

Annexe D

Survey of local authorities

September 2005

A report prepared for the Office of Fair Trading
by TNS

OFT810d

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1 EXECUTIVE SUMMARY

About the survey

- 1.1 This survey of local authorities (LAs), commissioned jointly by the Office of Fair Trading (OFT) and the Local Government Association (LGA) as part of a wider piece of work on the provision of property searches, was designed to establish:
- how many searches are conducted by LAs and the turnaround times involved
 - LA perceptions of the quality of service provided by themselves, property search companies (PSCs) and conveyancers¹ involved in conducting property searches, and
 - access and charging arrangements by LAs for PSCs.
- 1.2 The survey obtained a response rate of 66 per cent (typical of surveys of this nature) which was representative of the survey universe.

Findings

- 1.3 It is estimated that LAs in England and Wales conducted around 1.17 million LLC1 postal searches in 2004/5 (about 3,100 per LA) and around 950,000 CON29 (part one) postal searches (about 2,544 per LA). Both these figures were about 20-25 per cent lower than in 2003/4.
- 1.4 Typically, LAs take about three to five days to respond to a request for a postal search for LLC1 and CON29 (parts one and two).

¹ We use the term conveyancers throughout this annexe to refer to both licensed conveyancers and solicitors carrying out conveyancing work.

- 1.5 It is estimated that LAs in England and Wales provided access for just under half a million searches by PSCs (481,500 in 2004/5 and 467,600 in 2003/4) – about 1,250 per LA.
- 1.6 Seventy-one per cent of LAs said they provide access to registers within one to two working days after a request for an appointment has been made and a further five per cent provide access on the same day.
- 1.7 LAs believe that they provide a good service as far as accuracy of information, turnaround times, dealing with queries and complaints, having well trained staff, value for money and quality assurance procedures are concerned. Very few believe that PSCs provide a good service on these aspects and respondents also had a relatively low opinion of the service provided by conveyancers (except about accuracy of information).
- 1.8 LAs do not believe that consumers are aware of the options available when they require property searches, or of the benefits and drawbacks of different options. Conveyancers are perceived to be the key decision makers as far as deciding which method is used for a property search.
- 1.9 Virtually all LAs have a complaints procedure for their property search service. They received more complaints or follow up enquiries expressing dissatisfaction about searches conducted by PSCs than they did for their own work.
- 1.10 LAs charged, on average, £119 for a standard, non-expedited CON29 part one search on a residential property in 2004/5 (£115 in 2003/4). LAs also offer expedited services and charge, on average, £69 extra for this service. Details of charges made by individual departments (responsible for issues such as building control, environmental health, highways, minerals and sewerage) were also collected.
- 1.11 The most common way that LAs set their fees for CON29 part one is by taking the direct costs with a share of overheads (32 per cent of all LAs). The next most common method is on the basis of income targets (22 per cent).
- 1.12 The majority of LAs (83 per cent) said that the (statutory) £11 fee for personal searches of the LLCR did not cover the costs to the LA of providing the service. Shortfalls relative to costs were mainly recovered by: charging

for CON29 forms (69 per cent), revenues from other property search services (20 per cent) or from council tax revenues (20 per cent), or a combination of these methods. LAs felt that a fee in the region of £45 would cover the cost of providing personal access to the LLCR.

1.13 The survey also explored arrangements for allowing access by PSCs, conveyancers or individuals to a range of other registers covering common land, building control, planning regulations, roads and highways, drainage, pipelines, hedgerow notices, noise abatement zones and other matters. Access and charging varied, depending on the register, and the legislation covering it; and LA practice also varies.

1.14 A number of other comments and examples of good practice were provided by respondents. The main themes related to: consumer awareness, the levels of search fees and training and accreditation for personal search agents.

2 INTRODUCTION

- 2.1 The OFT, as part of a market study on the provision of property searches and how this works for consumers, were particularly interested in the role of LAs in providing property information.
- 2.2 The LGA was keen to work with the OFT to establish a robust fact base about local government involvement in the property search market. The two organisations agreed to undertake a joint survey of LAs and they commissioned TNS to conduct the study.

The objectives of the survey

- 2.3 The main areas the survey was designed to cover were postal and National Land Information Service (NLIS) applications for LLC1, CON29 (part one and part two) and CR21 and personal searches of the local land charges register (LLCR) and other registers of the LAs. The objectives of the survey were to establish:
- how many searches were conducted by LAs and PSCs and the turnaround times involved
 - how LAs rated the quality of service provided by those involved in conducting property searches, that is, the LAs themselves, PSCs and conveyancers, and
 - access and charging arrangements for PSCs.

Notes on reading the tables

- 2.4 When reading the data tables presented in this report please note the following:
- where observations represent a cell base of less than five LAs table figures are presented in square brackets. Due to the small base size any such observations should be treated with caution
 - where '-' is presented within a table this indicates a value of zero, and

- where '*' is presented within a table this indicates a number or percentage less than one.

3 SEARCHES CONDUCTED BY LOCAL AUTHORITIES

Number of searches conducted

- 3.1 It is estimated that LAs in England and Wales conducted around 1.17 million LLC1 postal searches in 2004/5, that is, around 3,100 on average among 375 LAs. This was around 20 per cent lower than the number conducted in 2003/4. It is estimated that LAs also conducted around 950,000 CON29 (part one) postal searches in 2004/5. This also fell by around 25 per cent compared with 2003/4. Full details in Table 3.1. These estimates are based on those LAs that were able to give estimates of the number of searches conducted by the different channels. The average figures (3,100) were extrapolated for all LAs (375) to produce a total figure.
- 3.2 The number of CON29 (part two) forms requested by postal searches also fell by 24 per cent in 2004/5 compared with 2003/4 as can be seen from Table 3.1 below.

Table 3.1: Number of postal and NLIS searches conducted in financial year 2003/4 and 2004/5

	2003/4	2004/5	Percentage of change
Postal search			
LLC1	1,486,100	1,169,300	-21
CON29 (part one)	1,272,800	954,000	-25
CON29 (part two) forms	275,300	209,600	-24
CR21	214,100	193,100	-10
NLIS search			
LLC1	272,600	297,000	9
CON29 (part one)	263,300	278,300	6
CON29 (part two) forms	60,800	70,500	16
CR21	47,600	61,900	30

Base: all authorities that were able to provide figures

- 3.3 LAs were asked about the number of searches conducted by NLIS in the last two financial years, but less than half were able to give an estimate of the

LLC1 and CON29 part one forms conducted this way. However, if the estimates given by those who provided this information were extrapolated to all LAs, this survey suggests that the number of searches requested by post was around three or four times greater than those requested by NLIS (for example 1.17 million LLC1 postal requests in 2004/5 compared with 297,000 NLIS requests and 954,000 CON29 part one forms by postal request in 2004/5 compared with 278,000 NLIS requests). It also appears that there has been an increase in the number of NLIS requests in the last year (for example nine per cent more LLC1 searches) whereas, as noted above, there was a corresponding drop of 21 per cent for LLC1 postal requests.

- 3.4 In the case of CON 29 part two searches almost half the LAs (45 per cent for 2004/5) were unable to provide accurate figures because they did not record the number separately so these estimates should be treated with caution. Around six in 10 LAs could not estimate the number of CR21 searches by post and eight in 10 could not estimate the number of searches conducted by NLIS. This may be because the information is held by the county council and not the LA.

Turnaround times

- 3.5 Typically, LAs say it takes them around three to five days to respond to a request for a postal search for LLC1 and CON29 (parts one and two). Very few (four per cent or fewer) take longer than 10 days, as can be seen from the table below. Completing 100 per cent of property searches (necessarily an LLC1 and a CON29 part one submitted together) within 10 days is the Office of the Deputy Prime Minister's prescribed Best Value Performance Indicator (BVPI).
- 3.6 When asked about turnaround times for CR21 searches, two-thirds of LAs were unable to provide this information, so these figures should be treated with caution. Again, such a response could be because information is sometimes held by county councils rather than LAs.

