

Land Registry

# Landnet

# 41

April 2014

In this issue

Land  
Registry's  
customer  
magazine



Welcome to *Landnet* 41.

At Land Registry we've always prided ourselves on our in-house skills in creating electronic services. But we're increasingly drawing on the knowhow of another group of experts: our customers.

Customer input was integral to the development of our new MapSearch service. Its popularity must be attributable, at least in part, to the way it was shaped by people destined to use it.

Our new research facility at our Coventry Office will only enhance the degree to which customers contribute. If you'd like to volunteer to take part in a research session, please contact my colleagues as mentioned in the article on [page 4](#).

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*Landnet* can be made available in other formats on request. If you require *Landnet* in another format, please contact Customer Support by email [customersupport@landregistry.gsi.gov.uk](mailto:customersupport@landregistry.gsi.gov.uk) or on 0844 892 1111.

To receive a bulletin every time *Landnet* is published, please send your name, job title and email address to [gavin.curry@landregistry.gsi.gov.uk](mailto:gavin.curry@landregistry.gsi.gov.uk)

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# MapSearch proves instant success

Our new free-to-use web-based MapSearch service has proved an instant success with Business e-services customers.

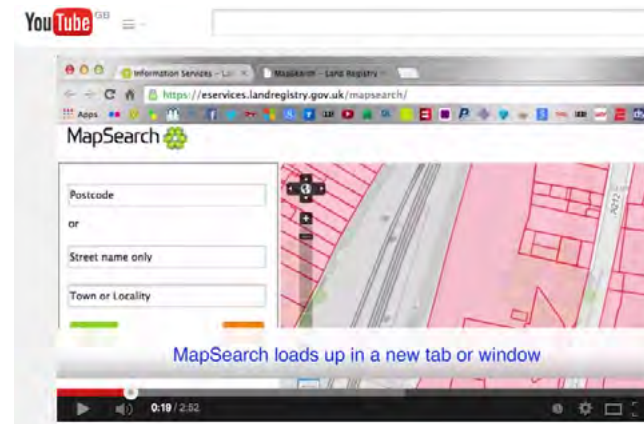
More than 2,600 visits and close to 5,000 searches are being made each day.

A survey found that 93 per cent of users say the service will save them money and 82 per cent say it will save them time.

MapSearch allows customers to quickly establish whether land and property in England or Wales is registered and obtain title numbers and details of freehold or leasehold tenure and other registered interests.

The service was created by working with customers to ensure it met their needs and we have continued to enhance it in response to people's suggestions. For example, the map scale is now displayed on screen.

The survey was carried out during MapSearch's public testing



phase and attracted almost 500 respondents. It found that 79 per cent were using the service several times each week.

The main usable features were rated as either excellent or good by between 73 per cent and 88 per cent. Between 89 per cent and 93 per cent agreed or strongly agreed with statements that MapSearch was intuitive, easy to navigate, saved time and money, and met their expectations.

All you need to use MapSearch is an internet connection, a standard internet browser and a Land Registry portal account.



To access the service [log into the portal](#) and select MapSearch from the 'Information Services' menu on the left-hand side of the portal home page.

A [video on our You Tube channel](#) provides a simple 'how to use' guide.

We will continue to enhance MapSearch in response to your suggestions. Please look out for further announcements.

What our customers say  
**Deena Wood, Data Project Co-Ordinator, National Grid:** "Very satisfied, such that I feel that I wouldn't be able to do without it. It saves a lot of time."

**Jackie Wilkie, Grantor Relations Officer (Payments), National Grid:** "Previously I found that a number of my Land Registry searches were rejected. Using this new service allows me to easily pinpoint the area of land required."

## Lower fees pass on savings to customers

The Land Registration Fee Order 2013 came into force on 17 March, allowing us to share the benefit of efficiency savings with our customers.

The main changes were:

- the inclusion of scale 1 registrations of properties priced between £50,001 and £80,000 in the lowest price band (now £0-80,000), retaining the lower fee of £40
- the reduction of the fee for scale 1 registrations of properties priced between £80,001 and £100,000 from £120 to £80
- a reduction of 50 per cent in the fee for electronically lodged applications to register transfers of whole, charges of whole and transfers of charges and some fixed fee applications
- the introduction of a flat fee for all 'inspection of documents' and 'official copy of document' (OC2) applications, removing the differences in fees between documents referred to in the register, not referred to in the register and leases. The fee is £3 per document when applied for electronically and £7 per document when applied for on paper.

