

## 1. Introduction: the statutory scheme

The [Land Registration Act 2002](#) lays down the circumstances in which a mistake in the register can be put right, and when it can't. This is coupled with a scheme to compensate those who suffer loss because of a mistake in the register, whether or not it is corrected.

### 1.1 When a register can be altered

The circumstances in which a register can be altered are set out in Schedule 4 to the Land Registration Act 2002. Alterations can be ordered by the court or effected by the registrar to:

- correct a mistake
- bring the register up to date
- give effect to any estate, legal right or interest that is not affected by registration (because the land has been registered with good leasehold, possessory or qualified title)
- remove a superfluous entry (only the registrar, not the court, has this power)

If the court makes such an order, it should be served on the registrar by making an application under rule 127 of the Land Registration Rules 2003 in [form AP1](#). HM Land Registry must then give effect to it.

This guide only deals with a type of alteration, classified as 'rectification'.

Following an application for alteration, the registrar is obliged to rectify the register unless there are exceptional circumstances that justify not doing so. This does not mean the registrar can override an objection to a proposed rectification – see [Objections and disputes](#).

Likewise, the court must make an order for rectification if it has power to do so, unless there are exceptional circumstances that justify its not doing so.

### 1.2 What constitutes rectification

This is the correction of a mistake that prejudicially affects the title of a registered proprietor.

For example, the correction may adversely affect the value of the land or the value of a charge over the land. The removal of land from a title will not be regarded as prejudicial if it is to show the general boundary in a more accurate position.

An alteration that reflects an overriding interest will not amount to rectification. This is because these interests, that are set out in Schedules 1 and 3 to the Land Registration Act 2002, are binding on a registered proprietor even though they are not mentioned in

the register. A title will not, therefore, be adversely affected if details of an overriding interest are added to the register.

It should be borne in mind that there is a distinction between a mistake in the register and a mistake in a deed submitted to HM Land Registry for registration. This guide relates only to altering mistakes in the register. The provisions of Schedule 4 to the Land Registration Act 2002 relate to alterations to correct a mistake in the register. They do not relate to correcting a mistake in a deed. This means there is no mistake in the register if it correctly reflects the provisions contained in a deed submitted for registration, even though there may be a mistake in the deed because, for instance, it does not reflect the agreement reached between the parties to the deed. The registrar has no ability under Schedule 4 to the Land Registration Act 2002 to correct a mistake in a deed. Only the court, or the tribunal under section 108(2) of the Land Registration Act 2002, has such power but you should note that the tribunal's powers relate to a more limited range of documents than the court.

### 1.3 Limitations on the power to rectify

If the registered proprietor is in possession of the land in question (see [What constitutes a registered proprietor in possession](#)), the register can only be rectified if they agree.

This restriction does not apply if either:

- the registered proprietor has caused or substantially contributed to the mistake because they have either been fraudulent or not exercised sufficient care
- it would be unjust not to correct the mistake

Examples of circumstances where the restriction may not apply can be found in [Appendix: examples](#). Please note however that the circumstances of each case are different and we will always consider cases on their own particular merits.

### 1.4 What constitutes a registered proprietor in possession

Section 131 of the Land Registration Act 2002 makes it clear that this means physical possession, and that it extends to a person (other than a squatter) who is entitled to be registered as proprietor.

However, there are 4 types of relationship where slightly different rules apply and the possession of another person is attributed to the registered proprietor. This will be the case where:

- the registered proprietor is a landlord and the person in possession is the tenant
- the registered proprietor is a mortgagor and the person in possession is the mortgagee
- the registered proprietor is a licensor and the person in possession is the licensee

- the registered proprietor is a trustee and the person in possession is the beneficiary

In these cases, the tenant, mortgagee, licensee and beneficiary do not have to be in physical possession themselves. It will be sufficient if they are treated as being in possession, for example if a tenant has sublet.

## 1.5 Compensation

Mistakes in the register can result in losses to those affected by them. The statutory compensation scheme covers anyone who suffers loss because of:

- the rectification of the register – see [What constitutes rectification](#) for an explanation
- a mistake in the register that could have been rectified but was not
- a mistake in the register before it was rectified

Compensation under the statutory scheme is referred to in the legislation and throughout this guide as ‘indemnity’ – see [Applications for indemnity](#) for more information.

You do not need to show that HM Land Registry caused the mistake. You can apply for indemnity even if nobody was at fault or if the mistake could not have been avoided.

We go to great lengths to avoid making mistakes but when we do we will acknowledge it. In those cases we will if possible compensate you by paying indemnity under the statutory scheme.

If you cannot apply for indemnity under the scheme but we have caused you problems because of something we have done wrong, please tell us. We will consider if there is anything we can do to resolve the problems. Sometimes we will pay compensation otherwise than under the statutory scheme or make a payment to support our apology for the problems we have caused. See [Maladministration](#) for more information.