Table 3.2: Proportion of LAs receiving the search request and sending out the response for postal searches by average time taken (in days)

<i>Per cent</i>	<i>Financial year 2003/4</i>				<i>Financial year 2004/5</i>			
	<i>LLC1</i>	<i>CON</i>	<i>CON</i>	<i>CR21</i>	<i>LLC1</i>	<i>CON</i>	<i>CON</i>	<i>CR21</i>
		<i>Part 1</i>	<i>Part 2</i>			<i>Part 1</i>	<i>Part 2</i>	
1-2 days	17	4	4	19	19	6	6	20
3-5 days	39	42	34	13	40	49	35	13
6-10 days	28	40	31	3	26	33	30	3
11+ days	2	[1]	4	*	2	[2]	4	[1]
Can't say	15	12	27	65	12	10	25	63
<i>Average time taken</i>	5	6	6	3	5	5	6	3

Base: all respondents (249)

Note: observations in square brackets represent a cell base of less than five LAs.

3.7 The turnaround times for these searches were the same for NLIS as the postal route. The reason for such little difference in the process may be due to the fact that most LAs are at NLIS stage two. Again, the majority of LAs (around seven in 10) could not estimate turnaround times for CR21 searches so these figures should be treated with caution.

Table 3.3: Proportion of LAs receiving the search request and sending out the response for...NLIS searches by average time taken (in days)

<i>Per cent</i>	<i>Financial year 2003/4</i>				<i>Financial year 2004/5</i>			
	<i>LLC1</i>	<i>CON</i>	<i>CON</i>	<i>CR21</i>	<i>LLC1</i>	<i>CON</i>	<i>CON</i>	<i>CR21</i>
		<i>29</i>	<i>29</i>			<i>29</i>	<i>29</i>	
		<i>Part1</i>	<i>Part 2</i>			<i>Part1</i>	<i>Part 2</i>	
1-2 days	15	4	4	14	18	6	6	18
3-5 days	32	37	29	8	37	46	33	8
6-10 days	22	31	25	3	22	27	26	3
11+ days	[1]	[1]	3	*	[2]	[2]	4	[1]
Can't say	30	27	38	74	22	18	32	70
<i>Average time taken</i>	5	6	6	3	5	5	6	3

Base: all respondents (249)

Note: observations in square brackets represent a cell base of less than five LAs.

4 SEARCHES CONDUCTED BY PROPERTY SEARCH COMPANIES

4.1 In this section we cover the number of personal searches conducted by PSCs and the time taken to gain access to LLCR and other registers.

Number conducted

4.2 LAs were asked to estimate how many searches of their LLCR and other registers by PSCs they had provided access to during the last two financial years. Each LA provided access for, on average, 1,200 searches in 2003/4 and 1,300 searches in 2004/5. This represents a total of just under half a million searches (467,600 searches in 2003/4 and 481,500 thousand searches in 2004/5).

Appointment response times

4.3 Seventy one per cent of LAs said they provide access to registers within one to two working days after a request for an appointment is made to search the LLCR and other registers. Five per cent said they provided access the same day as the request. London boroughs (20 per cent) and metropolitan authorities (19 per cent) were more likely than others to give same day access.

Table 4.4: On average, how long after the request for an appointment is the actual visit for a PSC to search the LLCR and other relevant registers?

<i>Period</i>	<i>Per cent</i>
The same day request received	5
Within 1-2 working days	71
Within 3-4 working days	16
Within 5-6 working days	4
Within 7-10 working days	2
Longer than 10 working days	-

Base: all respondents (249)

5 THE CONSUMER PERSPECTIVE

5.1 In this section we cover LAs' perceptions of the consumer perspective.

Rating of service provided to the consumer

5.2 Virtually all the LAs (around nine in 10) believed that they provide a good service as far as accuracy of information, dealing with queries, having well trained staff, turnaround times, complaint handling, value for money and quality assurance procedures are concerned. Table 5.5 has full details.

5.3 Very few of them, one in 10 or fewer, believed that PSCs provided a good service on these aspects. The only exception was that a quarter of LAs said the turnaround times were good. LAs also had a relatively low opinion of the service provided by conveyancers. Under half said the accuracy of information provided was good, and fewer than one in three believed other aspects were good.

Table 5.5: How would you rate the service provided by (organisation), as far as the consumer is concerned?

<i>Per cent</i>	<i>LAs</i>		<i>PSCs</i>		<i>Conveyancers</i>	
	<i>Very /fairly good</i>	<i>Not very/not at all good</i>	<i>very /fairly good</i>	<i>Not very/not at all good</i>	<i>very /fairly good</i>	<i>Not very/not at all good</i>
Accuracy of information	98	*	12	41	46	4
Dealing with queries on information provided	98	-	4	34	33	8
Having well trained staff	98	*	5	40	27	7
Turnaround times	97	[1]	23	10	22	14
Complaint handling process	94	*	2	7	12	2
Value for money	92	3	10	25	22	6
Quality assurance procedures	88	3	2	15	12	2

Base: all respondents (249)

Note: observations in square brackets represent a cell base of less than five LAs.

Consumer awareness of the choices available to them

5.4 LAs do not believe that consumers are aware of the options available when conducting property searches. Around six in 10 say that consumers are aware that searches can be made by postal applications and only one in 10 say consumers are aware that searches can be conducted by NLIS or by PSCs. Only four per cent of LAs say that consumers are aware they can conduct searches themselves.

Table 5.6: How aware do you think consumers are that property searches can be conducted by....

	<i>Percentage saying completely or fairly aware</i>
Postal requests	59
NLIS	10
PSCs	12
Customers themselves	4

Base: all respondents (249)

- 5.5 LAs do not believe that consumers are aware of the benefits and drawbacks of the different options. Only one-quarter (27 per cent) say that consumers are aware of the drawbacks and benefits of postal applications. Nine per cent and four per cent respectively say the same of NLIS and PSCs. One per cent of consumers are said to be aware of the drawback and benefits of conducting searches themselves.
- 5.6 The majority of LAs (89 per cent) say that the conveyancer is the key decision maker as far deciding which method is used for conducting the property search. A minority thought it was the mortgage lender (four per cent), the customer themselves or the estate agent (one per cent respectively).

Complaint handling

- 5.7 Virtually all LAs (96 per cent) say they have a complaints procedure for their property search service. A quarter (27 per cent) of LAs said they had received one or more complaints or follow up enquiries expressing dissatisfaction from the public about a property search completed over the last two years through postal search requests. This compares with 10 per cent for NLIS search requests and 49 per cent for searches by a PSCs.
- 5.8 Those who had received complaints or dissatisfied enquiries were asked about the number they had received (or, for PSCs' complaints and dissatisfied enquiries, the estimated number). The number of complaints and enquiries received was higher, on average, for searches conducted by a

PSC (17) compared with a postal search (five) or a NLIS search (four).² Full details are in Table 5.7.

Table 5.7: Proportion of those LAs who had experienced complaints or follow up enquiries expressing dissatisfaction from the public about property searches completed over the past two years

Number of complaints/enquiries	<i>Per cent</i>		
	Postal request	NLIS	PSCs
1-5	73	48	35
6-10	8	[12]	21
11-20	[6]	-	17
21-50	[2]	-	9
51+	[2]	-	4
Can't say	11	40	14
<i>Average number of complaints/enquiries</i>	5	4	17

Base: those receiving complaints/enquiries in last two years (66 for postal request, 25 for NLIS and 121 for PSCs)

Note: observations in square brackets represent a cell base of less than five LAs.

5.9 The most common complaints and enquiries about PSCs were about incorrect information, mentioned by 40 per cent of LAs who had experienced complaints and enquiries and incomplete information (28 per cent). Full details can be found in Table 5.8.