Full details are available [on our website](#).

### Why have we reduced our fees?

As a trading fund we are required to set fees to break even. In 2012 our efficiency savings allowed us to reduce fees by 10 per cent on average.

With further efficiency improvements recorded and a rising number of transactions in the housing market, we were again in a position to share the benefit with our customers by reducing our fees.

We were also pleased to take the opportunity to encourage electronic applications and to simplify and substantially reduce some of our most commonly paid fees.

Land Registry  
Ready reference guide



For all applications received at Land Registry offices on or after 17 March 2014.

This guide contains a summary only. For further details see the Land Registration Fee Order 2013.

Registration services fees  
March 2014

## Latest technology aids customer research

A new facility at our Coventry Office is helping us improve the customer testing of our electronic products and services.

The purpose-built 'usability suite' allows us to learn invaluable lessons from the responses of volunteers putting prototypes through their paces.

Customer involvement is already integral to new launches such as [MapSearch](#) but the facility takes the process to a new level of sophistication.

A standard session involves up to six volunteers being asked to attempt pre-set scenarios in hourly slots.

The volunteers are briefed on how usability testing benefits Land Registry and how we will look after and use the information.

Our team works under strict protocols including the Data Protection Act and the Market Research Society's code of conduct.

The same scenarios are then tested with each volunteer in exactly the same way.

Eye tracking and 'gaze interaction' equipment follows the volunteers' eye movements as they navigate around the screen. A red dot shows where they are looking and its size indicates how long they focused on a particular part of the screen.

Observers can follow every detail from a room next door or remotely.

Head of Customer & Market Insight Gavin Thorne said the suite would be of great benefit to Land Registry and our customers.

"It will ensure we continue to develop our services with our customers in mind," he said.

If you'd like to help our research by volunteering for a session, please contact Debbie Russell at [deborah.russell@landregistry.gsi.gov.uk](mailto:deborah.russell@landregistry.gsi.gov.uk) or Jess Gough at [jessica.gough@landregistry.gsi.gov.uk](mailto:jessica.gough@landregistry.gsi.gov.uk).

Debbie and Jess track a volunteer's responses



## Former Chief Land Registrar John Pryer remembered

Land Registry has been remembering former Chief Land Registrar John Pryer who has died at the age of 84.

Mr Pryer's term of office from 1983 to 1990 saw the extension of compulsory registration to the whole of England and Wales and the opening of the Land Register to the public.

He also oversaw the computerisation of the Land Register and the winning of Executive Agency status for Land Registry.

His successor John Manthorpe said: "Land Registry was very fortunate to have had such a wise and resilient Chief through some very challenging years."

Mr Pryer's Land Registry career began in 1959 as a legal assistant at our Lytham Office after studying law at evening classes and being called to the bar at Grays Inn in 1957.

He was promoted to Assistant Land Registrar and in 1967 transferred to Durham Office, where he was District Land Registrar from 1976 to 1981.

Promotion to Deputy Chief Land Registrar in 1981 was quickly followed, on 1 February 1983, by his appointment as Chief.

His achievements at Land Registry were recognised by the award of the CB in 1986, when he was also appointed as an Honorary Associate of the Royal Institution of Chartered Surveyors.

During his retirement he was joint author of registered conveyancing textbook Ruoff & Roper and Assistant Secretary to the Council of Licensed Conveyancers.



## Customer Support phone number

Following feedback from many of our customers and the issuing of new guidance by the Cabinet Office we are in the process of replacing our 0844 Customer Support phone number with an 0300 number. We'll announce the new number as soon as it's ready. There will be a transitional period when both numbers will be active.

## Citizen Centre

Our new Citizen Centre has been processing all paper applications from members of the public since January.

Previously we asked members of the public lodging applications on their own behalf to send their applications to one of our local offices based on their home address.

Processing all such applications at one location will allow us to better understand the needs of our non-professional customers and process their applications more efficiently.



# Do more with our e-DRS service

There's never been a better time to start using our electronic Document Registration Service (e-DRS).

We have:

- [reduced the fees](#) for electronically lodged applications that affect the whole of a registered title
- activated enhancements that allow Business e-services customers to send us applications to transfer part of a property and register new leases using our electronic channels.