## 2. Applying for rectification

### 2.1 The application

If you are not sure whether there is a mistake in the register, you should contact HM Land Registry with as much information as you have available and, if appropriate, we will look into the matter for you. We will tell you if we think that we have found a mistake. We will also tell you what procedures you need to follow if you want to make an application for the mistake to be corrected.

Some examples of mistakes can be found in [Appendix: examples](#). Please note however that the circumstances of each case are different and we will always consider cases on their own particular merits.

Until January 2012, not everyone had the right to challenge a possible mistake in the register. Prior to that, HM Land Registry would accept applications for alteration of the register (and rectification is a form of alteration) only from someone who had or was claiming a relevant interest in the land. However, this policy has changed owing to case law developments and so anyone may apply for alteration, even though they do not themselves have what the law refers to as 'standing'.

A formal application is generally considered to be necessary as should an alteration be challenged, we do not have the power to correct a mistake without following the procedures mentioned in [Notices](#) and [Objections and disputes](#). These procedures can operate only once a formal application has been made. It should be noted that where an application is challenged, this must be dealt with before we can rectify the register.

If you know that there is a mistake in the register and you want to make an application for the mistake to be corrected, you must complete [form AP1](#) (rule 13 of the Land Registration Rules 2003), available from law stationers or you can download it free of charge from GOV.UK. Send this form with full details of the mistake and the correction you wish the registrar to make and why to our [standard address](#). We may ask for additional information if we consider this to be appropriate.

Under the current Land Registration Fee Order, a fee is payable for any application to alter the register (see [HM Land Registry: Registration Services fees](#)). In many cases (for example if the error has been caused by HM Land Registry) the fee will be refunded.

In view of this, in appropriate cases an initial fee will not be insisted on.

## 2.2 Notices

We will always give notice of an application to rectify the register to:

- the registered proprietor of any land or registered charge affected by the proposed correction
- anyone who appears to be entitled to an interest protected by a notice, provided that we have details of their name and address for service and that the interest would be affected by the proposed correction

unless we are satisfied in the particular circumstances that the notice would be unnecessary.

We are entitled to make whatever enquiries we consider to be appropriate, that may reveal other parties who could be affected by the proposed correction. In these cases, we will usually give them notice of the application as well.

Under rule 197(2) of the Land Registration Rules 2003, anyone who receives a notice is given until noon on the 15th working day after the notice was issued in which to respond: if they do not respond within this period, the application may be completed. If the person

needs longer in which to respond, they should ask for this before the period expires, explaining why the extra time is required.

## 2.3 Objections and disputes

If anyone objects to the proposed correction then, unless the objection is groundless, the registrar cannot complete the application to rectify the register until the objection has been disposed of. The applicant will be notified of the objection. If the applicant wishes to proceed with the application, we will then ask all the parties whether they wish to negotiate and whether they consider that it may be possible to settle the matter by agreement. If so, the parties will be allowed a period of time to see if they can reach an agreement. However, as soon as it becomes clear that they are unable to do so, we must refer the matter to the tribunal. We will do this immediately, if the parties do not want to negotiate.

What happens in the event of an objection and dispute is covered in detail in [practice guide 37: objections and disputes - HM Land Registry practice and procedures](#)

## 3. Rectification and fraud

The procedure for correcting a mistake that is due to fraud is the same as with any other mistake, as set out in [Applying for rectification](#).

However, there will be further points to consider in these cases.

### 3.1 Forgeries

#### 3.1.1 Proof

The applicant will also have to prove that the document in question was forged. As a result, they will have to consider very carefully what proof of the forgery may be available and what proof they can obtain. In many cases a report from a handwriting expert will be required. If we are holding the original document, then it may be released for a report to be prepared. Under rule 205 of the Land Registration Rules 2003, the registrar may release any original document upon whatever terms considered appropriate. However, HM Land Registry is not obliged to keep original documents and in many cases these will be destroyed and electronic copies retained instead.

As well as applying to HM Land Registry for rectification of the register, the alleged forgery should be reported to the police. Full details, including the crime reference number and contact details of the officer in charge, should be supplied to HM Land Registry as we may want to liaise with the police.

#### 3.1.2 Uncontested cases

Even in cases where the forgery is admitted, we will still want to see some evidence, such as the report of a handwriting expert. The registrar will need to be satisfied that the register should be rectified, not least because such applications for rectification are invariably followed by a claim for indemnity.

### 3.2 Suspected fraud or forgery

If someone suspects that a fraud has taken place or is about to take place in relation to their property, they should contact us immediately. In many cases, we will be able, on application, to enter a standard form restriction LL in the register, that requires a certificate to be given by a conveyancer that they are satisfied that the person who executed a document lodged for registration as disponent is the same person as the proprietor.

