



## 1 BOUNDARY CREATION

A new boundary is created when a landowner divides his land and sells a part or parts of that land to others.

Land Registry does not have any role in the creation of new boundaries. It is the vendor who decides exactly where the new boundary will be.

## 2 BOUNDARY DESCRIPTIONS LACK STANDARDS

A newly created boundary is described in the earliest title deed following its creation:

- in the case of unregistered land, in the "parcels clause" of a conveyance and/or by means of a conveyance plan;
- in the case of registered land, by means of a transfer plan included with the "transfer of part" deed (which is also known as a TP1).

There are no statutory requirements or guidelines relating to boundary descriptions in title deeds. It is often the case that the descriptions in parcels clauses, conveyance plans and transfer plans lack clarity and accuracy. Such descriptions are termed ambiguous.

## 3 THE GENERAL BOUNDARY IS NOT THE EXACT LINE OF THE BOUNDARY

Land Registry's involvement with boundaries arises when a landowner applies for first registration of his title to a parcel of land. The application may arise either because he has purchased land that was not previously registered or because he has bought a parcel newly created by the division of a larger parcel of land that is already registered.

Land Registry is not required to ascertain the exact positions of boundaries. As Section 60 of the Land Registration Act 2002 puts it:

- (1) *The boundary of a registered estate as shown for the purposes of the register is a general boundary, unless shown as determined under this section.*
- (2) **A general boundary does not determine the exact line of the boundary.**

## 4 TITLE PLANS RESULT FROM FIRST REGISTRATION

The Land Registration Rules 2003, Section 5, states:

*Except where otherwise permitted, the property register of a registered estate must contain-*

- (a) *a description of the registered estate which in the case of a registered estate in land ... must refer to a plan based on the Ordnance Survey map and known as the title plan:*

The title plan is Land Registry's interpretation of the title deeds onto the Ordnance Survey map. Land Registry is not required by the Land Registration Rules either to copy the parcels clause into the title register or to keep copies of conveyances / plans or of TP1s and transfer plans.

## 5 OS MAPS DON'T SHOW PROPERTY BOUNDARIES

Section 12 of the Ordnance Survey Act 1841 states

*"And be it enacted, That this present Act .... shall not extend, or be deemed or be construed to extend, to ascertain, define, alter, enlarge, increase or decrease, nor in any way to affect, any Boundary or Boundaries of .... any Land or Property, with relation to any Owner or Owners, or Claimant or Claimants of any such Land respectively, nor to affect the Title of any such Owner or Owners, or Claimant or Claimants respectively, in or to or with respect to any such Lands or Property, but that all Right and Title of any Owner or Claimant of any Land or Property whatever within any Hundred, Parish, or other Division or Place whatever, shall remain to all Intents and Purposes in like State and Condition as if this Act had not been passed".*

## 6 THE TITLE PLAN IS A SECONDARY AND INEXACT DESCRIPTION OF THE BOUNDARIES

Because of their accuracy limitations **Ordnance Survey maps are not suitable for showing the exact line of a boundary** (in any case the Ordnance Survey Act 1841 prevents them from showing property boundaries). Today, Ordnance Survey routinely obtains surveying accuracies of 450 mm. These surveys usually take the form of revisions to 1:1250 scale maps and 1:2500 scale maps (both of which are referred to as National Grid maps) first surveyed at some date between 1948 and 1980 or of revisions to 1:2500 scale maps (referred to as maps overhauled post-1948 from the County Series) first surveyed at some date between the 1840's and 1880's.

The accuracy of 1:1250 National Grid maps is generally between 0.4 m and 0.8 m.

The accuracy of 1:2500 National Grid maps is generally between 0.9 m and 1.8 m, and the addition of revision at 450 mm accuracy will not improve the accuracy of this map.

**6**  
**THE TITLE  
PLAN IS A  
SECONDARY  
AND INEXACT  
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BOUNDARIES**

The accuracy of 1:2500 overhauled maps is generally between 1.2 m and 2.3 m, and the addition of revision at 450 mm accuracy will not improve the accuracy of this map.

These accuracy standards will not satisfy the needs of a landowner who wants to know the exact line of his boundary. And since Land Registry's title plans are based on Ordnance Survey maps, **each title plan's accuracy is limited by the accuracy of the Ordnance Survey map on which it is based.**

Because of the foregoing, Land Registry prints a warning in red text at the foot of every title plan that it issues. This says:

**This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.**

A title plan is but a **secondary and inexact description of the boundaries**

**7**  
**THERE  
IS NO  
NATIONAL  
AUTHORITY  
FOR  
PROPERTY  
BOUNDARIES**

As Land Registry is required to know only the general position of the boundaries of the land in a registered title, it cannot be considered as an authority on property boundaries. So who is the national authority?