These enhancements mean you can now use e-DRS to:

- register the sale or mortgage of any registered property
- register and extend leases on any registered property

whether the application affects the whole of the property or part of it.

You can see how to transfer part of a property with [our new video](#).

To help guide you through the enhanced service we've updated:

- our [e-DRS user guide](#) (PDF)
- our [e-DRS training video](#)
- [Practice Guide 40 – Land Registry plans – Supplement 2 – Guidance for preparing plans for Land Registry applications](#)
- our [e-DRS frequently asked questions](#)
- our [introduction to the Land Registry portal](#) video.

You can also read the [full list of application types and documents](#) that can now be submitted through e-DRS and a list of applications that can't.

## **Additional enhancements**

- Severance of joint tenancy (SEV) has been added to the drop-down list of document types in the portal.
- The limit on the number of title numbers you can send us per

application has risen from 20 to 50 on both the portal and Business Gateway.

On Business Gateway:

- the application schema and attachment schema have been updated to allow customers to provide free-format notes with applications
- the application schema has been updated to include renewal of home rights (HR2), cancellation of home rights (HR4), assent of part (AS3) and change of property description for an application type (along with lease, assent of part and transfers of part)
- we have updated the result response for an application to include the ability to provide a fee adjustment indicator
- we now provide our full [Register Extract Service](#) with Business Gateway e-DRS results.

## e-Document Registration Service



# The Land Registration Act 2002 – 10 years on

## Part 6: Disputes procedure, alteration and rectification

In the last in our series on the anniversary of the Land Registration Act 2002, a Land Registry lawyer traces how disputes procedure has evolved

The last major change to the Land Registration Act 1925 (LRA 1925) brought about by the Land Registration Act 2002 (LRA 2002) was to change the procedure for resolution of disputed land registration applications by creating the Office of the Adjudicator to HM Land Registry to hear and resolve disputes<sup>1</sup> and recast the provisions relating to alteration and rectification of the register<sup>2</sup>.

The 1925 judicial function of the Solicitor to HM Land Registry Under the Land Registration Rules 1925 (LRR 1925)<sup>3</sup>, where a dispute which arose on an application before the Chief Land Registrar (CLR) could not be resolved by agreement, the CLR had an obligation either to hold a hearing to determine the questions in dispute or direct one of the parties into a court of law.

This unusual jurisdiction originated from the views of the Royal Commissioners who enquired into the failure of the land registration act of 1862. They concluded that one

reason for that failure was that the CLR was required to refer all disputes to the court and had no power to decide them.

In time, as the jurisdiction grew from fewer than 10 hearings a year in the 1980s and 90s, this duty was delegated to the Solicitor to HM Land Registry (HMLR), and subsequently further delegated to serving Land Registrars who acted as Deputy Solicitors to HMLR for this purpose.

After informal negotiations and mediation between the parties by Land Registry lawyers, a formal procedure for exchange of documents and statements of case was implemented. The hearing was often held in the Chief Land Registrar's office or a conference room at Head Office, at a local office if more convenient to the parties, or occasionally in other venues.

The jurisdiction included a power to make a costs order<sup>4</sup>, although there was a special provision generally placing the burden of costs for first registration, even including dispute costs, on the applicant<sup>5</sup>.

Instead of deciding the matter, the Solicitor to HMLR or their deputy could, at any stage, direct one of the parties to issue proceedings in the High Court within a specified time to determine all or any of the questions

in dispute. A decision could be appealed to the Chancery Division of the High Court<sup>6</sup>.

The jurisdiction existed as a parallel jurisdiction of the courts under their inherent jurisdiction, and parties would sometimes voluntarily proceed to seek resolution of their disputes centring on a registration issue by court action.

This jurisdiction continued until approximately 2011, dealing with applications begun under LRA 1925 under transitional provisions.

A conclusion of the 2001 Quinquennial Review of the Land Registry<sup>7</sup> was that it would be more appropriate for such disputes to be heard by a body or person independent of Land Registry, as Land Registry had a statutory obligation to pay indemnity where proven mistakes in the register caused loss and this created a potential conflict of interest.

<sup>1</sup> Part 11, LRA 2002, sections 107-114.

<sup>2</sup> Section 65 and Schedule 4, LRA 2002.

