



Scope of this bulletin

With effect from 3 August 2009, Land Registry will be applying a policy of early completion where an application to remove entries relating to a registered charge is lodged together with other applications but proof of satisfaction of the registered charge does not accompany, or precede, the application. It is aimed at legal practitioners and lenders.

Early completion

Contact details

For general enquiries and to request this publication in an alternative format please contact Customer Support at customersupport@landregistry.gsi.gov.uk or telephone 0844 892 1111 from Monday to Friday between 8am and 6pm.

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1 Abbreviations used

In this bulletin:
'LRA 2002' means the Land Registration Act 2002;
'LRR 2003' means the Land Registration Rules 2003.

2 What is early completion?

Early completion is a new policy that Land Registry will apply from 3 August 2009 to ensure that registration applications are completed as quickly as possible.

The policy will apply to all situations where an application for a discharge of whole has been made with another application but evidence of satisfaction of the charge has not been provided.

For example, it will apply where an application is made in form AP1 for the registration of a discharge of an existing charge, a transfer and a new charge. Without evidence of satisfaction of the existing charge, Land Registry will reject the application for discharge but complete the other applications where it is possible to do so. The entries relating to the existing charge will be left in the register until proof of satisfaction is received.

Section 13 – Appendix 1 shows how the early completion process works using this example. The principle will apply to all situations involving a discharge of whole and another application.

3 Why is Land Registry introducing early completion?

In the example above, three distinct applications are being made.

1. An application for discharge of the existing charge to which r.114 or r.115, LRR 2003 will apply.
2. An application to complete the transfer by registration in accordance with s.27(2)(a), LRA 2002.
3. An application to complete the new charge by registration in accordance with s.27(2)(f), LRA 2002.

Land Registry's practice has previously been to treat the three applications collectively, so if there was difficulty obtaining evidence of discharge of the existing charge, not only might the application for discharge be cancelled but also the applications to register the transfer and new charge¹.

¹ Under r.16(3), LRR 2003, the registrar may reject an application which is substantially defective on delivery, or may cancel it any time thereafter.

We do not believe this policy can be justified where the transfer and new charge are capable of completion by registration, particularly as cancellation may risk a loss of priority for the interests of the transferee and new chargee.

We believe that dispositions should be reflected in the register as soon as possible after they have taken place. The interests of buyers and sellers should not be placed at risk by a refusal to register their transfers and charges because of delays in the completion of discharges of prior charges.

4 Did Land Registry consult on this change?

We consulted with key stakeholders, principally the Law Society, the Council of Mortgage Lenders and the Council for Licensed Conveyancers. We considered a submission from the Law Society recommending rejection of the proposal and correspondence from the Council of Mortgage Lenders supporting the proposal, albeit with caveats. We were also informed that the Council for Licensed Conveyancers supported the Law Society's view.

5 What if there is a restriction in the register in favour of the existing mortgagee. Will Land Registry still register a transfer and new charge?

If there is a restriction registered in favour of the existing mortgagee which provides either that no disposition or that no charge of the registered estate shall be registered without the consent of that mortgagee, Land Registry will requisition for evidence of discharge or evidence that the terms of the restriction have been met. If the requisition is not addressed, Land Registry will, in the case of a restriction against the registration of any disposition, have to cancel not only the application for discharge but also the application to register the transfer and charge. In the case of a restriction against the registration of a charge only, Land Registry will complete the registration of the transfer, cancelling the other applications and leaving the existing charge entries in the register.

6 What will happen if Land Registry has to raise a requisition because there is something wrong with the applications to register the transfer or new charge?

If Land Registry has to raise requisitions because of the transfer or new charge, we will point out that we also need proof of satisfaction of an existing charge if it has not been lodged. But if the transfer and charge points are resolved we will complete the registrations on the basis of early completion. We will not continue to stand over the applications to await the discharge.

7 Will Land Registry's policy put me in breach of the requirements imposed under the Council of Mortgage Lender's Handbook or undertakings I am likely to have given?

