints of sellers
2. The **pre-emptive clause in the context of a huge primary transfer backlog is a major barrier to regularisation**
3. **Waiver process works in the Western Cape but adds administrative complexity and delays.** Not clear whether a similar workaround exists elsewhere
4. **Proof of transaction is critical.** We need to establish a **mechanism to enable individuals to record evidence** of past transactions and maintain evidence of current transactions while we wait for the other processes to play out



LEARNINGS: PRIMARY TRANSFER

A closer look at the Makhaza Primary Transfer Pilot (780 properties)

MAKHAZA PRIMARY TRANSFERS PROGRESS

- **Transfers completed:** 486 properties (R97 million*)
- **Transfers in process:** 12 properties (R2.4 million)
- **Beneficiary eligible to sign sale agreement but not yet signed:** 81 properties (R16 million)
- **Further investigation needed / property not surveyed:** 201 properties (R40 million)

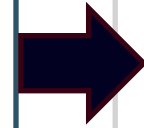


Note: *Value of properties calculated using assumption of R200 000 per property which is in line with the City of Cape Town's Valuation Roll amount (for those properties that can be found on the Valuation Roll)

A closer look at the Makhaza Primary Transfer Pilot (780 properties)

ELIGIBLE TO SIGN: 579 PROPERTIES (74%)

- **Transfers completed:** 486 properties
- **Transfers in process:** 12 properties
- **Beneficiary eligible to sign sale agreement but not yet signed:** 81 properties



The 579 properties that are classified as 'eligible to sign' comprises:

- >> **529 properties** could be classified straight away as 'eligible to sign' → **beneficiary = occupant / recognised owner**
- >> 50 additional cases have been **moved to the 'eligible to sign' bucket through the TSC's involvement with individual case resolution** (existing TSC clients or approached TSC for assistance)
 - Back-to-back transfers to buyers
 - Back-to-back transfers to non-qualifiers (beneficiaries who were in occupation of their properties but did not have approved subsidies on HSS)
 - Transfers to heirs of deceased beneficiaries
 - Substitution of beneficiaries
 - Regularisation of non qualifier cases flagged by rates clearance

INDIVIDUAL CASE RESOLUTION REQUIRED: 201 PROPERTIES (26%)

- **Further investigation needed:** 166 properties)
- **Property not surveyed:** 35 properties
Refused to participate or vacant property

Key learnings: Primary transfer

Walk-in clients

- Difficult to determine where the PT projects are, who the project manager is, who the conveyancer is
- In some cases, projects have not yet kicked off – no clear timelines on when this will happen and how long it will take until title deeds can be issued
- Subsidy applications working well, but not always clear what to do with non-qualifiers

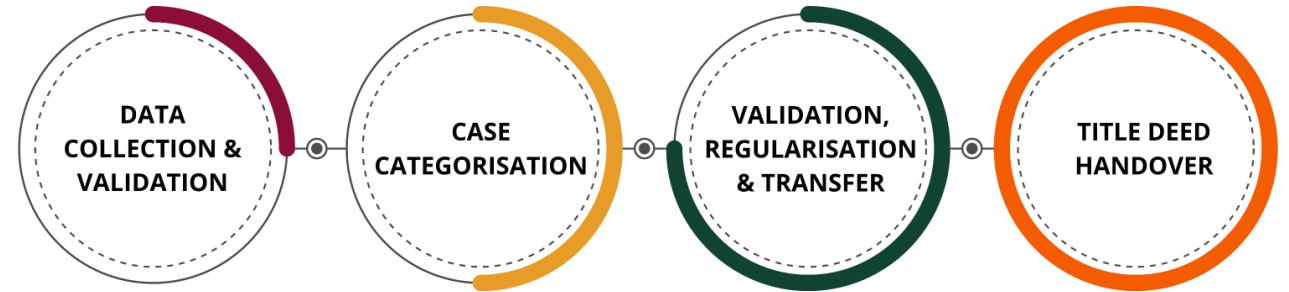
Pilot

- So many lessons we wrote a toolkit

Learnings from the pilot have been documented and shared in two toolkits targeting municipal and provincial officials

See: <https://cahf.gitbook.io/primary-transfer-toolkit/>

The **Beneficiary Administration & Transfer component of the Primary Transfer Toolkit** was developed based on the TSC's learnings from the Makhaza, Khayelitsha primary transfer project conducted in close consultation the City of Cape Town's Tenure Administration and Transfers team.