<sup>3</sup> Rule 299, LRR 1925. The 1925 rules had the same force and effect as though enacted in LRA 1925: s.144(2), LRA 1925.

<sup>4</sup> Rule 321(1), LRR 1925.

<sup>5</sup> S.17(1), LRA 1925.

<sup>6</sup> R.300, LRR 1925.

<sup>7</sup> By Andrew Edwards for Lord Irvine, the Lord Chancellor.

cont'd

The office and powers of the Adjudicator to HM Land Registry  
The powers contained in Part 11 of LRA 2002 are wider than those previously exercised by the Solicitor to HMLR and include:

- (1) determining disputes referred by Land Registry concerning Land Registry applications, where it is 'not possible' to dispose of objections to the applications, and where those objections are not objections which the registrar is satisfied are groundless under s.73 of the Act
- (2) determining disputes concerning network access agreements
- (3) rectifying or setting aside documents effecting a qualifying disposition of a registered estate or charge, including dispositions which create an interest which may be the subject of a notice in the register, or transfers of such an interest, or of contracts to make such dispositions<sup>8</sup>.

There is also an augmented power in relation to disputed applications for title by adverse possession under paragraph 1 of Schedule 6 LRA 2002<sup>9</sup>. Where the applicant relies on the first ground (unconscionable because of an equity of estoppel for the registered proprietor to seek to dispossess the applicant)<sup>10</sup> and

where the Adjudicator determines that the unconscionability element is satisfied but not the second limb (that circumstances are such that the applicant ought to be registered as proprietor), the Adjudicator has the power:

- (a) to determine how the equity due to the applicant is to be satisfied and
- (b) to make for that purpose any order that the High Court could make in the exercise of its equitable jurisdiction.

This is a potentially very wide power and its extent has probably not yet been fully explored.

The first Adjudicator to HMLR, Edward Cousins, was appointed before the coming into force of the Act, with several part-time deputies to assist.

On 1 July 2013 the Land Registration division of the Property Chamber, First-tier Tribunal replaced the post of Adjudicator, with Mr Cousins sitting as Principal Judge with three other full-time salaried judges and 28 part-time fee paid judges.

Site inspections in conjunction with such hearings are still regularly undertaken and many litigants are not legally represented at hearing. There is a right of appeal to the Upper Tribunal (Tax and Chancery) Chamber

subject to a permission filter.

The division expects to have dealt with approximately 1,200 cases in 2013/14. The practical procedure is now dealt with by general tribunal rules<sup>11</sup>, which also govern disputes before the other divisions of the chamber: Residential Property and Agricultural Land and Drainage, and a practice direction specific to land registration cases.

Section 110(1) still includes a power for the Adjudicator to direct a party to commence proceedings instead of deciding a matter themselves but it may be assumed that with the more formalised procedure of the tribunal structure, this is far less likely to happen. There may be occasions when a tribunal judge may wish to refer an application to a more specialised court, such as a commercial or family court.

However, the courts still retain an inherent jurisdiction to make orders directed to Land Registry. There are also specific provisions where the court has a parallel jurisdiction, such as the specific powers under paragraph 2 of Schedule 4 of the Act for the court to make an order for alteration of the register. The Registrar has a similar power under paragraph 5 of the same Schedule, and it is under this provision that most alteration applications are pursued.

Current procedure for disputes  
The current procedure for the progress of a disputed application is for Land Registry to serve a formal notice of objection (notice B193) on the applicant, with a similar notice confirming this on the objector.

If the applicant confirms the intention to proceed in the light of the objection the parties are invited to indicate whether they wish to negotiate.

If all parties wish to do so, periods are set aside for the negotiations to proceed, but if any party does not confirm their intention to continue negotiations, or if negotiations appear to come to a stand-still, the disputed application is referred to the tribunal, with a brief outline of the issues involved, and copies of relevant papers lodged.

The parties then have to formalise their cases in accordance with the tribunal rules and practices, and it is unlikely Land Registry will have any contact with the matter until the decision is taken and the order returned.

<sup>8</sup> S.108, LRA 2002.

<sup>9</sup> S.110(4), LRA 2002.

<sup>10</sup> Paragraph 5 (2) Schedule 6, LRA 2002.

<sup>11</sup> The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 1169 of 2013.