It will also be advisable to take legal or other professional advice to try to minimise any loss.

### 4. Applications for indemnity

#### 4.1 When a claim can be made

##### 4.1.1 Mistakes

A right to claim indemnity will arise if:

- there is a mistake in the register, and
- the correction of that mistake would prejudicially affect the title of the registered proprietor of the land in question or a charge over that land, or has already done so

In most cases, the claimant will either have made an application for rectification or will be one of the parties who was notified of an application.

Indemnity may be payable when:

- the correction of a mistake has caused loss. If a mistake in the register has been corrected and the correction has adversely affected the title in question, then anyone who suffers loss as a result of that correction will be entitled to claim indemnity
- a mistake caused loss before it was corrected. If a mistake in the register has been corrected and the correction has adversely affected the title in question, then anyone who suffered loss as a result of the mistake before the register was rectified will be entitled to claim indemnity
- a mistake that is not corrected has caused loss. If the existence of a mistake has been established but it has not been corrected, then, if the correction would have adversely affected the title in question, anyone who suffers loss as a result of that mistake will be entitled to claim indemnity

Some examples of mistakes can be found in [Appendix: examples](#). Please note however that the circumstances of each case are different and we will always consider cases on their own particular merits.

Mistakes are not always corrected. Rectification will not be appropriate when:

- the registered proprietor is in possession and neither of the exceptions mentioned in [Limitations on the power to rectify](#) are applicable
- there are exceptional circumstances that justify not rectifying the register

#### 4.1.2 Other circumstances

A person may also claim indemnity for any losses that are the result of:

- a mistake in an official search result or an official copy issued by HM Land Registry
- a mistake in a copy of a document referred to in the register, where the copy document is held by HM Land Registry
- the loss or destruction of a document that has been lodged at HM Land Registry for inspection or safe keeping
- a mistake in the cautions register
- HM Land Registry failing to notify a chargee under rule 106 of the Land Registration Rules 2003 when certain statutory charges are entered in the register

#### 4.2 How to make a claim

A claim may be made by letter and, where the claim arises out of a mistake, should be accompanied by the following information and evidence.

- details of the mistake and any correction of that mistake
- what loss has been suffered
- an explanation of why the loss is the result of the mistake or the correction
- details of the amount claimed, if possible, and how this has been calculated
- if the loss includes fees and/or other bills and expenses, evidence that these sums have been paid, for example receipted invoices or tickets

A claim can be made before all the evidence is available, but we will need to see sufficient evidence before a claim can be agreed.

If we cannot reach agreement with you about your entitlement to indemnity or the amount of indemnity payable, you may apply to the court – see [The right to apply to the court for indemnity](#).

#### 5. The right to apply to the court for indemnity

The majority of applications for indemnity are settled by agreement between the claimant and HM Land Registry.

However, a claimant can ask the court to decide whether or not they are entitled to indemnity and, if so, how much. This right is set out in paragraph 7 of Schedule 8 to the Land Registration Act 2002.

An application may be made to either the County Court or the High Court as appropriate under the Civil Procedure Rules 1998.

A claimant has 6 years from the date they become aware of their claim, or should have become aware of their claim (paragraph 8 of Schedule 8 to the Land Registration Act 2002), in which to make an application to the court. After this period they lose the right to ask the court to decide whether they are entitled to indemnity and, if so, how much.

If you have not been able to settle matters directly with HM Land Registry and legal proceedings are begun, they should be served on the Chief Land Registrar at the following address:

Chief Land Registrar

HM Land Registry Litigation and Indemnity Lawyers  
PO Box 2079  
Trafalgar House  
1 Bedford Park  
Croydon  
CR90 9NU

Proceedings should not be sent directly to local offices or to the general address for applications. Potential claimants should take independent legal advice before taking proceedings. There are legal procedures in the Civil Procedure Rules which apply to pre-action conduct, which should be observed.

## 6. Restrictions on claims for indemnity

### 6.1 Mines and minerals

It is only possible to claim indemnity in respect of mines or minerals if there is a note in the register confirming that they are included in the title (paragraph 2 of Schedule 8 to the Land Registration Act 2002). Such notes will not automatically be made when land is registered that may include mines and minerals. A specific application must be made under rule 71 of the Land Registration Rules 2003.

### 6.2 Lapse of time

As explained in [The right to apply to the court for indemnity](#), a claimant will lose their right to apply to the court for indemnity after 6 years.

### 6.3 Fraud

If any part of the claimant's loss has been caused by their own fraud, then they lose the right to indemnity (paragraph 5(1)(a) of Schedule 8 of the Land Registration Act 2002). In certain circumstances, this may extend to a loss that has been caused by the fraud of the

claimant's predecessors in title (paragraph 5(3) of Schedule 8 to the Land Registration Act 2002).