The Beneficiary Administration & Transfer Toolkit unpacks each step in the process in detail and offers practical solutions to the common case 'categories' that emerge in the primary transfer process

The **Land & Planning Regularisation component of the Primary Transfer Toolkit** was developed by Peter Hoffman and Chris Carter from GeoAfrika with funding from the IFC supported by SECO and the World Bank Group.

The Land & Planning Regularisation Toolkit can be used for new Housing Projects and for Housing Projects where the transfer of ownership to Beneficiaries has not been effected.





LEARNINGS: ADMINISTRATIVE CASES

The three common administrative title deed problems include...



Errors on the title deed

(e.g. incorrect name, ID number, spouses not registered on deed)

TSC collates all information and documents and prepares instruction to conveyancers for **application to Deeds Office to rectify error**

Main challenge:

- Proof required for the deeds office is **very subjective**
- **Burden of the cost** of this application falls on property owner when original error is **often due to conveyancing fault**



Original title deed lost or damaged

TSC collates all information and documents and prepares instruction to conveyancers for an application to Deeds Office for **'VA copy' of title deed**

Main challenge:

Cost of the application for VA copy falls on the property owner / beneficiary when often it is City or Province who has lost or cannot locate the original title deed



Primary transfer has happened, but beneficiary hasn't received title deed

TSC reaches out to City of Cape Town contacts / project managers depending on which area property is located in, or contacts the City's support services department which currently oversee title deed handovers

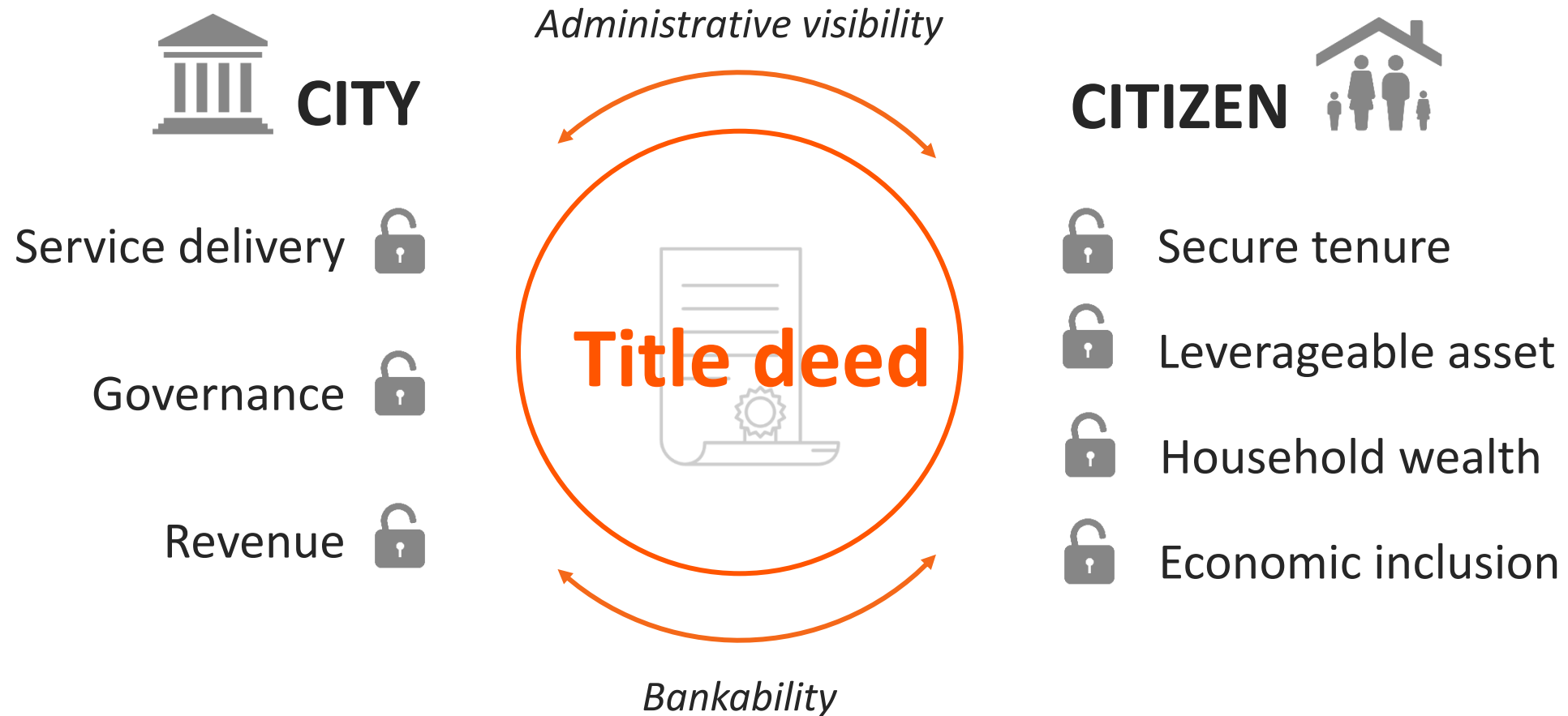
Main challenge:

No consolidated and transparent system in place to locate title deeds sitting across different departments and officials and track the status of such (collected vs. not collected). **This is a problem across all municipalities. It can easily be solved (all title deeds are barcoded)**

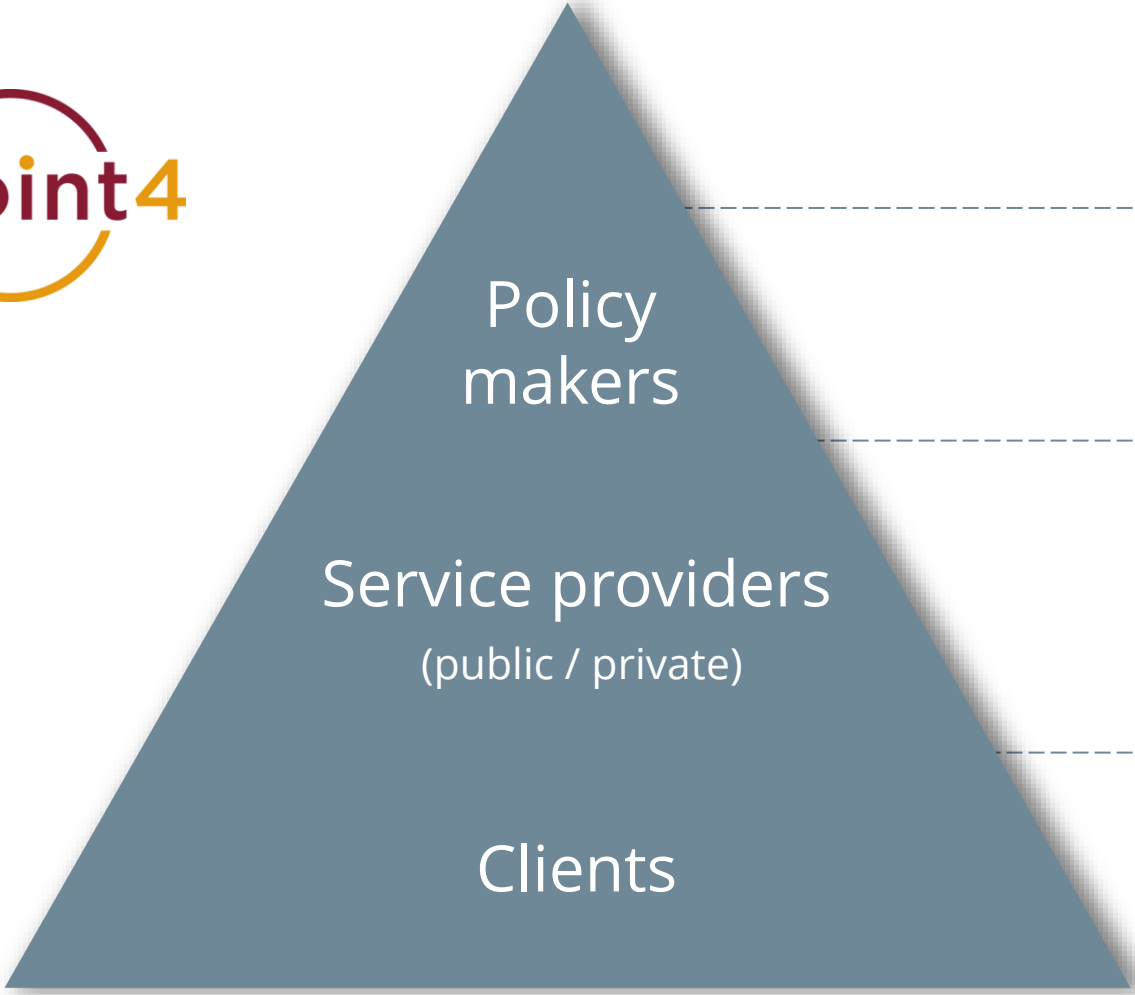
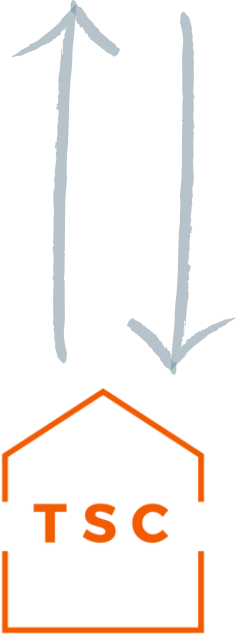