5.10 In contrast the most frequently mentioned complaints and enquiries regarding postal searches were again incorrect information, mentioned by 12 per cent of LAs having experienced complaints and enquiries. The most common complaint or enquiry mentioned about NLIS was the time taken,

² Note that the number of complaints for searches by a PSC would exclude any complaints made direct to the PSC itself: these figures include only those cases that LA respondents know about.

referred to by 20 per cent of LAs experiencing complaints/enquiries. The next most common complaint/enquiry, mentioned by 16 per cent, was the wrong address had been identified.

Table 5.8: Proportion of those LAs who had experienced complaints/enquiries by common complaints/enquiries received

<i>Per cent</i>	<i>Postal request</i>	<i>NLIS</i>	<i>PSCs</i>
Incorrect information	12	-	40
Time taken	9	20	5
Incomplete information	8	-	28
Delay in solicitor submitting search	8	-	-
Customer wanted information beyond scope of search	8	-	-
Did not receive search	[6]	-	-
Not understanding something on the search	[6]	-	-
Wrong address/property identified	-	[16]	[3]
Customer not aware personal search (not full search) conducted	-	-	17
Information misinterpreted	-	-	[2]
Customer not understanding results	-	-	[2]
Other answers	44	52	33

Base: those receiving complaints/enquiries in last two years (66 for postal request, 25 for NLIS and 121 for PSCs)

Note: observations in square brackets represent a cell base of less than five LAs.

- 5.11 One-quarter (24 per cent) of those who had received complaints or enquiries about an LA postal search said at least one had resulted in a financial settlement. No complaints or enquiries about the NLIS searches had resulted in a financial settlement. The majority of LAs were unable to say

whether the complaints or enquiries about personal searches conducted by PSCs had resulted in financial settlements (60 per cent); but, of those that could, one per cent had resulted in a financial settlement that the LA knew about.

6 CHARGING

6.1 In this section we cover charges made by LAs for property searches.

Staff time

6.2 In order that we could compare the time taken to prepare for the three different types of search of the LLCR and other registers, LAs were given a scenario (summarised in Table 6.9) and asked to estimate the total staff time required to reply to a postal or NLIS request. They were also asked to estimate how much staff time was necessary to allow a PSC access to the LLCR and other registers to conduct the equivalent search.

6.3 LAs said it took on average around 70 minutes of staff time to complete searches on the LLCR for both postal and NLIS search requests (a median average of around 28 minutes). It took them around 95 minutes to complete searches on other registers for both postal and NLIS search requests (a median average of around 43 minutes).

6.4 In contrast it took them on average 47 minutes of staff time to allow a representative of a PSC to conduct the equivalent search on the LLCR (median 29 minutes). They also estimated it took 68 minutes of staff time to allow a search on other registers (median 40 minutes). Table 6.9 provides full details.

Table 6.9: Staff time taken (in minutes), on average, to complete standard searches on LLCR and other relevant registers that the public has a right to inspect in statute (those elements of CON29 part one that are available on public registers)

The property is a domestic house on a large new phased development. It is a three bedroom semi-detached house with an integral garage.

	<i>LLCR</i>		<i>Other registers</i>	
	<i>Mean</i>	<i>Median</i>	<i>Mean</i>	<i>Median</i>
Postal request	70	28	96	43
NLIS	68	27	93	43
PSC	47	29	68	40

Base: all respondents (249)

- 6.5 Nearly half of LAs (49 per cent) stated that it took between 11 and 30 minutes of staff time to complete searches on the LLCR for postal search requests. For NLIS search requests and those conducted by PSCs the number of LAs between 11 and 30 minutes was slightly lower at 46 and 42 per cent respectively. In terms of searches on other registers around 30 per cent of LAs stated that it took between 11 and 30 minutes to complete postal, NLIS and PSC requests. Table 6.10 provides full details.

Table 6.10: Frequency of staff time taken (in minutes) to complete standard searches on LLCR and other relevant registers

<i>Per cent</i>	<i>LLCR</i>			<i>Other registers</i>		
	<i>Postal request</i>	<i>NLIS</i>	<i>PSC</i>	<i>Postal request</i>	<i>NLIS</i>	<i>PSC</i>
1-10 mins	10	13	12	6	6	4
11-30 mins	49	46	42	28	29	26
31-59 mins	18	19	22	18	18	16
1-1 hour 59 mins	13	12	14	24	23	20
2-5 hours	2	[2]	[2]	8	8	7
5+ hours	2	2	[1]	2	2	[2]
Can't say	4	5	6	14	14	24
<i>Average time taken (mins)</i>	<i>70</i>	<i>68</i>	<i>47</i>	<i>96</i>	<i>93</i>	<i>68</i>

Base: all respondents (249)

Note: observations in square brackets represent a cell base of less than five LAs.

6.6 Metropolitan authorities and Welsh Unitary authorities took longer for all searches whether they were conducted by post, NLIS or property search company on LLCR or other registers. Full details in Table 6.11.

Table 6.11: Time taken on average by LAs to conduct searches on LLCR and other registers for a specified property by post, NLIS or preparation for a PSC

<i>Minutes</i>	<i>District Council</i>	<i>London Boro'</i>	<i>Metro-politan authority</i>	<i>English Unitary</i>	<i>Welsh Unitary</i>	<i>All authorities</i>
LLCR						
Postal request	57	33	146	50	176	70
NLIS	55	32	145	50	175	68
PSC	38	29	91	48	94	47
Other registers						
Postal request	90	48	124	66	236	96
NLIS	85	53	120	66	236	93
PSC	56	51	131	57	152	68

Base: all respondents (249)

Fees charged

- 6.7 In this section we cover the fees charged for standard, non-expedited searches, expedited searches (where they are offered) and commercial property searches.
- 6.8 LAs charged on average £115 for a standard, non-expedited CON29 part one searches on residential properties in financial year 2003/4 and £119 in 2004/5. In 2003/4 they charged on average £11 per standard question on CON29 part two search. There was no change in 2004/5. Full details are in Table 6.12.

Table 6.12: How much did your LA charge for standard, non-expedited service for residential properties in financial years 2003/4 and 2004/5?

	£	2003/4	2004/5
Postal request			

CON29 part one	115	119
CON29 part two per question	11	11
NLIS		
CON29 part one	104	106
CON29 part two per question	11	11

Base: all authorities (249) provided information for CON29 part one and 168 authorities who provided information on fee per question for CON29 part two

- 6.9 Twenty per cent of LAs provided an expedited service. Metropolitan and Welsh authorities were more likely to provide an expedited service (29 per cent and 31 per cent respectively). London boroughs were less likely to provide an expedited service (10 per cent). Full details in Table 6.13.
- 6.10 LAs charged on average £69 extra for an expedited service. There was considerable variation by authority. Whilst 23 per cent of English Unitaries offered an expedited service, those which did charged on average £114 extra. Metropolitan (29 per cent) and Welsh Unitaries (31 per cent), who were more likely to provide an expedited service, charged £96 and £21 extra respectively. Full details in Table 6.13.

Table 6.13: Whether an expedited service is provided and, if so, how much is charged for the service

	<i>District Council</i>	<i>London Boro'</i>	<i>Metro-politan authority</i>	<i>English Unitary</i>	<i>Welsh Unitary</i>	<i>All authorities</i>
Those providing an expedited service	19%	[10%]	29%	25%	31%	20%
Average charge (amongst service providers)	£60	[£40]	£96	£107	£21	£69

Base: all respondents (249)

Note: observations in square brackets represent a cell base of less than five LAs.

6.11 Seventeen per cent of authorities have separate fees for commercial property searches. Unitary authorities (English and Welsh) were more likely to have separate fees for commercial property searches than other authorities (22 and 25 per cent respectively). The average charge for commercial property searches (among those who had separate fees) was £137. There was considerable variability between the authorities. Full details are in Table 6.14.