Completing the applications to register the transfer and new charge subject to the existing charge would not appear to affect the obligations of any party in relation to that existing charge. If the existing charge has been repaid then the requirement on the lender to provide evidence of proof of satisfaction of that charge will remain. The obligation on the seller's conveyancer arising from any undertaking given to the buyer's conveyancer in relation to the charge will not change. Similarly, a requirement imposed on a conveyancer acting for a lender to obtain for it a first charge by way of legal mortgage will stay the same, notwithstanding that the effect of completing the new charge subject to the existing charge is that the new charge will (temporarily) take effect as a second charge.

Early completion will not prevent the new charge taking effect as a first legal charge; it can never become a first charge until the existing charge is discharged. This is so whether or not the new charge is entered in the register. The entry of the new charge in these circumstances simply protects the priority of that new charge as against any other interest whose priority is not protected at the time of registration.

8 Will early completion apply to new title applications?

Land Registry will not complete applications to register transfers of part on the basis of early completion at this time but will keep this under review. We will requisition for a discharge of part if one is required and not lodged with an application to register a transfer of part.

Land Registry already applies a form of early completion when dealing with applications to register a dispositional first lease where there is a charge registered against the landlord's title. Although the charge is not usually discharged when a lease is granted, the absence of the chargee's consent to the grant of a lease by the landlord will not prevent the lease from being registered with absolute title.

9 Will early completion apply just to paper discharges?

No. Early completion will apply regardless of the method of discharge.

10 If my applications are completed on the basis of early completion how will I know when Land Registry has received an electronic form of discharge?

The lender should always tell you when they have sent an Electronic Notification of Discharge (END), Electronic Discharge (ED) or electronic discharge (e-DS1) to Land Registry. You will not have to lodge an application if the discharge is by way of an ED or e-DS1 as the application is an intrinsic part of the discharge. But, if the lender sends an END, you or the lender will need to apply in form AP1 or DS2E for the charge entries to be cancelled.

You can find out if a lender has sent an END, ED or e-DS1 to Land Registry by either checking via the Land Registry portal or Land Registry Direct, or by phoning the relevant Land Registry local office. If you phone, we will be able to confirm either that:

- the charge entries have been cancelled following receipt of an ED or e-DS1
- an END, ED or e-DS1 has been received, or
- no END, ED or e-DS1 has been received.

See section 14 – *Appendix 2* for the various processes for discharging a registered charge.