GOING FORWARD

Why does it matter?



The vision (revisited)



Office of the Presidency
National Treasury
Human Settlements

Multi-department engagement
within the City and Province
Private sector servicing models
and products

Resolving client cases &
documenting experiences

Drive change by documenting and sharing the learnings from the TSC's day-to-day interactions with clients and the challenges they face in resolving their title deed challenges



Intractable problems of transfer (Backlog and secondary transfer)

- ❖ Appoint commissioners to adjudicate and pass transfer on backlog cases as well as transfers where the chain of title has been broken

REGISTRAR OF DEEDS

Accessible, affordable (and digitised) property registration system

- ✓ Review fees and required processes within the as-is environment
- Expedite EDRS implementation
- Explicit attention on this market in the development of the digitised future

Share data

- ✓ with provinces and municipalities to support beneficiary administration
- ✓ with SANT to enable improved monitoring of title deed registrations for subsidy properties



Data

- ✓ Share data on beneficiaries – are they still alive?

Accessible, affordable (and digitised) property registration system

- Prioritise property transfer use case as priority for roll out of digital transformation



Deceased estates

- ✓ Adjust thresholds for small estates
- Streamline and digitise processes and increase capacity at the Master's Office

Disputes

- Develop an affordable, accessible dispute resolution process for low value properties



Backlog

- ✓ Review regularisation policy on primary transfers to avoid evictions of non-qualifiers

FLISP

- ✓ Review current processes for FLISP subsidy administration (i.e. turnaround time, payment delays)

Decriminalise transactions

- ❖ Housing Act amendment: revise or remove Section 10A/10B and add 10C to resolve transfers to absent beneficiaries

MUNICIPALITIES

Backlog

- ✓ Prioritise and transfer where possible - asap
- For the rest, very hard to say because there is not a lot of data. But we do know there is hard work to be done –

Manage and share data

- ✓ Ban spreadsheets: develop systems and processes to validate and share data on beneficiaries and occupants across departments

Tracks transfers and title deeds

- ✓ Improve monitoring of transfers, whereabouts of title deeds, and evidence of final hand over to clients

