

Property Boundaries - Client Guide

'General Boundaries' | Squatter's rights | Boundary mediation

Keep your old deeds safe...

Contrary to popular belief, it has never been the Land Registry's job to say exactly where the boundary of a property is - that is up to the owner, their neighbours and (if necessary) the courts to decide.

Old deeds, conveyances and transfers may be useful to help work out where the previous owners of the land agreed the boundary to be. Sometimes the deed plans are accurate, or have measurements or other useful features shown on them.

If so, the plans can be used to help work out where the legal boundary is. If you do have old deeds to your land it is important that you keep them safe, in case there is ever a boundary dispute in the future.

Changes in legal boundaries

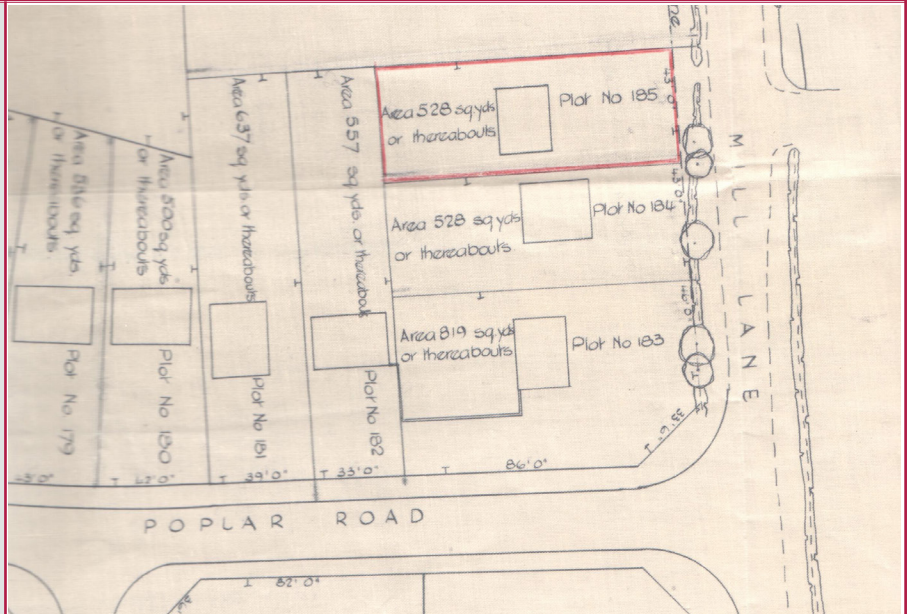
Even though the original conveyance or transfer set out the boundaries clearly, the legal boundary can move as a result of:

- Adverse Possession ('Squatters rights')
- Proprietary Estoppel
- Agreements on boundaries

Or a boundary error?

In many cases, the problem is simply a boundary error, not a case of Adverse Possession. In that case, the dispute over the correct position of the boundary may be easier to resolve than an adverse possession case.

The intention of the original buyers and sellers will be of great importance, as will the physical position of fences, posts and walls erected at the time of the first sale of the land as a separate parcel in its own right.



Land Registry plans cannot be measured from

The 'Red Line' on a Land Registry plan does **not** necessarily show the exact position of your legal boundary. The Land Registry red line cannot be scaled from, and measurements from the Land Registry plan may differ from measurements between the same features on the ground. The line is shown as what is known as a 'general boundary'. This has been the position with Land Registry plans since Land Registration was introduced in 1925.

Many boundary disputes start when someone takes measurements from the Land Registry plan, and then realises that the positions in the real world are different. This is not unusual, particularly on new developments.

The Land Registry's 'general boundaries' rule can have results that seem odd. For example, you may even legally own land that is shown on the Land Registry plans as lying **outside** the Land Registry red line. For example, you probably own at least the sub-soil of your half of any adjoining roads or grass verges. You probably own half of any adjoining unadopted road or track, and half of any adjoining stream or non-tidal river. You are likely to own any ditch lying between your fence line and the highway. Land Registry will not move the red line to include these features within the red line, even though you can prove you own them.