#### 6.4 Lack of proper care

A claimant also loses the right to claim indemnity if their own lack of proper care caused their loss (paragraph 5(1)(b) of Schedule 8 to the Land Registration Act 2002). As with fraud, in certain circumstances this may extend to a loss caused by lack of proper care on the part of the claimant's predecessors in title (paragraph 5(3) of Schedule 8 to the Land Registration Act 2002).

#### 6.5 Contributory negligence

There may be circumstances where the claimant has partly contributed to the loss they have suffered by their lack of proper care. In these cases any indemnity payable may be reduced. Any reduction should reflect the claimant's share in the responsibility for the loss (paragraph 5(2) of Schedule 8 to the Land Registration Act 2002). This will, therefore, mean making an assessment of the extent to which the claimant and/or others, including HM Land Registry, were responsible for the loss.

#### 6.6 Maladministration

This is not covered by the statutory scheme and is discussed in [Maladministration](#).

### 7. Assessing indemnity

#### 7.1 Types of loss

Costs and expenses incurred as a result of a mistake or rectification are covered in [Costs and other expenses](#) as there are specific rules relating to the recovery of these items.

This section covers all other financial losses. It is not possible to list or categorise them as any loss may be the subject of indemnity, provided it has been caused by the mistake or the rectification. This is essentially a legal question.

Some examples would include:

- the value of an area of land removed from a title
- the reduction in the value of a property because, following rectification, it is subject to a right of way that did not affect it beforehand
- the amount a mortgagee is unable to recover after their charge has been removed from the register because it turns out to be a forgery

In many cases, a valuation of the land will be necessary in order to quantify the loss.

## 7.2 Valuations

### 7.2.1 Maximum values

There are limits on the amount of indemnity payable if the indemnity relates to the loss of land, an interest in land or a charge.

If the loss was caused by the rectification of the register, indemnity is capped at the value of that land, interest or charge immediately prior to rectification. (The fact that the register is to be rectified is ignored for these purposes.)

If the loss is caused by a mistake that is not corrected, or a mistake before the register was rectified, indemnity is capped at the value of the land, interest or charge at the time the mistake was made. The amount paid may be higher once interest has been calculated. This is covered in [Interest](#).

### 7.2.2 The role of the District Valuer Services

The claimant will usually be invited to suggest a figure that they consider will recompense them for the loss of the relevant land, interest or charge. This is likely to require the advice of a qualified surveyor or valuer, the cost of which will usually be recoverable as indemnity. Please refer to [Costs and other expenses](#) regarding the recovery of costs and expenses and, in particular, the need to obtain consent beforehand.

If HM Land Registry wishes to verify the reasonableness of the claim it will ask the District Valuer Services to provide a report, the cost of which will be borne by HM Land Registry. In some instances the claimant may be content to rely on the District Valuer Services' valuation without seeking their own independent valuation.

HM Land Registry will supply the District Valuer Services with full details of the conveyancing history of the matter and an explanation of how the problem has come about. This will ensure that the District Valuer Services has a full understanding of the background to the claim.

The District Valuer Services' report is confidential and cannot normally be disclosed to anyone other than HM Land Registry without the District Valuer Services' consent.

Small areas of land, for example part of a garden, cannot normally be valued in isolation. It will often be appropriate, therefore, for the parties to agree a valuation based on the difference between the value of the claimant's property with and without the land in question.

In cases where there has been a mistake but the register is not going to be rectified (paragraph 1(1)(b) of Schedule 8 to the Land Registration Act 2002), the District Valuer Services will normally be asked to provide a valuation as at the date when the mistake that caused the loss was made (paragraph 6(b) of Schedule 8 to the Land Registration Act 2002).

It will often be possible to reach a settlement in the light of the District Valuer Services' report, although if there are substantial differences between the 2 valuations it may be necessary for the District Valuer Services to enter into negotiations with the claimant's valuer. As the District Valuer Services will be negotiating on behalf of HM Land Registry, any agreement that is reached will need our final approval.

The total sum paid to the claimant may not always fully reflect the agreed valuation since the claim may need to be reduced in the light of any contributory negligence on the part of the claimant – see [Contributory negligence](#).

More information about [District Valuer Services](#) is available on GOV.UK.

### 7.3 Interest

Under paragraph 9 of Schedule 8 to the Land Registration Act 2002 and rule 195 of the Land Registration Rules 2003, simple interest is payable on the agreed amount of any indemnity.

This will be calculated as follows.