Table 6.14: Whether separate fees are charged for commercial property searches and, if so, how much is charged for the service

	<i>District Council</i>	<i>London Boro'</i>	<i>Metro-politan authority</i>	<i>English Unitary</i>	<i>Welsh Unitary</i>	<i>All authorities</i>
Those charging separately for commercial properties	16%	[10%]	[14%]	22%	[25%]	17%
Average charge (among those charging separately)	£151	[£209]	[£109]	£138	[£43]	£137

Base: all respondents (249)

Note: observations in square brackets represent a cell base of less than five LAs.

How fees are calculated

- 6.12 Twenty-nine per cent of LAs record separately in their accounts the costs they incur in the provision of property information. London boroughs were less likely to record costs separately than other LAs (10 per cent). The other types of LA ranged between 25 per cent of Welsh authorities and 38 per cent of Metropolitan authorities. Of the remaining LAs, 49 per cent said that they did not record their costs and 22 per cent did not know.
- 6.13 Although only 29 per cent of LAs said that they separately record their costs, the most common way of setting fees for CON29 part one, stated by 32 per cent of LAs was based on the direct search costs with a share of overheads.³ Validation of these results discovered that those LAs which do not record their costs separately use an estimate of costs. The next most common method is on the basis of income targets (22 per cent of all LAs). Full details in Table 6.15.

³ That is, costs shared across all search types and other costs such as top management and office space.

Table 6.15: How fees are set for CON29 part one

<i>Per cent</i>	<i>District Council</i>	<i>London Boro'</i>	<i>Metro-politan authority</i>	<i>English Unitary</i>	<i>Welsh Unitary</i>	<i>All authorities</i>
Based on direct search costs and a share of overheads	36	25	[19]	17	50	32
Based on income targets	19	[15]	24	37	[19]	22
By comparison with other local authority fees	14	[20]	[19]	17	[13]	15
Combination/all of the above	11	[10]	[10]	[9]	-	10
Some other way	5	[10]	[10]	[3]	[19]	7
Don't know	13	[20]	[19]	14	-	14

Base: all respondents (249)

Note: observations in square brackets represent a cell base of less than five LAs.

7 CHARGES FOR PERSONAL INSPECTION OF LOCAL LAND CHARGE REGISTER

7.1 In this section we cover charging for personal inspection of LLCR and other registers, including those held by departments other than the planning department.

Enhanced personal search service

7.2 Fifteen per cent of LAs offer an enhanced⁴ personal search service. The average charge for such a service was £56. However there was a wide range of charges for such a service, from an average of £221 in London to £33 in Wales. The average charge levied by districts was £38; metropolitan boroughs and English unitaries charged on average £53. The variation in charges is in large part due to differences in what is offered by each LA for an enhanced personal search.

Adequacy of the £11 fee for personal searches

7.3 The majority of LAs (83 per cent) said that the £11 fee for personal searches of the LLCR did not cover the costs to the LA of providing the service; six per cent said the fee was adequate. Welsh LAs were more likely to believe the fee was adequate (19 per cent). Those LAs saying that they did not consider that £11 covered the costs of the LLCR personal search service believed that a fee in the region of £45 would cover the cost.

7.4 The main way of recovering the shortfall relative to costs was by charging for CON 29 forms (69 per cent of LAs). The two other methods of recovery were by revenues from other property search services or by Council Tax revenues (both mentioned by 20 per cent of LAs). Five per cent say the shortfall was not recovered, seven per cent gave some other method, and five per cent did not answer the question. More than one response could be given.

⁴ In addition to information from the LLCR, an enhanced service may also include the relevant information from other departments such as Environmental Health or Highways, or whether the property is Food Registered or a House in Multiple Occupation, etc.

Charges made by other departments

- 7.5 Those registers which were provided by individual departments other than that responsible for land charges are covered in this section.
- 7.6 A minority of LA departments made charges for providing information: highways (27 per cent), building control (23 per cent), environmental health (13 per cent), planning (14 per cent) sewerage (six per cent), housing (three per cent) and minerals/waste (three per cent).
- 7.7 The average price charged by departments varied, with sewerage undertakers (£54) being the highest. The average charges by other departments were £40 (minerals/waste), £33 (highways), £30 (building control), £29 (planning), £52 (environmental health) and £14 (housing). However these average scores conceal quite a wide range of charges as can be seen from Table 7.16 below. Some LAs did not give details of charges but said they charged for copies of information provided free.

Table 7.16: Charges for providing information by individual departments

	<i>District Council</i>	<i>London Boro'</i>	<i>Metropolitan authority</i>	<i>English Unitary</i>	<i>Welsh Unitary</i>	<i>All LAs</i>
Building Control						
- No charge	56%	40%	57%	44%	44%	53%
- Not stated*	23%	30%	29%	28%	[25%]	25%
- Average charge (among 23% who charge)	£29	£38	[£22]	£30	£38	£30
Environmental health						
- No charge	61%	50%	52%	53%	50%	57%
- Not stated*	29%	30%	33%	31%	31%	30%
- Average charge (among 13% who charge)	£52	[£46]	[£111]	£40	[£29]	£52
Highways						
- No charge	50%	35%	57%	50%	31%	48%
- Not stated*	28%	25%	[10%]	19%	31%	25%
- Average (among 27% who charge)	£25	£25	£49	£66	£13	£33
Housing						
- No charge	55%	40%	52%	44%	25%	50%
- Not stated*	44%	55%	43%	44%	63%	46%
- Average (among 3% who charge)	[£11]	[£10]	[£32]	[£11]	[£16]	£14
Mineral/waste department						
- No charge	42%	25%	52%	47%	31%	41%
- Not stated*	57%	75%	38%	47%	63%	56%
- Average (among 3% who charge)	[£63]	[£0]	[£49]	[£23]	[£15]	£40

	<i>District Council</i>	<i>London Boro'</i>	<i>Metropolitan authority</i>	<i>English Unitary</i>	<i>Welsh Unitary</i>	<i>All LAs</i>
Planning						
- No charge	72%	45%	67%	50%	69%	66%
- Not stated*	19%	30%	[19%]	22%	[19%]	20%
- Average (among 14% who charge)	£33	£40	[£15]	£24	[£16]	£29
Sewerage undertakers						
- No charge	22%	[15%]	24%	25%	[6%]	21%
- Not stated*	72%	85%	76%	61%	94%	73%
- Average (among 6% who charge)	£61	[£0]	[£0]	£39	[£0]	£54

Base: all respondents (249)

Note: observations in square brackets represent a cell base of less than five LAs.

* could include charges for photocopies for information provided free by LAs.

8 ACCESS TO REGISTERS RELATING TO FORMS LLCR1, CR21 AND CON29 PART ONE

8.1 We asked LAs about their arrangements for allowing access by PSCs, conveyancers or individuals to specific registers. Not all registers have the same access conditions, some registers must be 'open to inspection by the public at all reasonable times' (for example, the Commons and Village Green Registers⁵ and 1.1a planning permission where details are recorded on a register kept pursuant to section 69 of the Town and Country Planning Act 1990), whilst others are at the discretion of the LA, as is the charge they can make. In addition, some information, such as the list of highways which are maintainable at public expense, must be made available for inspection by the public free of charge.⁶ LAs were asked to give the actual access conditions and not those recommended by ODPM guidelines.

8.2 LAs were asked if they provided open access which was defined as:

- either your department or other departments grant access within two working days of receiving the search request (or later if so required)
- do not place restrictions on the days in which visits can take place
- do not impose time constraints on the length of the visit (provided is during normal working hours), and
- do not impose limits on the number of searches per visit.