Similarly, your neighbour may legally own some of the land lying **within** the Land Registry red line showing your property. This could be where the plan on the original conveyance or transfer was 'for identification only', and in fact the first agreed fence line was laid out in a slightly different position. There can also be mapping errors on plans. Land Registry use Ordnance Survey plans for their title plans, but the OS lines on a plan often show a group of features (such as a hedge, wall, fence stream and kerb) as just one line. Also, that line doesn't necessarily represent any one of these features. The line may even have been plotted in the wrong place. In any case, the accuracy of a 1:1250 OS plan is only ± 1 metre.



Fixing the boundary?

You can apply to Land Registry to 'fix' the boundaries. Making an application is not straightforward - you will need to have a very accurate plan prepared, and have full supporting evidence.

If your neighbour disputes your evidence on the boundary position, and you cannot agree a compromise, then the courts will have to decide where the boundary is before it can be shown as 'fixed' on the Land Registry plans.

It is usually better to agree a compromise with your neighbour than go to court to decide the issue.

Also, bear in mind that when you come to sell the house, you will have to disclose that there has been a boundary dispute to any purchaser, whether you have won or lost your case. This might put off any potential purchaser.

Check plans carefully

The English system of 'general boundaries' is quicker, cheaper and more convenient than the more accurate 'cadastral' systems used in some other countries, but at the expense of absolute accuracy.

Conveyancers cannot prepare accurate boundary plans for you. A reputable land surveyor should prepare accurate plans for any sale of part of your land, for example.

If you are buying property, you must check the position of the boundary as shown on any title or contract plans very carefully against what you see on the ground when you visit the property. You must tell us if there is anything unusual about the boundaries of the land or the boundary features.

Tell us if you think a plan for example omits areas of garden land or balconies, shows the wrong parking spaces, or even shows the wrong property on it.

We do not visit the property, and it is your responsibility to check these things. Tell us immediately if you suspect something is wrong with any plan or description.

How to find the correct position of the boundary

The first step is to find the original conveyance or land transfer that sold your land off from its 'parent' parcel of land for the first time. Either your old 'pre-registration deeds' may contain this conveyance, or it may be that the Land Registry have a copy. However, Land Registry have very limited records.

The wording of that deed and the attached plan may resolve the issue, but it may be necessary to check that any fence or wall built at that time are still in the same position. This may have resulted in a new boundary by 'adverse possession'.

RICS Boundary Disputes Mediation Service

It is much better to try and agree something with your adjoining owner, or have some form of mediation. The Land Registry cannot help you on this - it is up to you to deal with, using legal and surveying advice.

Details of this service can be found at www.rics.org. The service operates on a fixed-fee basis. There is an application fee of £240 (including VAT) and a mediation fee of £2,100 (including VAT) per party for an eight-hour mediation session. An overtime rate will be agreed if the mediation lasts more than eight hours. While some may consider this high, this is the market rate for experienced mediators and, compared to the potential costs of litigation, it is a small price to pay to resolve the matter. Even if mediation does not result in a settlement on the day, it often moves parties forward to a position where they can settle very shortly afterwards.

Boundary disputes protocol

Going to court to resolve a boundary dispute is generally a bad idea as it is often costly, and the result can be unpredictable.

A group of leading property barristers have created a protocol for dealing with boundary disputes. You can find this at: www.propertyprotocols.co.uk/the-boundary-disputes-protocol The protocol suggests that each parties original deeds are located, and shown to the other party. Then it agreed whether it is a 'Boundary Dispute' or in fact an 'Adverse Possession' dispute. In the latter case it may be pointless to focus on the old deeds, and instead you should focus on whether one party can show that the original boundary has now moved to a new one as a result of Adverse Possession (commonly known as 'squatter's rights').

'Squatter's rights'

The rules are very complex. From 2002, squatters on registered land who can show 10 years' possession up to the current date may have a good case to have the existing fence line set as the new legal boundary, where it was reasonable to assume that this was always the legal boundary - e.g. on new housing estates. Where squatting on registered land started before 1991, the period of possession needed to make a claim will usually be 12 years. In the case of squatting on unregistered land, the period needed to make a claim will usually be 12 years, but can be up to 30 or even 60 years.

If your neighbour disputes your claim, your application may be rejected, or Land Registry may refer the matter to the courts for you both to litigate the issue. You will have to each bear your own legal costs involved, and may have to pay the other party's legal costs if you lose your claim. The value of the land involved is rarely as much as the legal costs of any dispute over its ownership. In all cases you will need to get specialist legal advice.