- Where the period specified under rule 195(1) of the Land Registration Rules 2003 starts on or after 10 November 2008, at 1 per cent above the applicable Bank of England base rate or rates
- Where the period specified under rule 195(1) of the Land Registration Rules 2003 starts before that date:
  - for the part of the period before 10 November 2008, at the applicable rate or rates set for court judgement debts, and
  - for the part of the period on or after 10 November 2008, at 1 per cent above the applicable Bank of England base rate or rates

Bank of England base rate means (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets or (b) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section.

However, interest will not be paid in respect of periods where the claimant has not taken reasonable steps to pursue the claim or, where relevant, the application for rectification (rule 195(3) of the Land Registration Rules 2003).

## 8. Costs and other expenses

### 8.1 Costs or expenses reasonably incurred

An indemnity claim may include a claim for costs and expenses incurred as a result of the rectification application. Such costs and expenses must be reasonable (paragraph 3(1) of Schedule 8 to the Land Registration Act 2002).

## 8.2 The need for the registrar's consent

Only costs and expenses incurred with the registrar's consent are recoverable, unless:

- they had to be incurred urgently, and
- it was not reasonably practicable to apply for consent (paragraph 3(2) of Schedule 8 to the Land Registration Act 2002)

Consent is not required in these circumstances.

Where consent is required, it should be sought beforehand but it is possible to ask the registrar to give approval afterwards. A claimant will, however, run the risk that approval will not be given and the costs and expenses in question will not be recoverable.

Therefore we recommend that, except in the most urgent of cases, HM Land Registry is contacted as soon as it appears that there may be a mistake in the register that could lead to a financial loss of some kind. This will enable us to investigate the matter at an early stage. It will also help us to ensure that matters are dealt with in the quickest and most cost-effective way, avoiding unnecessary costs.

If consent is refused, those costs and expenses cannot be recovered as indemnity. However, it must be stressed that the fact that consent is given does not automatically mean that they will be recoverable. Facts may emerge in the course of correspondence which mean that the application does not constitute 'rectification' so there is no entitlement to indemnity. It is therefore essential that when the claimant makes a claim for indemnity, they show that they are entitled to indemnity and that their claim meets the criteria set out in [When a claim can be made](#) even though they obtained the prior consent of the registrar to incur the costs.

These provisions relate to all costs and expenses that a claimant wants reimbursed by HM Land Registry, including those incurred in pursuing the claim for indemnity. However, they do not apply if the claimant and HM Land Registry disagree about the claimant's right to indemnity or the amount payable, and the claimant applies to the court for the matter to be determined. In that case, the registrar's consent is not required in connection with any costs or expenses relating to those proceedings. The usual principles regarding recovery of costs in connection with court proceedings will apply and the unsuccessful party will usually be required to pay the other side's costs.

Reference should also be made to sections 2 and 3 of [practice guide 38: costs in disputed applications](#), which deals with consent to incur costs more fully.

## 8.3 Expenses incurred when a claim is not established

The registrar may agree to reimburse an unsuccessful claimant for any reasonable costs and expenses incurred in pursuing the unsuccessful claim; for example, costs incurred in pursuing an application for rectification which ultimately turns out to be a different type of alteration such as bringing the register up to date. The claimant should have obtained the registrar's consent before incurring the costs, but the registrar can still agree to reimburse the costs if the registrar subsequently approves them or considers that the costs or expenses had to be incurred urgently and it was not reasonably practicable to apply for consent.

#### 8.4 Reduction in amount of costs payable

As with any claim for indemnity, the amount of any payment of costs or expenses may be affected by factors such as lack of proper care or contributory negligence on the part of the claimant (paragraph 5 of Schedule 8 to the Land Registration Act 2002) – see [Fraud](#) and [Contributory negligence](#).

#### 8.5 The costs of a claimant in person

While most claimants employ a solicitor or other legal representative to assist them in dealing with problems arising from a mistake in the register, others prefer to deal with the matter themselves. Provided the claimant has acted reasonably they will usually be able to be indemnified in respect of their out-of-pocket costs and expenses. Full details will be required, with receipts wherever possible. It is, therefore, advisable to keep a careful record of any expenses that may subsequently form part of a claim for indemnity.

A claimant who has not employed a legal representative will not be entitled to any 'costs' in respect of their own time, because these are not "costs or expenses incurred by the claimant in relation to the matter" (paragraph 3(1) of Schedule 8 to the Land Registration Act 2002). However, they may be able to claim indemnity for any financial loss arising from the use of their own time in dealing with the mistake and/or the claim for indemnity.

The requirement for the registrar's consent applies to any claim for out-of-pocket costs and expenses and may apply to a claim for financial loss. Therefore, if a claimant thinks that they will be making a claim, they should approach the registrar for consent as early as possible.