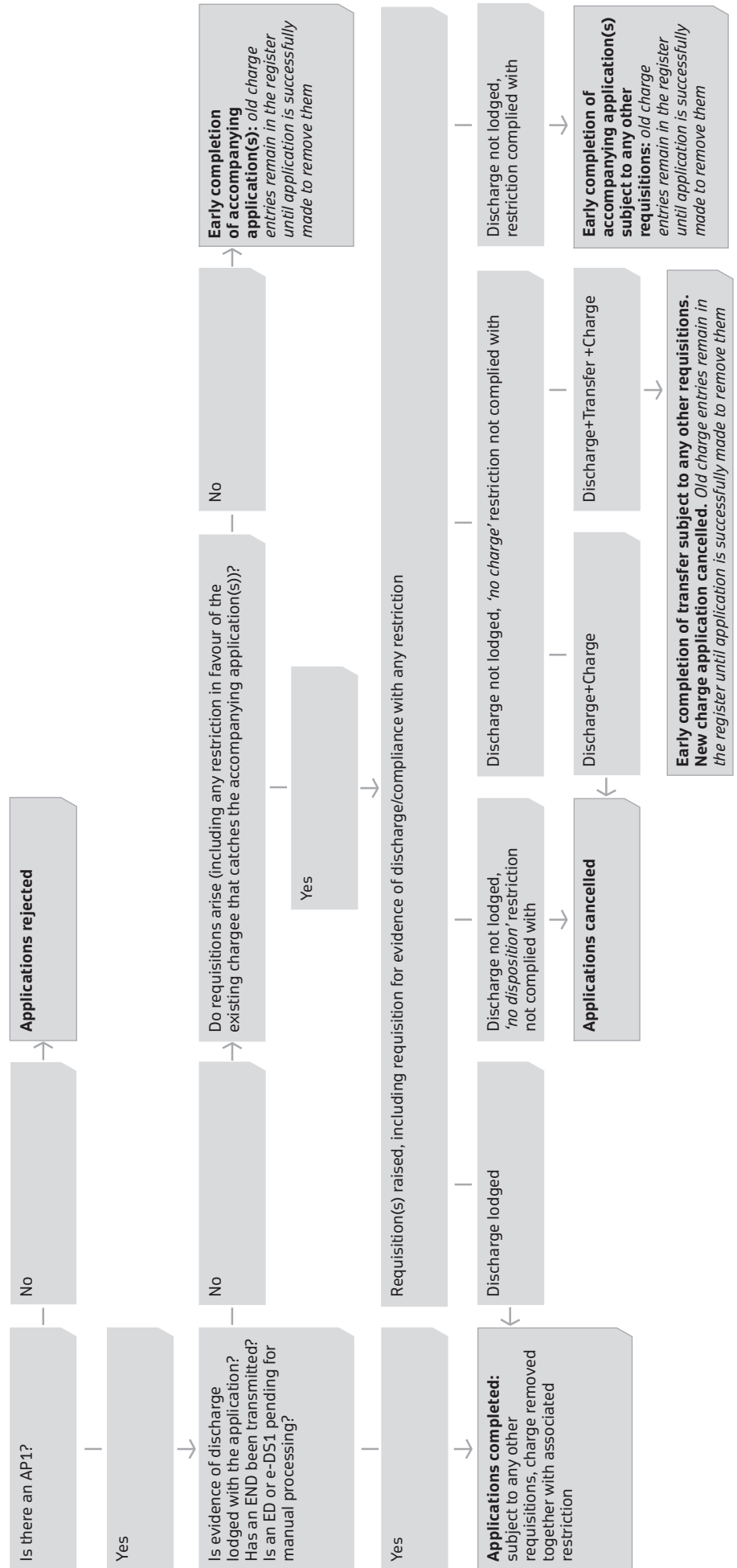
11 What will happen if my only application is to discharge a charge and proof of satisfaction is not available?

An application for discharge is substantially defective if proof of satisfaction is not lodged with or ahead of the application. Land Registry will therefore reject all such applications – see section 15 – *Appendix 3*.

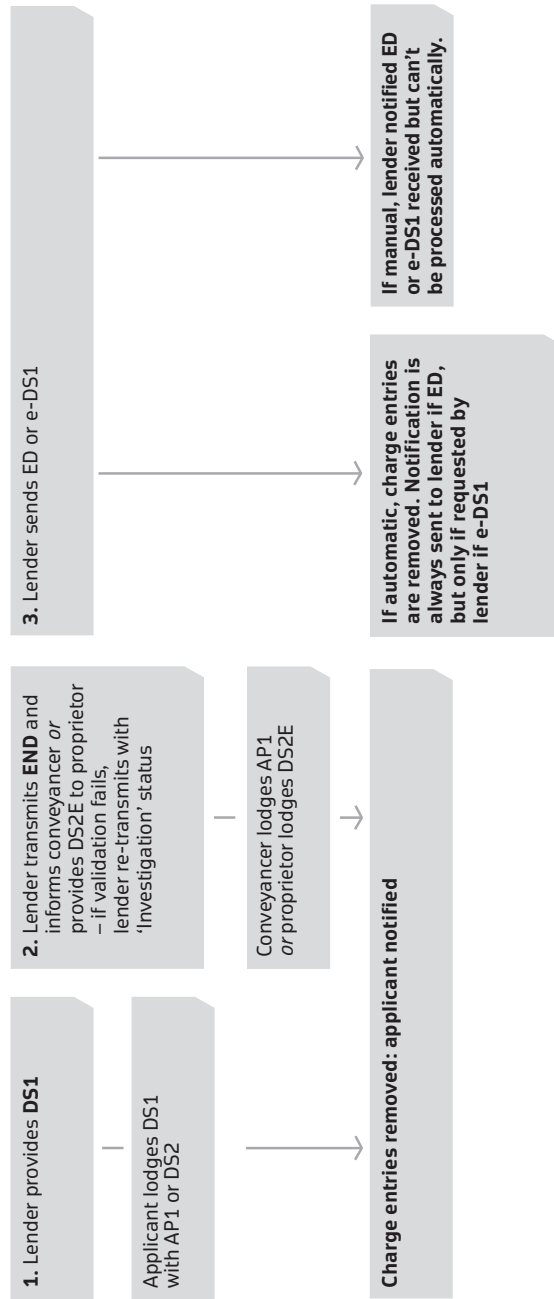
12 Will Land Registry allow extra time, or contact the lender directly on my behalf, if I cannot respond fully to requisitions because I cannot obtain proof of satisfaction?