8.3 Any other cases, when these conditions were not satisfied, were to be recorded as limited access.

Box 8.17 Definition of limited access

The definition of 'limited access' is not a legal term, but one created for our survey in

⁵ These registers are kept pursuant to section 3(1) and (2) of the Commons Registration Act 1965.

⁶ Highways Act 1980 (section 36(7)).

order to measure access levels. Thus, if an LA does not provide this level of access, it may not necessarily be contravening any laws.

- 8.4 LAs were also asked whether they made any charge for access. Where the information was required from other departments, the county council or sewage undertaker, the LLC manager was asked to obtain the information from the relevant provider.
- 8.5 There was, however, some misinterpretation of this question, although it had been piloted and a helpline made available for respondents if they had queries. Some LAs said they provided limited access (or charged) when they actually meant that they charged for photocopies, but did otherwise provide free access. Others had stated 'no access' where the register was not relevant to their LA (for example the register was held at the county) or where the register was empty.
- 8.6 The situation is further complicated where information that will eventually be placed on a register that the public has a statutory right to inspect is not yet at that stage. For example, proposed 'nearby road schemes', if they are at a stage where the idea is still being formed, are not in the public domain because the plans are under development. A PSC would not therefore have the right in statute to access this information by inspecting public registers. However, this information would be revealed to them in answer to a CON29. This is because of the existing agreements⁷ to provide 'information not in the public domain' via the CON29 - in return for a financial payment.
- 8.7 Therefore the results of this survey need careful interpretation and it may not always be that authorities are not complying with regulations.
- 8.8 Details for all LAs are shown in the tables below. There were only minor variations between different types of LA.

⁷ The ODPM document *'Personal Searches – Guidance for Local Authorities and Personal Searchers'* refers at paragraph 5.7 to the current system for dealing with CON29 searches being 'outside statutory control' and resting on 'voluntary arrangements agreed between local authorities and the Law Society'.

Local Land Charge Register (LLCR)

8.9 Just over half of all LAs surveyed (53 per cent) say they allow limited access to the LLCR and 44 per cent say they allow open access. Although legislation (S1 2003 No 2505: Local Land Charges (Amendment) Rules 2003) requires them to charge £11 for access to the LLCR, 14 per cent of LAs say they do not charge for access.⁸

Common land/town and village green register

8.10 Section 3 of the Commons Registration Act 1965 states that the Commons and Town & Village Greens Registers should be open to inspection by the public⁹ at all reasonable times.¹⁰ Around four in 10 LAs say they provided open access to common land/town and village green registers, and 14 per cent say they provide limited access. Five per cent say they do not provide access, while overall 39 per cent did not answer the question. The relatively high level of 'non stateds' was accounted for mainly by district LAs who did not provide this information because it is held by counties (and it is possible that some of those saying they did not provide access did so for the same reason).

⁸ The validation exercise suggested that LAs may have meant they didn't charge over and above the statutory fee of £11.

⁹ The question of whether access to a statutory register is required to be free of charge is a matter of some confusion. Although section 3 of the Commons Registration Act 1965 does not stipulate that access to the Commons and Village Green registers should be free of charge, guidance issued by ODPM states that 'any person is entitled by law to inspect *free of charge*, any records open for public inspection held by local authorities.' (See '*Guidance for local authorities and personal searchers*' paragraph 3.2 – (emphasis added) www.odpm.gov.uk/stellent/groups/odpm_housing/documents/downloadable/odpm_house_035876.pdf). This Guidance is referred to in this annexe as the 'ODPM Guidance'. Note, however, that although ODPM Guidance refers to inspection being free of charge, this does not imply that copies or written information should be free of charge. In addition, new legislation such as the Freedom of Information Act, General Powers to Trade and regulations on the Re-use of Public Sector Information have added to the confusion over charging.

¹⁰ Commons Registration Act 1965. It is possible that those LAs that gave limited access, as well as those that gave open access, are still compliant with the legislation (see Box 8.17).

8.11 Among those who did provide access, 63 per cent of LAs did not charge for access.

Planning and Building Regulations

8.12 Within the CON29 (part one) section there are a mixture of items – some of which should be available for inspection by the public at all reasonable hours¹¹ (for example, 1.1a – d: planning permissions, listed building consents, conservation area consents and certificates of lawfulness of use or development) but also other items for which there is discretionary access and charging¹² (for example, 1.1e-f: building regulation approvals, building regulation completion certificates and certificates of compliance).¹³ We see in the table below dealing with Planning and Building Regulations that nearly all authorities allow open or limited access to the planning register, which is meant to be available for inspection by the public at all reasonable hours.¹⁴ Around two in 10 stated that they charge for access.

¹¹ Town and Country Planning Act 1990 Section 69 & 188. Now referred to as 1990 Act.

¹² Local Authorities (Charges for Land Searches) Regulations 1994, S.I.1994/1885. Now referred to as 1994 regulations.

¹³ As with the Commons and Village Greens Register there is some confusion as to whether access to the registers kept pursuant to the 1990 Act is required to be free of charge. The 1990 Act does not stipulate that access should be free of charge, the ODPM Guidance states that 'any person is entitled by law to inspect free of charge any records open for public inspection held by local authorities'. In respect of the 1990 Act, the ODPM Guidance goes on to give examples of the registers kept under the Act as such records held by public authorities. (See also footnote 8 in relation to the Commons and Village Green Registers). However, ODPM have stated they are planning to introduce new legislation that will require LAs to keep and make building control information available to the public - which suggests that they feel it is currently discretionary.

¹⁴ The 1990 Act section 69.

Table 8.18: Access and charging with respect to Planning and Building Regulations

<i>Per cent</i>	<i>No access</i>	<i>Limited access (See Box 8.17)</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
Planning					
1.1a Planning Permissions	-	17	81	2	81
1.1b Listed building consents	*	16	81	2	83
1.1c Conservation area consents	-	16	82	2	82
1.1d Certifications of lawfulness of use or development	[2]	16	78	4	81
Building Regulations					
1.1e Building regulation approvals	41	25	30	4	59
1.1f Building regulation completion certificates	40	27	28	6	56
1.1g Certificate of compliance	41	27	26	6	56

Base: all respondents (249)

Note: observations in square brackets represent a cell base of less than five LAs.

8.13 However in the case of building regulation information (where LAs have discretion whether to allow access to and charge for the information) around four in 10 LAs do not allow access and around six in 10 do not charge for access.

- 8.14 In relation to planning designations and proposals, plans must be made available by the relevant LA for inspection.¹⁵ In this case 80 per cent of LAs say they provide open access to these items, and 16 per cent provide limited access. Seventy-seven per cent do not charge for access.

Roads

- 8.15 As far as 'highways maintainable at the public expense' is concerned, 73 per cent of LAs provide open access and 18 per cent provide limited access, with 74 per cent making no charge. According to the Highways Act (1980 s36 (7)) a list containing the relevant information should be available for public inspection at all reasonable hours free of charge. Although 26 per cent of LAs say they are charging, there is likely to have been some misinterpretation (for example, they charged for copies not access).
- 8.16 For the other items in this section relating to Roads (2b-d), around three in 10 LAs do not provide access and around half charge for access where this is provided. This is compliant with the regulations.¹⁶

¹⁵ The relevant regulations (The Town and Country Planning (Development Plan) Regulations 1999 (SI 1999/3290)) do not stipulate that public access to the plans should be free of charge. However, see footnotes 8 and 12 setting out the ODPM Guidance in relation to whether access to any records open for public inspection by local authorities should be free of charge.

¹⁶ 1994 Regulations.