#### 8.6 Value added tax

If the claimant is a registered, fully taxable person, and the costs and expenses that they wish to recover were supplied for the purposes of their business, they will be able to obtain an input credit for the value added tax (VAT) element of those costs and expenses. Any indemnity will, therefore, only be payable in respect of the costs incurred exclusive of VAT. Therefore, when it is possible that the claimant may be registered for VAT purposes, HM Land Registry will usually enquire about the position before any indemnity is agreed.

The services, for VAT purposes, will always have been rendered to the claimant. Any invoice or bill that forms part of the indemnity claim must, therefore, be addressed to the claimant, even if HM Land Registry has agreed to pay it.

## 9. 'Without prejudice' and 'full and final settlement'

### 9.1 Without prejudice

You may find that if HM Land Registry makes you an offer of indemnity or writes to you discussing the basis on which indemnity may be agreed, its letters are headed 'without prejudice'. This means that this correspondence is written with a view to reaching an agreement on the amount of indemnity payable. If we fail to reach an agreement, the claimant may decide to start court proceedings, in which case neither the claimant nor HM Land Registry will be bound by the views expressed in the without prejudice correspondence. They may, if they wish, take a different line of argument in the court proceedings and the judge will not be aware of any earlier proposed compromise.

### 9.2 Full and final settlement

As negotiations in respect of indemnity, including any costs and expenses, draw to a close HM Land Registry will require the claimant to confirm that the agreed sum will be accepted in full and final settlement of the claim.

## 10. Rights of recourse

Under paragraph 10 of Schedule 8 to the Land Registration Act 2002, where indemnity is paid to a claimant for a loss the registrar is entitled to recover the amount paid from any person who has caused or substantially contributed to the loss by their fraud.

The registrar can also enforce any right of action that a claimant would have been entitled to enforce had the indemnity not been paid or that a person in whose favour the register has been rectified could have enforced if the register had not been rectified.

There are also specific provisions under the Housing Acts that provide for a right of recourse against a local authority if indemnity is paid where land has been registered in reliance on the accuracy of a certificate of title and there was an error in that certificate. Similar rights arise in cases where reliance has been placed on a certificate given by a housing action trust.

In some cases, indemnity is claimed by a claimant who has other possible avenues of recovery. For example, a purchaser may have a contractual right to damages from their vendor for a breach of contract. In such cases a claimant will not be required to embark upon litigation against a third party in order to mitigate their loss. Usually, HM Land Registry will accept that the claimant is entitled to the indemnity and that it is for HM Land Registry to pursue the claimant's rights under paragraph 10 of Schedule 8 to the Land Registration Act 2002.

The situation will be different if the claimant receives damages from a third party, that will usually be as the result of court proceedings. The amount received will reduce the loss suffered by the claimant and therefore the amount payable as indemnity.

Sometimes it may be appropriate for HM Land Registry to involve all relevant parties in negotiations before any payment of indemnity is made. If a payment is made to a claimant HM Land Registry may wish to obtain an undertaking to cooperate with HM Land Registry in enforcing their rights from them first.

Cases may arise where the person against whom rights of recourse are being pursued accepts their liability to reimburse HM Land Registry, but has insufficient funds to do so. In such cases it may be appropriate for the money to be paid in instalments or for any property that that person owns to be charged in favour of the registrar to secure the money owed.

Where a conveyancer has carried out the higher standard of identity verification described in [practice guide 81: encouraging the use of digital technology in identity requirements](#), HM Land Registry will not pursue a recourse claim resulting from the registration of a fraudulent transaction on the grounds that identity checks were inadequate.

## 11. Maladministration

The Independent Complaints Reviewer for HM Land Registry has described maladministration as a failure to carry out proper procedures or to meet published quality of service standards.

When we get things wrong we try to make sure it does not cause injustice. Sometimes we can do this by paying compensation under the statutory indemnity scheme. See [Compensation](#) for more information.

In other cases we may not be able to put the injustice right by paying statutory indemnity but we can instead make a discretionary payment. If we have caused distress or inconvenience, we may make a consolatory payment if our apology alone will not be enough to show we are sorry.

If necessary, we may pay compensation to someone who can prove they have suffered loss directly because of our maladministration even though we cannot pay them statutory indemnity.

## 12. Appendix: examples

These examples are for illustrative purposes only. Each case is considered on its own facts and merits.

### 12.1 Mistake in the register

The following examples may (but will not always) amount to a mistake in the register.

- omitting an entry for a right of way from the register
- including too much land in a registered title

- including land in more than one registered title (double registration)
- omitting a restrictive covenant from the register
- please note that not all such mistakes will give rise to entitlement to indemnity

## 12.2 Alteration or rectification – examples

Title AB1234 has been mapped to include a house, garage and substantial garden area. It subsequently transpires that most of the garden was sold off as a building plot but no memorandum of the sale was recorded in the deeds lodged at the time of first registration. It is likely that removal of the land will amount to rectification as it is prejudicial to the registered proprietor because it deprives the registered proprietor of land vested in them by virtue of registration.