No – Land Registry will end the practice of standing over applications indefinitely, and will no longer contact lenders directly, when the policy of early completion begins.

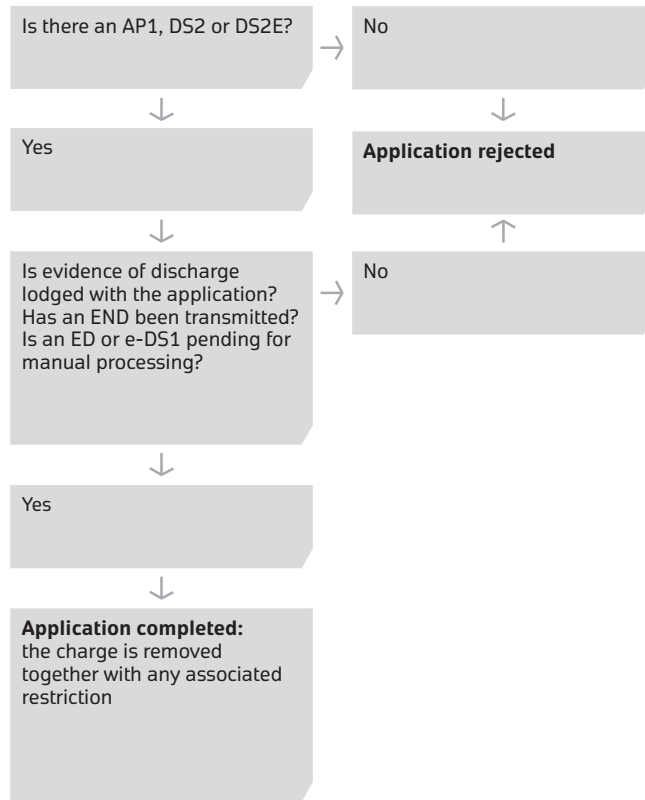
13 Appendix 1 – Land Registry treatment of application for discharge of whole accompanied by application(s) to register transfer and/or new charge



14 Appendix 2 – Removal options



15 Appendix 3 – Land Registry treatment of application for discharge of whole only



Land Registry advisory policy

We offer advice to our customers through our publications and enquiry services and through the day-to-day handling of applications.

We provide factual information including official copies of registers, title plans and documents, searches and details of our forms and fees.

We provide procedural advice to explain how the land registration system works and how to make applications correctly. This includes:

- advice in advance of an application, where this is requested
- where an application is defective, advice as to the nature of the problem and what options, if any, are available to put it right
- an approval service for estate layout plans and certain other land registration documents.

There are limits to the advice that we will provide. We will not provide legal advice.

This means that:

- we will not approve the evidence to be produced in support of a registration application before we receive the application
- apart from procedural advice, we will not advise on what action to take
- we will not recommend a professional adviser but can explain how to find one.

We provide advice only about real cases, not about theoretical circumstances. We will not express a view on questions where the law is complex or unclear except where the question arises on a live registration application.

In providing this factual information and procedural advice we will:

- be impartial
- recognise that others may be affected by what we say
- avoid any conflict of interest.

Information in this bulletin

The information in this publication is for the purpose of providing general guidance about Land Registry's procedures and policies. It is intended only as a guide and does not cover every situation that may arise. It also does not limit Land Registry's ability to use its discretion when appropriate to do so, within the land registration legislation.

Peter Collis
Chief Land Registrar

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The Forms Unit, Land Registry (under the delegated
authority from the Controller of HMSO), 32 Lincoln's
Inn Fields, London WC2A 3PH

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