It is not Ordnance Survey (refer to Section 12 of the Ordnance Survey Act 1841).

Nor is an expert in boundary demarcation and disputes a national authority. The expert may give a professional (or expert) opinion as to the exact line of a boundary, but that opinion is not binding on his client's neighbour: the neighbour is entitled to his own opinion even if it is less well founded than the expert's opinion.

Nor are Alternative Dispute Resolution providers a national authority. If you and your neighbour are assisted in deciding upon the exact line of the boundary using professional services such as arbitration, expert determination or mediation then that does not confer national authority upon the arbitrator, expert or mediator involved in your particular case.

If you and your neighbour ask a court for a decision as to the exact line of the boundary then you are obtaining a judicially imposed settlement that is placed upon two neighbours who were unable to settle the matter without the court's involvement. This court involvement makes the court a pre-eminent settler of civil disputes but not a national authority on boundaries.

There is thus no national authority who has the power to tell you the exact line of the boundary and to ensure that your neighbour understands and respects the exact line of that boundary.

**8**  
**WHY YOU  
NEED THE  
TITLE  
DEEDS**

Because there is no national authority for boundaries, and because **the exact line of a boundary** is not the general boundary shown on Land Registry's title plan, the exact line **must be interpreted from the boundary description provided by the vendor who divided the land for sale.** This description is found in the title deed attending that sale (in the parcels clause of a conveyance and/or on a conveyance plan, or in the transfer plan). This title deed is sometimes referred to as the root of title. It will normally be the oldest of a series of title deeds that relate to the property.

The basic rule in identifying the exact line of a boundary is:

- armed with the deed that created the boundary,
- inspect the boundary,
- establish, if possible, what was actually on the site on the date of the deed, and
- ask yourself "In light of the conditions prevailing at the date of the deed, what did the Vendor intend when he described the boundary in the terms used in the deed and plan?"

## 9

### WHAT AND WHERE ARE THE TITLE DEEDS ?

So, where and what are these title deeds?

**What?** is the easier question to answer.

The title deeds are a collection of papers that may include conveyances, land searches, Sellers Property Information Forms, and whatever other papers the owner has seen fit to retain along with the deeds. There are usually enough papers to fill a lever arch file or a box file.

**Where?** is a very good question!

In the case of unregistered land the title deeds are required as proof of ownership of the land. Therefore they should normally be held by the landowner. However, as so many of us require a mortgage in order to be able to buy the land on which our houses stand, it was normal practice for a mortgage lender to hold the title deeds as security against non-repayment of the mortgage. The deeds are usually returned to the landowner once the mortgage has been repaid.

In the case of registered land, the mortgage lender no longer needs to hold the deeds as security against the mortgage loan: that security is now provided by registering a charge against the registered title. The charge is recorded on the title register.

So where are the title deeds?

In theory the old title deeds for a registered property were returned to the owner of the land. In many cases the owner did not understand what they were and destroyed them. In other cases Land Registry returned the deeds to the solicitor who had submitted them to support a first registration of title and the deeds were then destroyed as being no longer needed.

It is unfortunate when deeds are destroyed because, unlike the secondary records made by Land Registry on title registers and title plans, the original deeds are the primary source of information on boundaries, easements and restrictive covenants and are too valuable to be destroyed, even if title to land is now guaranteed by registration instead of being proven by possession of title deeds.

Sometimes, but this appears to be very hit-and-miss, Land Registry makes and keeps a copy of a deed or a plan. It also makes and keeps a copy of every boundary agreement that is submitted and of every determined boundary application that meets the required standard. If such a copy has been made and kept in relation to a particular title then this is indicated on the title register by the addition of a footnote to the paragraph in which the deed or plan is referenced. Such a footnote usually takes the form:

NOTE: *copy filed.*

When you see such a footnote on a title register entry then it is possible to purchase from Land Registry an official copy of the deed, plan or other document.

Unfortunately the land owning public, and perhaps their legal advisers, have placed too much reliance on the title register and title plan and have allowed too many sets of title deeds to be destroyed.

## 10

### YOU AND YOUR NEIGHBOUR MAY CLARIFY THE EXACT LINE OF THE BOUNDARY

A boundary dispute arises when adjoining landowners disagree as to the exact line of the boundary, and are hampered in ascertaining the exact line because

- the title plan does not show the exact line of the boundary and
- there is no national authority that can tell them the exact line and ensure that they each respect that line.

There is no reason why adjoining landowners should not agree an exact line of boundary for the purposes of clarifying the ambiguous description found in the title deeds. The law respects such agreements. The adjoining landowners can have that agreement noted by Land Registry on the title registers for their respective properties.

Our Guide to Resolving Boundary Disputes – JMB33 – outlines various methods of resolving a boundary dispute when the adjoining landowners are unable to settle it by amicable discussion.