Table 8.19: Access and charging with respect to roads

<i>Per cent</i>	<i>No access</i>	<i>Limited access (see Box 8.17)</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
Roads					
2b subject to current legal agreement for adoption (supported by financial security)	27	29	36	8	52
2c to be made up at the cost of the frontagers	34	25	31	10	53
2d to be adopted without cost to the frontagers	34	24	31	11	51

Base: all respondents (249)

Land

- 8.17 As far as land which is required for public purposes is concerned, and where information is available from consulting the public local plans held at the relevant authority,¹⁷ around four in 10 LAs do not allow access. However, in most district authorities, highways information is not held by them but by the county council; thus some of the 'no access' responses may actually refer to cases where the respondent in a district has no information available for access.
- 8.18 Sixty-eight per cent do not charge for access to relevant plans, where they allow it. A similar proportion (43 per cent) do not allow access to information showing land to be acquired for road works, but of those that do give access 47 per cent do not charge for it.

¹⁷ There is a statutory requirement for the relevant authorities to keep the plans available for inspection by the public although there is no specific requirement that the plans must be available for inspection free of charge. See footnotes 8, 12 and 14 above in relation to the ODPM Guidance on this point.

Table 8.20: Access and charging with respect to land

<i>Per cent</i>	<i>No access</i>	<i>Limited access (see Box 8.17)</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
Land					
3.1 Whether land is required for public purposes	41	18	30	11	68
3.2 Whether land is to be acquired for road works	43	23	20	14	47

Base: all authorities (249)

8.19 However under the Environmental Protection Act 1990, some information relating to contaminated land (3.12) should be available, at all reasonable times, for inspection by the public free of charge (section 78R(8)) . In most items relating to contaminated land, around one-third of LAs said that there is no access; one-fifth that there is limited access and a further one-third there is open access. Around one in 10 were unable to answer. Full details are in the table below.

8.20 Where information is required to be kept on a public register pursuant to section 78(R) of the Environmental Protection Act 1990 register, a lower proportion (13 per cent) say there is no access and a higher proportion say there is open or limited access (81 per cent). Note though, that those that did not state whether there was access, and possibly some of those that answered 'no access', may have answered this way because they did not have any records on their register.

8.21 Over half of those who allowed access did not charge for it.

Table 8.21: Access and charging with respect contaminated land

<i>Per cent</i>	<i>No access</i>	<i>Limited access (see</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where</i>
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	<i>Box 8.17)</i>				<i>provided)</i>
3.12a Entry relating to s78R(1) of EPA 1990	13	23	58	6	60
3.12b notice relating to S78B(3)	33	21	37	10	54
3.12c consultation with owner/occupier relating to adjacent land relating to s.78G(3)	34	22	35	8	55
3.12d entry relating to ...contaminated land... that harm or pollution of controlled waters might be caused on the property	32	21	38	8	54

Base: all respondents (249)

Drainage agreements

- 8.22 According to Water Industry Act 1991 sections 199 and 200, sewer maps should be available at all reasonable times for inspection by the public free of charge, both at the offices of the relevant sewerage company and the LA. Charges for access to other information not on sewer maps are discretionary (1994 Regulations).
- 8.23 For the two items on CON29 part one relating to drainage agreements, under half of all LAs surveyed said they did not allow access to relevant registers.
- 8.24 Under half charged for access where this was allowed. Full details in Table 8.22.

Table 8.22: Access and charging with respect to drainage agreements

	<i>Per cent</i>	<i>No access</i>	<i>Limited access (see Box</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is</i>
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	8.17)				provided)
3.3a An agreement under the Building Act 1984, s22 for drainage of any part of the property	48	17	16	19	47
3.3b Statutory agreement for a building/extension to be constructed in vicinity of drain/sewer	44	19	18	19	43

Base: all respondents (249)

Nearby road schemes

8.25 In the CON29 part one, there is no statutory obligation to maintain a register in respect of nearby road schemes (3.4(a)-(f)). However, information can be obtained by consulting past minutes of Planning Committee Meetings (which are made public and open to inspection pursuant to Part 5A of the Local Government Act 1972) and publicly advertised Secretary of State schemes.

8.26 The responses to this section (items a-f) are consistent: just over one-third of LAs did not allow access to the relevant information; one-quarter allowed limited access and a further one-quarter open access. Ten per cent were not able to answer the question. Just under half did not charge, where access was allowed.

Nearby railway schemes

8.27 Around half of LAs (47 per cent) allowed open access to relevant registers for nearby railway schemes (3.5). Eighteen per cent allowed limited access and 25 per cent did not provide access. Two-thirds (66 per cent) did not charge for access where it was allowed.

Traffic schemes

8.28 In the CON29 part one, items relating to traffic schemes (3.6), the responses to this section (items a to l) are very consistent: Around four in 10 LAs did not allow access to relevant registers, about one-quarter allowed limited

access and a further quarter allowed open access. Ten per cent were not able to answer the question; these were primarily district authorities. Around half of all LAs made no charge for access where it was given.

Infringement of building regulations

8.29 This information is not available as of right by means of a public register. Half of all LAs do not allow access to information which shows infringement of building regulations (3.8). One-quarter (26 per cent) of LAs allow limited access, 16 per cent permit open access, and nine per cent were unable to answer the question. Half (48 per cent) do not charge for access, although there is a discretion to charge under the 1994 Regulations.

Notices and other proceedings under the 1990 Act

8.30 Where the relevant information is recorded in the enforcement and stop register pursuant to section 188 of the 1990 Act, access must be available to the public at all reasonable hours.¹⁸ In relation to tree preservation orders (3.9I), information must be kept available for public inspection free of charge at all reasonable hours.¹⁹ The majority but not all LAs allow open or limited access for these items as can be seen from the table below. Where the information is not required to be recorded in a register, around one-third allow access. The exception to this is planning contravention notice (3.9e) where a lower proportion (19 per cent) do not allow access.

¹⁸ See footnote 12 in relation to ODPM Guidance regarding the registers kept pursuant to the 1990 Act.

¹⁹ Section 214 of the 1990 Act.

8.31 For information recorded in the enforcement and stop register, around seven in 10 who provide access do not charge for it, although they may charge for copies. For information not required to be kept on a register, of those who give access around two-thirds do not charge for it. The only exception to this is in the case of compulsory purchase (3.11), where a lower proportion (51 per cent) do not charge for access where it is allowed.

Table 8.23: Access and charging with respect to notices and other proceedings under the 1990 Act and relevant Regulations

	<i>Per cent</i>	<i>No access</i>	<i>Limited access (See Box 8.17)</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
Information required to be recorded on a register						
3.9a Enforcement notice		13	22	60	5	74
3.9b Stop notice		12	22	61	4	75
3.9d Breach of condition notice		15	20	60	5	74
3.9l Tree preservation order		11	21	62	6	70
3.10 Conservation areas created before 31 August 1974		7	20	69	4	70
Information not required to be recorded on a register						
3.9c listed building enforcement notice		20	21	51	7	76
3.9e planning contravention notice		19	21	54	6	73
3.9f other notices relating to breach of planning control		35	20	41	4	74
3.9g listed building repairs notice		36	21	37	6	69
3.9h order for compulsory acquisition of a listed building		37	21	35	7	66
3.9i building preservation notice		34	21	38	8	66
3.9j direction restricting permitted development		33	18	43	6	67
3.9k order modifying planning permission/use		35	20	40	6	67
3.9m proceedings for breach of statutory planning agreement		40	19	33	8	65
3.11 compulsory purchase		38	27	29	6	51

Base: all respondents (249)

Radon gas

8.32 Information about areas affected by radon gas is available free of charge from the National Radiological Protection Board and is also sent to each local authority. Thirty-eight per cent of LAs say they do not give access to this information, 19 per cent say they give limited access and a further one-third (34 per cent) say they give open access. Two-thirds (62 per cent) do not charge for access where it is provided.²⁰

²⁰ Radon gas does not occur in all areas of England and Wales, where this is the case the validation exercise suggests that some LAs may have noted this as 'no access'.