However, if the purchaser of the building plot (or their successor in title) is in possession of the building plot rather than the registered proprietor of title AB1234, the removal of the land will not be prejudicial and the correction of the error will amount to alteration, not rectification.

Title CD5678 has been mapped with a curved boundary along its road frontage instead of a straight boundary so that a D shaped piece of land to which the owner had no documentary title falls within the red edging on the title plan. A change to the title plan to show a straight boundary will not be regarded as prejudicial because it simply shows the general boundary in a more accurate position. Such changes are treated as alteration.

## 12.3 Examples where limitation on the power to rectify does not apply

### 12.3.1 Not exercising sufficient care

If a solicitor engaged to submit a first registration application misleads HM Land Registry by failing to lodge all the documents in their possession, causing or contributing to a mistaken registration, this may amount to lack of proper care so that rectification may potentially take place against a registered proprietor in possession.

### 12.3.2 Unjust not to correct a mistake

The court has held it would be unjust not to rectify to restore X as registered proprietor in place of Y where Y had been registered pursuant to an ADV1 application to which X did not object; X subsequently applied for rectification, showing that Y did not in fact satisfy the criteria for an ADV1 application.

## 12.4 Examples where indemnity may be payable for a mistake

### 12.4.1 Indemnity where the correction of a mistake has caused loss

Where a mistake in a register has been corrected, the parties involved may still have suffered loss because they have incurred legal costs or have had to pay for a fence to be moved.

### 12.4.2 Indemnity where mistake has caused loss before correction of a mistake

Indemnity may be payable where the sale of a property falls through because of a mistake on the register and the registered proprietor/seller suffers loss as a result, such as the costs of an abortive sale.

#### 12.4.3 Indemnity where a mistake that is not corrected causes loss

Where a charge is removed from the register in error and the property is subsequently sold without the charge being repaid, indemnity may be payable to the lender where the sums owing under the charge remain unpaid.

### 13. Things to remember

We only provide factual information and impartial advice about our procedures. [Read more about the advice we give.](#)

the relevant provisions are:

**Schedule 4 to the Land Registration Act 2002** - This sets out when the register can be altered, including to correct mistakes. The document states that following an application for alteration, "the registrar is obliged to rectify the register unless there are exceptional circumstances that justify not doing so."

#### **Key limitations on rectification:**

- If the registered proprietor is in possession, the register can only be rectified if they agree, UNLESS:
  - The registered proprietor has caused or substantially contributed to the mistake through fraud or insufficient care
  - It would be unjust not to correct the mistake

#### **Regarding fraud and forgeries (Section 3):**

- The applicant must prove the document was forged
- A handwriting expert report may be required
- The forgery should be reported to police with crime reference number
- Even where forgery is admitted, evidence is still required

**Important distinction:** The guide explicitly states there's a difference between proving fraud for rectification purposes versus criminal proceedings. The standard of proof for rectification applications is not specified as the criminal standard ("beyond reasonable doubt") but rather follows civil procedure.

**The key provision for rectification is in Schedule 4 to the Land Registration Act 2002**, which states:

- "Following an application for alteration, the registrar is obliged to rectify the register unless there are exceptional circumstances that justify not doing so"
- This is a general obligation, not specific to fraud cases

### **For fraud/forgery cases specifically (Section 3):**

- The burden is on the applicant to prove the forgery
- Evidence like handwriting expert reports may be required
- Cases should be reported to police
- Even when forgery is admitted, evidence is still required

**Critical point:** The guide doesn't specify that criminal standard proof (beyond reasonable doubt) is required. Land Registry rectification follows civil procedures, which typically use the balance of probabilities standard.

### **Limitations still apply even in fraud cases:**

- If the registered proprietor is in possession, rectification can only happen if they agree OR if they contributed to the mistake through fraud/insufficient care OR it would be unjust not to rectify

The document doesn't contain a provision that automatically compels rectification upon criminal conviction or proof to criminal standard. The registrar maintains discretion to assess "exceptional circumstances" even in fraud cases.

is there a necessity to go to court to rectify ?