Land Registry may attempt to facilitate settlement of some disputed applications before referral, by offers of indemnity or otherwise, in appropriate cases.

A Deputy Adjudicator took a decision that parties could not withdraw their application or objection without the deputy's consent once the case had been referred to them pursuant to section 73(7), LRA 2002, and this position has been confirmed by the Court of Appeal<sup>12</sup> and tribunal rules<sup>13</sup>.

**Alteration and rectification applications under LRA 2002**  
The proposals under part X of Law Com 271 were to reformulate the discretionary power of rectification of the register by the Registrar or court under section 82, LRA 1925.

(1) Rectification was recast as just one form of alteration of the register which involved correction of a mistake and which prejudicially affected the title of a registered proprietor<sup>14</sup>. Rectification powers would no longer be the term used for alteration of the register to reflect rights acquired, or changes needed, due to events since the original correct registration, or the updating of the register to correctly show rights where the proprietor was already subject to these as

overriding interests. Whereas the 1925 regime dealt with this problem by defining the change as rectification but providing that no indemnity was payable because the party suffered no actual loss<sup>15</sup>, the new act changed the definition of rectification to remove alterations which reflect an existing binding interest.

- (2) Payment of statutory indemnity under Schedule 8 was linked to this definition. A separate discretionary power to pay costs in non-rectification alteration cases to alleviate cases of hardship was created, now found in paragraph 9 of Schedule 4 of the Act.
- (3) Whereas the power of rectification under the 1925 Act was discretionary in theory but always employed in appropriate cases in practice, the 2002 Act similarly cast the power to alter as discretionary and provided that if the registrar had power to make the alteration, the application *'must be approved, unless there are exceptional circumstances which justify not making the alteration'*<sup>16</sup>.
- (4) The Act carried over the concept of the 'qualified indefeasibility' of the title of the registered proprietor in possession against alteration of their title in paragraph 6 (2) of Schedule

4. It adopted the wording of the exceptions from section 82 (3) LRA 1925 but strengthened the injunction that the register *'shall not'* be rectified under the 1925 Act discretionary powers to the stronger *'no alteration...may be made...without the proprietor's consent'* under the 2002 Act. This effectively removed the power to alter the register of the registered proprietor in possession in a contested case unless either of the statutory exceptions could be proved.
- (5) A new statutory definition of the phrase *'proprietor in possession'* was provided in section 131, LRA 2002, removing the uncertainty of judicial interpretations in various cases under the 1925 legislation.

The provisions under Schedules 4 and 8 are coming under increasing scrutiny, both judicially and academically. There are concerns over the way that different parts of the Act interact with these two key schedules, for example the availability of rectification and indemnity in cases involving forgery, boundaries<sup>17</sup> and overriding interests. Indeed, at the time of writing a case is going through the courts on the very issue of forgery and its consequences, and we await the outcome of the litigation with interest and anticipation<sup>18</sup>.

However, the main structure and concept of the alteration/rectification framework under the 2002 Act appears to remain intact.

### Further information

[Practice Guide 37 – Objections and disputes – A guide to Land Registry practice and procedures](#)  
[Practice Guide 38 – Costs](#)  
[Practice Guide 39 – Rectification and indemnity](#)

<sup>12</sup> Silkstone v Tatnall [2011]ECWA Civ 801.

<sup>13</sup> Rule 22(3).

<sup>14</sup> Others are alteration to bring the register up to date, give effect to any estate, right or interest excepted from the effect of registration, remove a superfluous entry under Schedule 4 and correct clerical entries under rule 130, LRR 2003.

<sup>15</sup> Chowood Ltd v Lyall (No2) [1930]1 Ch 426.

<sup>16</sup> Paragraph 6(3) of Schedule 4, LRA 2002.

<sup>17</sup> Derbyshire County Council v Fallon [2007] EWHC 1326 (Ch), Strachey v Ramage [2008] EWCA Civ 384, Drake v Fripp [2011] EWCA Civ 1279, Knights Construction v Roberto Mac Limited [2011]2 EGLR 123, Paton v Todd [2012] EWHC 1696 (Ch) and Parshall v Hackney [2013] EWCA Civ 240.

<sup>18</sup> Swift 1st Limited v Chief Land Registrar (Chancery Division) going to appeal.