✓ Low hanging fruit

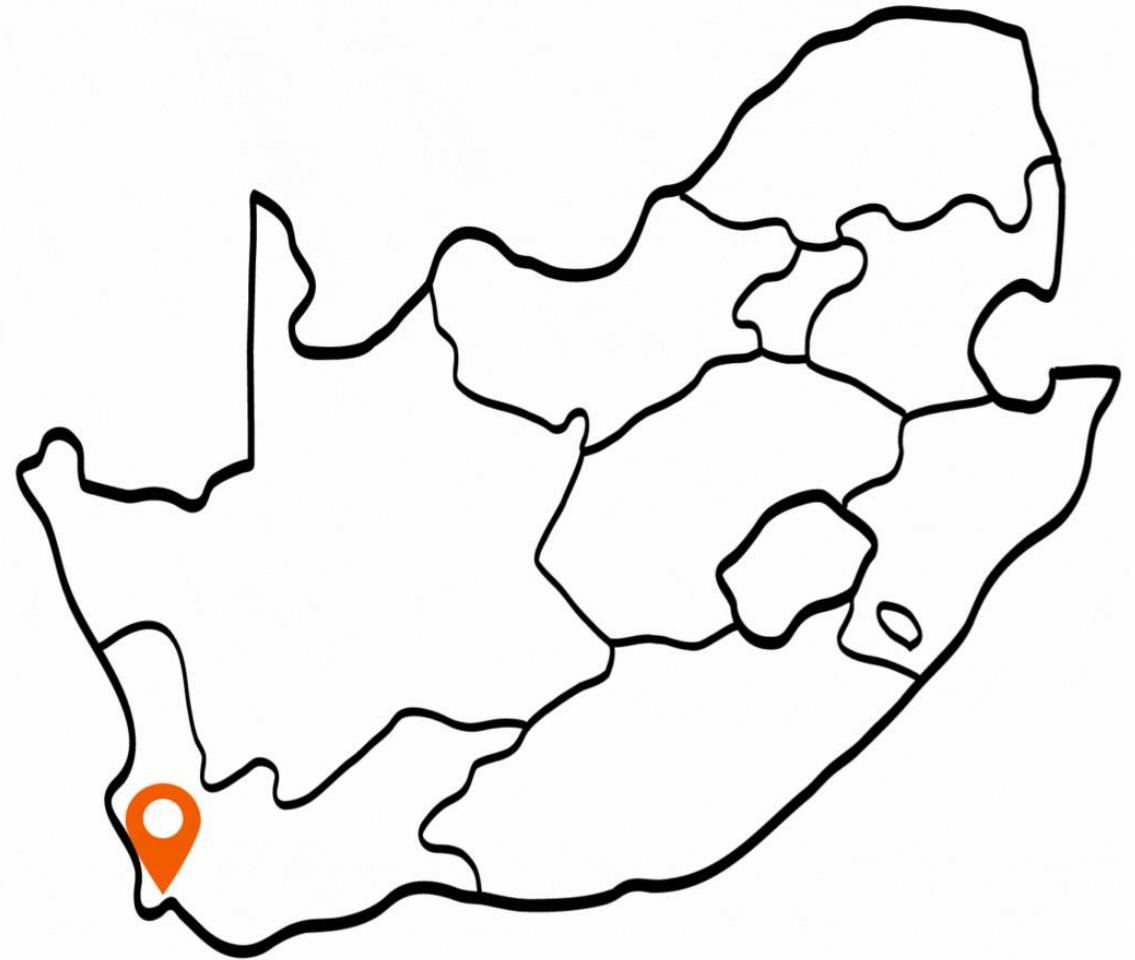
❖ Critical path interventions

➤ Opportunities for transformation

But we need to get on with it in the meantime

What does scale look like in the **current environment?**

- Until such a time that we have a simpler, more affordable property registration system in the country, **scaling tenure support for low-income households will require multiple 'TSC-type' offices across the country**
- This will **require the appropriate resources** (funding, people, good processes, technologies and partnerships)
- There is an **immediate need for this type of support**



How to scale going forward



Leverage technology to optimise current operations

- Facilitate remote on-boarding
- Validate identities of sellers and buyers
- Validate data on property ownership
- Automate client reminders, internal case management, reporting
- Enable clients to maintain evidence of ownership



Equip others establish TSCs

- **Document processes and learnings to equip** others to set up and run their own 'Tenure Support Centres'
- **Train and mentor staff** during initial set up and running of independent TSCs



Expand private sector partnerships

- Partner with **banks** to open more TSC offices in low-income areas with known title deed problems
- Establish agreements with **additional conveyancers** to adopt and support the model



Build relationships with more municipalities and provinces

- Agreements with revenue departments on arrears write offs / payment plans
- Agreements with Provinces on waivers

Who pays?

Paid for by the TSC but hosted in a bank branch



FRONT LINE ADMINISTRATOR



PARALEGAL



MASTER'S CLERK



CASE MANAGER
(One per three branches)

Paid for by the TSC project but employed, managed and hosted by partner conveyancer

**~ R100 000
PER TSC OFFICE
PER MONTH**



THANK YOU!
Q&A?



Centre for Affordable
 Housing Finance
 in Africa





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