No, going to court is not necessarily required to rectify the register. According to Practice Guide 39, there are two pathways:

#### **1. Direct Application to HM Land Registry (No Court Required)**

The standard process is:

- Submit application using **Form AP1** with full details of the mistake
- Pay the applicable fee (often refunded if HM Land Registry caused the error)
- HM Land Registry will notify affected parties
- Parties have 15 working days to respond
- If no objection, rectification can proceed
- If someone objects, the matter goes to the tribunal (not court initially)

The guide states: "the registrar is obliged to rectify the register unless there are exceptional circumstances that justify not doing so"

#### **2. Court Order Route (Optional)**

Courts can also order rectification, and if they do:

- The court order must be served on the registrar using Form AP1
- HM Land Registry must then give effect to it

### **Important Limitations**

Even without court involvement, rectification can be blocked if:

- The registered proprietor is in possession AND
- They haven't contributed to the mistake through fraud/negligence AND
- It wouldn't be unjust to leave the mistake uncorrected

## **Disputes Process**

If someone objects to proposed rectification:

- First, parties are asked if they want to negotiate
- If negotiation fails, the matter goes to the **First-tier Tribunal (Property Chamber)** - not court
- Only if parties are unsatisfied with the tribunal decision would they potentially appeal to higher courts

So in most cases, you can apply directly to HM Land Registry for rectification without any court involvement.

Practice Guide 39 **does not require proof to the criminal standard** for rectification of the land register.

## **Key Points on Standard of Proof:**

### **1. Civil Standard Applies**

- Land Registry rectification follows civil procedures, not criminal
- The guide never mentions "beyond reasonable doubt" or criminal standard
- Civil cases typically use "balance of probabilities" (more likely than not)

### **2. For Fraud/Forgery Cases** Section 3.1.1 states:

- "The applicant will also have to prove that the document in question was forged"
- Evidence like handwriting expert reports may be required
- Cases should be reported to police with crime reference number
- Even when forgery is admitted, evidence is still needed

### **3. No Criminal Conviction Required**

- The guide doesn't require a criminal conviction
- You don't need to wait for criminal proceedings
- The Land Registry makes its own assessment of the evidence

**4. Relationship with Criminal Proceedings** While the guide mentions reporting to police and providing crime reference numbers, this appears to be for:

- Coordination purposes
- Supporting evidence
- Potential recovery actions

But criminal proceedings and their higher standard of proof are **separate** from the Land Registry's rectification process.

**5. Even with Strong Evidence** The registrar still has discretion - they must rectify "unless there are exceptional circumstances that justify not doing so"

So to directly answer your question: No, proving fraud to the criminal standard is not required for Land Registry rectification. The civil standard applies.

Yes, correct - **civil standard** applies for Land Registry rectification, not criminal standard.

### Summary of Standards:

#### For Land Registry Rectification:

- **Civil standard** = "balance of probabilities" (more likely than not - over 50% likelihood)
- This applies even in fraud/forgery cases
- No criminal conviction needed
- No requirement to prove "beyond reasonable doubt"

#### Practical Implications:

1. **Lower burden of proof** - easier to achieve than criminal standard
2. **Faster process** - don't need to wait for criminal proceedings
3. **Different evidence rules** - civil procedure rules apply
4. **Independent assessment** - Land Registry makes its own determination

**Evidence Still Required:** Even with civil standard, for fraud cases you still need:

- Proof the document was forged (handwriting expert reports often required)
- Evidence of the mistake
- Documentation supporting your claim

**Important Note:** Even when fraud is proven to the civil standard, rectification isn't automatic if:

- The registered proprietor is in possession AND
- They didn't contribute to the fraud AND
- It wouldn't be unjust to leave things as they are

So while the civil standard makes proof easier than criminal proceedings would require, you still need solid evidence and must overcome any applicable limitations on rectification.

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what about if the proprietor is not in possession as it has been stolen through fraud

If the registered proprietor is **not in possession** because the property was stolen through fraud, this significantly strengthens your position for rectification.

### Key Advantage - No "Proprietor in Possession" Protection

According to Practice Guide 39:

#### When proprietor IS in possession:

- Register can only be rectified if they agree OR
- They contributed to the mistake through fraud/negligence OR
- It would be unjust not to rectify

#### When proprietor is NOT in possession (your situation):

- These restrictions don't apply
- The registrar is obliged to rectify unless there are "exceptional circumstances"

- Much easier path to rectification

**Section 1.4 defines "possession" as:**

- Physical possession of the land
- Can include possession by tenant, licensee, beneficiary on proprietor's behalf
- Does NOT include possession by squatters

**Your Scenario - Fraud Victim Not in Possession**

If you were fraudulently deprived of:

1. **Title** (through forged documents)
2. **Possession** (fraudster took control of property)

Then:

- The fraudulent registered proprietor being in possession doesn't block rectification
- You have a stronger claim as the victim
- The registrar should rectify to restore you as proprietor

**Practical Steps:**

1. Apply for rectification via Form AP1
2. Provide evidence of the fraud
3. Confirm the fraudster is in possession (not you)
4. The normal protections for proprietors in possession won't apply to protect the fraudster

This is one of the clearest cases for rectification under the Act.