# The 2014 Men's University Boat Race Sunday 6 April 2014

Land Registry



University of Oxford



vs. University of Cambridge



Middlesex station (north bank of the course)

Finish –  
Chiswick Bridge

Surrey station (south bank of the course)

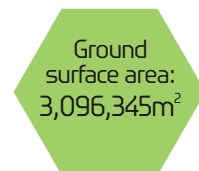
Start –  
Putney Bridge

The Course:

4 miles, 374 yards (or 6.8km) along the River Thames between Putney and Mortlake, first used for the Boat Race in 1845

## Land registered along the banks of the course

Middlesex station (north)



Price paid per m<sup>2</sup>

£743



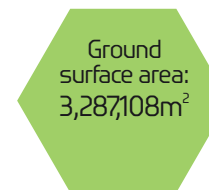
4,739 freehold

4,882 leasehold

Average freehold price paid: £728,742

Average leasehold price paid: £351,472

Surrey station (south)



Price paid per m<sup>2</sup>

£901



5,743 freehold

4,724 leasehold

Average freehold price paid: £672,733

Average leasehold price paid: £373,279

First contested in 1829, this year's was the 160th



Landmark buildings such as Craven Cottage and the Harrods Depository are familiar features of the annual Boat Race. But what is the value of Thameside property in the most affluent part of London?

Our experts used data from our [INSPIRE index polygons](#) and [price paid information](#) to find out.

## Practice and public guides

You can find the latest versions of all our [practice guides](#), [practice bulletins](#) and [public guides](#) on our website.

Section 2 of [Practice Guide 10 – Official searches of the index map](#) has been amended to refer to MapSearch.

Section 11 of [Practice Guide 12 – Official searches and outline applications](#) has been amended to clarify our procedures for withdrawing an official search.

Section 3.7.2 of [Practice Guide 19 – Notices, restrictions and the protection of third party interests in the register](#) has been amended to provide additional guidance on information that should be included in a statement or a conveyancer's certificate when an application is made for a unilateral notice. Where a statement or certificate lacks sufficient information Land Registry will raise a requisition.

The new edition of [Practice Guide 33 – Large scale applications and calculation of fees](#) reflects the reorganisation of processing large scale applications and the

amalgamation of this guide and the former Practice Guide 32.

Section 9 of [Practice Guide 40 – Land Registry plans – Supplement 2 – Guidance for preparing plans for Land Registry applications](#) has been updated to recommend the use of bar scales on plans and section 10 has been updated to provide additional guidance on scanning plans in part using the electronic Document Registration Service.

Section 2 of [Practice Guide 41 – Developing estates – registration – Supplement 5 – Detailed plan requirements and surveying specification – guidance for surveyors](#) has been updated to include the use of bar scales.

Sections 4.2 and 5.3 of [Practice Guide 56 – Formal apportionment and redemption of a rent or a rentcharge that affects a registered estate](#) have been amended as a result of the Land Registration Fee Order 2013.

Section 4.1.F has been added to [Practice Guide 67 – Evidence of identity – conveyancers](#) to explain the situation where the application is to register a legal charge to a local authority up to a value of £10,000 to protect a service charge loan.

Section 4 of [Practice Guide 72 – Development scheme](#) has been amended as a result of a change of contact details.

Section 3.2.8 of [Practice Guide 75 – Transfer under a chargee's power of sale](#) has been amended to confirm the registrar may cancel a restriction automatically where they are satisfied the restriction is superfluous.

[Practice Bulletin 21 – The Land Registration Fee Order 2013](#) gives details of the Land Registration Fee Order 2013, which came into effect on 17 March 2014.

Section 2.13 of [Public Guide 1 – A guide to the information we keep and how you can obtain it](#) and section 5.3.1 of [Public Guide 20 – Evidence of identity – non-conveyancers](#) have been amended as a result of a change to our procedure for booking appointments.

Section 3.5 has been added to [Public Guide 17 – How to safeguard against property fraud](#), giving details of our Property Alert service.

## Annual Report and Management Plan

Read our [2012/13 Annual Report and Accounts](#) and our [2013/14 Annual Management Plan](#).

## ICR's annual report

Our [Independent Complaints Reviewer's annual report for 2012/13](#) describes how we responded to the issues upheld by our complaints reviewer.

## Landnet archive

Read [past issues of Landnet](#).