9 ACCESS TO REGISTERS RELATING TO CON29 PART TWO

9.1 In this section we deal with items in CON29 part two.

Road proposals by private bodies

9.2 Some information relating to the construction of a new road (4a) or the alteration of an existing road (4b) should be available for inspection by the public at all reasonable hours;²¹ other information is discretionary in terms of access and charging

9.3 As far as new roads are concerned 41 per cent of LAs did not allow access, 20 per cent allowed limited access and 23 per cent open access. Fifteen per cent were unable to answer. Over half did not charge for access where allowed.

9.4 The responses for alteration of existing roads were very similar with 43 per cent not providing access, 20 per cent allowing limited access, 22 per cent open access and 14 per cent unable to answer. Forty-six per cent did not charge for access where it was allowed.

Public paths or byways

9.5 Maps and statements relating to public paths or byways should be available for inspection free of charge at all reasonable hours according to the Wildlife and Countryside Act 1981 in England and equivalent legislation in Wales.

9.6 Fifty-eight per cent of LAs said there was open access to this information and 18 per cent said limited access; 11 per cent said there was no access. Twelve per cent were unable to answer the question. Two-thirds (67 per cent) of LAs did not charge for access where it was allowed.

²¹ Certain proposals, planning applications and decisions in relation to road proposals by private bodies may be included in a Unitary Development Plan or on a statutory register if the proposal is large enough. See previous footnotes in relation to ODPM Guidance regarding charging for access to records held by LAs which are open for public inspection.

Advertisements

- 9.7 In the CON29 part two items relating to advertisements incorporate items which are subject to different pieces of legislation. Some of these require the relevant registers to be available for inspection by the public at all reasonable hours (6.1, 6.3a and c)²² whilst access to and charges for information relevant to other items are discretionary (6.3 b, d and e).²³
- 9.8 Two-thirds (65 per cent) said there was open access to any entries relating to consent of display of advertisements (6.1) and 18 per cent said there was limited access. Eleven per cent said there was no access. Seventy per cent said there was no charge, where access was allowed.
- 9.9 As far as notices and other proceedings were concerned with respect to advertising (6.3), where the relevant register is required to be open to inspection by the public at all reasonable hours, around two-thirds of LAs allow open or limited access to these entries, as can be seen from table 9.24. Around one-quarter did not allow access. Around two-thirds do not charge for access. There were no differences in LAs' behaviour between

²² Section 69 1990 Act and the Town and Country Planning (Control of Advertisements) Regulations 1992 Regulation 21.

²³ 1994 Regulations.

those items which are required to be kept on a register which is made available to the public at all reasonable hours and those which are not.²⁴

²⁴ See footnote 12 in relation to ODPM Guidance regarding charges for access to registers kept pursuant to ss69 and 188 of the 1990 Act.

Table 9.24: Access and charging with respect to notices and other proceedings relating to advertisements

<i>Per cent</i>	<i>No access</i>	<i>Limited access (see Box 8.17)</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
Items where access should be available at reasonable hours					
6.1 Entries in the register of applications relating to consent for display of advertising	11	18	65	6	70
6.2a notice served... restricting consent for any advertisement	27	19	47	7	66
6.2c If discontinuance notice served, has it been complied with to Council's satisfaction	30	21	42	8	66
Items where access/charging is discretionary					
6.2b notice served... requiring display of advertisement to be discontinued	29	20	43	7	66
6.2d has council resolved to serve any other notice... relating to contravention of control of advertisements	32	21	38	9	66
6.2e has Council resolved to make an order for special control of notice in the area	28	20	43	9	68

Base: all respondents (249)

Completion notice under s.94 of Town & Country Planning Act 1990

9.10 It is at the LA's discretion whether any completion notices under s.94 of the Town and Country Planning Act 1990 are free and open to access. Four in 10 (36 per cent) allowed open access and 20 per cent limited access; one-

third (34 per cent) of LAs do not allow any access. The majority (65 per cent) did not charge where access is allowed.

Parks and countryside

- 9.11 Over half of LAs (56 per cent) allowed open or limited access to orders under s.87 (now repealed) of the National Parks and Access to the Countryside Act 1949 (the relevant register should be available for inspection by the public at all reasonable times). A similar proportion allowed open access to registers showing if the property was within a National Park (the register containing this information should also be made available for inspection by the public at all reasonable times).²⁵
- 9.12 The relatively high level of 'non stated's' could be accounted for by LAs without national parks in their area (and it is possible that some of those saying they did not provide access did so for the same reason).
- 9.13 Seventy per cent did not charge for access to either of these searches if access was allowed.

²⁵ Section 7 National Parks and Access to the Countryside Act 1949.

Table 9.25: Access and charging with respect to parks and countryside

	<i>Per cent</i>	<i>No access</i>	<i>Limited access (see Box 8.17)</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
8.1 Order under s.87 of National Parks and Access to the Countryside Act of 1987		27	13	43	17	70
8.2 Property within National Park		26	13	43	18	69

Base: all respondents (249)

Pipelines

9.14 According to the Pipelines Act 1962, maps deposited under section 35 of that Act have to be kept open to inspection by any person at all reasonable hours free of charge. One-third (33 per cent) of LAs said there was open access and 20 per cent limited access; while 36 per cent said there was no access. Those that did not state, and possibly some of those that answered 'no access', may not have any maps deposited under that section of the Act.

9.15 Fifty-seven per cent of those allowing access made no charge.

Houses in multiple occupation

9.16 The situation regarding houses in multiple occupation is complex. Where there is a registration scheme authorising the authority to compile and maintain a register for their district, of houses in multiple occupation under section 346 of the Housing Act 1985, the scheme and the register is required to be available for public inspection at the offices of the authority free of charge at all reasonable times.

9.17 One-third of LAs (36 per cent) allowed open access to this information, 23 per cent limited access and 27 per cent no access. Those that did not state, or possibly some of those that answered no access, may not have such a registration scheme in their area.

9.18 Fifty-nine per cent did not charge when access is allowed.

Noise abatement

9.19 The register containing this information is required by the Control of Planning Act 1974 s64 to be open to public inspection free of charge at all reasonable hours. The relevant authority is also required to provide members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register. Around half of LAs said there was open or limited access to this information; full details are in table 9.26. Around six in 10 said there was no charge for access where this was allowed.

Table 9.26: Access and charging with respect to noise abatement zones

<i>Per cent</i>	<i>No access</i>	<i>Limited access (see Box 8.17)</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
11.1 Whether the council made (or resolved to make) any noise abatement zone orders for the area?	29	17	37	18	63
11.2 Whether any entry been recorded in the Noise Level Register	28	18	35	20	62
11.3 Obtaining copies of this entry/inspecting entry	26	17	33	24	58

Base: all respondents (249)

Urban development areas and related zones

9.20 There should be public access to the Unitary Development Plan (UDP) prior to adoption under the Local Government Planning and Land Act of 1980 under which copies of the scheme are required to be deposited and kept open for inspection by any member of the public. Any member of the public may make copies of or extracts from it, at any reasonable time, without

payment; and copies of the scheme are also to be made available to the public by the relevant authority at a reasonable cost.

- 9.21 The relatively high level of 'non stated's' shown in Table 9.27 could be accounted for by LAs without urban development areas or related zones (and it is possible that some of those saying they did not provide access did so for the same reason).
- 9.22 Around half of LAs allowed open or limited access to this information. Around two-thirds made no charge for access where it was allowed.

Table 9.27: Access and charging with respect to urban development areas

<i>Per cent</i>	<i>No access</i>	<i>Limited access (see Box 8.17)</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
12.1 Whether the area is an urban development area (UDC)	29	13	41	17	66
12.2 What is the name of UDC and its address	28	12	38	22	68
15.1 Whether the area is a Simplified Planning Zone	31	13	39	18	67
15.2 Whether the Council approved any proposal for designating the area a Simplified Planning Zone	31	13	38	18	66

Base: all respondents (249)

9.23 There was a similar situation with respect to **Simplified Planning Zones** (15.1 and 2). Over half of LAs allowed open or limited access to this information; around three in 10 did not allow access. Around two-thirds did not charge for access if allowed. Full details are in table 9.27 above.

9.24 As far as **Enterprise Zones** (13) were concerned, 39 per cent of LAs allowed open access to this information and 14 per cent allowed limited access; 30 per cent did not allow any access. Seventeen per cent did not give any answer. Two-thirds (66 per cent) did not charge for access where provided.

9.25 One-third of LAs (35 per cent) allowed open access and 14 per cent allowed limited access to searches regarding whether the LA has resolved to define the area as an **Inner Urban Improvement Areas** (14). One-third (33 per

cent) did not allow access to this information. Two-thirds did not charge for access if allowed.

- 9.26 Forty-one per cent of LAs allowed open access and 16 per cent allowed limited access to information about **mineral consultation areas** (17). One-quarter (28 per cent) did not allow any access. Two-thirds did not make a charge was access if permitted.

Land maintenance notices

- 9.27 One-third (37 per cent) of LAs allowed open access and 21 per cent allowed limited access to land maintenance notices. The 1990 Act (s188 which sets out the provisions in relation to the statutory enforcement register) states that the register shall be available for inspection by the public at all reasonable hours.²⁶ Thirty-four per cent did not allow access. Those that did not state, and possibly some of those that answered 'no access', may not have issued any of these notices.
- 9.28 Over half (57 per cent) did not charge, and 11 per cent charged, where access was allowed.

Hazardous Substance Consents

- 9.29 Certain information is required to be kept in a register maintained pursuant to section 28 of the Planning (Hazardous Substances) Act 1990. The register is to be available for inspection by the public at all reasonable hours.²⁷
- 9.30 Three fifths of all LAs allowed open access and around one in six limited access; around one in six gave no access, and full details are in table 9.28 below. Around six in 10 did not charge when access was allowed.

²⁶ See footnote 12 in relation to ODPM Guidance regarding charges for access to registers kept pursuant to the 1990 Act.

²⁷ See previous footnotes in relation to ODPM Guidance regarding charges for access to any records open for public inspection held by LAs.

Table 9.28: Access and charging with respect to Hazardous Substance Consents

<i>Per cent</i>	<i>No access</i>	<i>Limited access (see Box 8.17)</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
18.1 Are there entries pursuant to s28 of Planning (Hazardous Substances) Act 1990	14	18	60	8	65
18.2a How these can be obtained	16	17	53	14	59
18.2b Where the register can be inspected	15	16	52	16	65

Base: all respondents (249)

Environmental and Pollution Notices

9.31 Some environmental and pollution notices should be available on a public register pursuant to section 64 of the 1990 Act. The register is required to be kept open to inspection by members of the public free of charge at all reasonable hours. The relevant authority is also required to afford to members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.

9.32 Thirty-five per cent of LAs said they did not allow access to this information, 31 per cent limited access and 24 per cent open access (see Box 8.17). Over half (53 per cent) did not charge, and 13 per cent charged when access was allowed.

Food safety notices

9.33 LAs have discretion regarding access and charging for food safety notices.²⁸ Forty-three per cent said they did not allow access to these notices, 26 per

²⁸ Food Safety Act 1990 and 1990 Regulations.

cent allowed limited access and 20 per cent open access. Eleven per cent did not answer the question.

- 9.34 Over half (56 per cent) did not charge, and 11 per cent charged when access was allowed.

Hedgerow Notices

- 9.35 Hedgerow notices should be open to inspection at reasonable hours and free of charge under Regulation 10 of the Hedgerow Regulations 1997²⁹. Around seven in 10 LAs allowed open or limited access; one-fifth gave no access, and full details are in the table below.
- 9.36 The relatively high level of 'non stated's' shown in Table 28 could be accounted for by LAs without hedgerow registers, or without any records on their hedgerow register (and it is possible that some of those saying they did not provide access did so for the same reason).
- 9.37 Two-thirds (64 per cent) did not charge for access, with only nine per cent charging.

²⁹ S.I. 1997/1160.

Table 9.29: Access and charging with respect to hedgerow notices

	<i>No access</i>	<i>Limited access</i>	<i>Open access</i>	<i>Not stated</i>	<i>No charge (where access is provided)</i>
21.1 List of entries maintained under S10 of Hedgerow Regulations 1997	20	18	53	9	64
21.2a How to obtain copies	19	16	49	16	57
21.2b How to inspect records	20	16	48	16	62

Base: all respondents (249)

10 OTHER COMMENTS

- 10.1 LAs were asked to provide other information about the provision of property searches including suggestions for improvement, challenges of the current system and good practice material of work in their area. The main themes, were consumer awareness, search fees, training and accreditation for personal search agents and implications for the LA of having PSCs.

Consumer awareness

- 10.2 The most common comment was that consumers and conveyancers should be made aware of the difference between search types, mentioned by 14 per cent of the LAs who responded. Six per cent said that consumers were not always aware of who had undertaken the search.

Search fees

- 10.3 Eleven per cent called for deregulation or a more realistic search fee for personal searches. Similarly five per cent felt that PSCs should not be subsidised by the council tax payer and PSCs should not make profit from public money. The incentives paid to conveyancers for using PSCs (and that savings were not passed back to the consumer) were mentioned by four per cent of LAs. Four per cent raised the issue of insurance cover when PSCs become insolvent.

Training and accreditation for personal search agents

- 10.4 Six per cent mentioned that personal search agents were not properly trained and LAs wasted time helping them. Similarly four per cent called for accreditation schemes for personal agents and others wanted regulation of PSCs. In a similar vein, LAs said searches conducted by PSCs were not thorough, and their agents should be more professional (and less rude to LA staff).

Implications for authority of having personal search companies

- 10.5 A small number of LAs mentioned the extra work involved in sorting out errors relating to searches conducted by PSCs and that it was time

consuming to help PSCs . It was mentioned that the existence of PSCs had had an impact on LA income or that LAs wanted income to be ring fenced.

- 10.6 A number of LAs provided examples of good practice which has been passed back to the LGA. There were a wide variety of other answers which have been provided to the LGA/OFT. Half of the LAs did not complete this section.

11 SURVEY METHODOLOGY

- 11.1 The questionnaire was developed by the OFT, officers from the LGA and advisors from Kettering Borough Council, with help from TNS. It was also pre-tested among Local Land Charges Managers (LLCM) in three authorities. The final version was sent by post to 375 LAs in England and Wales (excluding county LAs). Where the information had been provided the questionnaire was sent directly to the LLCM; otherwise it was sent to the chief executive. The LGA had published the fact that the survey was being conducted, via their 'LGA alert' system to LAs and in a letter to council chief executives, and helped to chase up late returnees by telephone. TNS also reminded LAs by email. 249 questionnaires were returned, a 66 per cent response rate, which is typical of surveys of this nature.
- 11.2 Questionnaires were completed between 19 April and 27 May 2005. A helpline was provided for LAs to answer queries about the questionnaire. Where ambiguous or contradictory results were found a validation exercise was conducted by the LGA and Kettering Borough Council to establish why LAs had answered the way they had. In total 15 LAs were contacted, eight by telephone and seven in writing.
- 11.3 Please note that no analysis has been carried out by NLIS level in this report due to the fact that the majority of LAs (67 per cent) are currently at NLIS level two. The profile of those responding is shown in table 11.30 below. It can be seen that it is representative of the survey universe.

Table 11.30: Sample profile

	<i>Universe</i>	<i>Responders</i>	<i>Per cent responding</i>
Total	375	249	66
District LAs	238	156	66
London Boroughs	33	20	61
Metropolitan Boroughs	36	21	58
Unitary Authorities	47	36	77
Welsh Unitary Authorities	22	16	73