

What to do when you find an error in your title plan

Let me explain about Land Registry's title plans. Land Registry covers England & Wales.

Land Registry has built its registers of title to land, and each register has its associated title plan. And the sum of these title plans may be considered to be a map of England & Wales that specifies who owns what land.

But when you look closely at title plans you realise that they don't quite resemble property ownership in the real England & Wales. To make a distinction between a map of the real England & Wales and the sum of Land Registry's title plans, I would suggest that Land Registry's title plans describe a country called 'LR-land'.

What has happened to create the difference between LR-land and England & Wales?

Boundary Descriptions

Firstly, boundaries are described in deeds relating to the sale of land (conveyance deeds if the land is unregistered, transfer deeds if it is already registered). Those deeds are drawn up by conveyancing solicitors, who as a profession happen to be unskilled at describing boundaries. This is in part because none of them has heard of Section 12 of the Ordnance Survey Act 1841, which says (in essence) "*Ordnance Survey maps shall not affect any boundaries of privately owned land nor the ownership of or legal interests in such land*". In their ignorance of this Act, they have based many boundary descriptions on those Ordnance Survey maps that have nothing to do with property boundaries.

Now, I am a land surveyor, with 19 years' experience of working for Ordnance Survey and 25 years' experience of working as a boundaries expert and expert witness. I know very well that Ordnance Survey maps do not have room on the paper to show everything that exists upon the land, and I also know the accuracy limitations of those maps.

Bearing in mind my preceding two paragraphs, it is easy to see that by the time an application for first registration (of a hitherto unregistered parcel of land) reaches Land Registry, the boundaries are poorly described.

General Boundaries

So universal were the poor boundary descriptions sent to Land Registry in the first dozen years following its opening in 1862, that Land Registry developed a "general boundaries" system of land registration.

"General boundaries" allow Land Registry to ignore the fact that no applicant for first registration of title is capable of telling exactly where their boundaries are. This, in turn, allows Land Registry to use those very nearly complete and very nearly accurate Ordnance Survey maps as the basis for its title plans. Moreover, Land Registry is not immune against the risk that its staff may incorrectly interpret a poorly described boundary onto those Ordnance Survey map bases they use for their title plans.

Which is why your "*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*"

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may not match measurements between the same points on the ground.” That quote comes straight from the notes accompanying your title plan.

Sometimes, the general boundary shown on the title plan is found in a different location from the physical boundary-marking feature that a landowner and his neighbour accept as being the true position of the boundary. In other words, there is an apparent error on the title plan.

I had one case where I was able to prove exactly the extent of the land that the purchaser had taken possession of on the date of the purchase.

I demonstrated that the boundary on the conveyance plan showed the boundary at positions varying between 5 metres and 19 metres from where the boundary then stood upon the ground.

Land Registry dismissed my analysis on the basis that the “legal boundary” was the line shown on the conveyance plan, which is a legal document. Never mind that it was compiled by one of those conveyancing solicitors who are known by Land Registry to be unskilled at describing boundaries. What Land Registry holds as the “legal boundary” is, in this case, at distances varying between 5 metres and 19 metres away from the boundary recognised by the landowners to either side of it.

Correcting an erroneous title plan

So, how do you go about bridging the gap between your LR-land title plan and the real England & Wales in which you live? In an ideal world your title plan will show the “general boundary” in about the right place rather than several, or many, metres away from where it is to be found on the ground.

There are several things you can try.

Land Registry’s way of doing things

1. If there is a genuine error on the title plan then:
 - a. If it is an error on the Ordnance Survey map, which error was present at the date of the conveyance or the transfer deed to which Land Registry refers - and is still present - then ask Ordnance Survey to send a surveyor out to revise the map, following which you can approach Land Registry.
 - b. If you are sure that it is Land Registry’s error then apply to Land Registry to Alter the Title Register (i.e. alter the title plan, which is a part of the register). But you will likely find that Land Registry holds that its title plan accurately reflects the Conveyance / Transfer Plan that was presented to it at First Registration of Title.

What happens when you and your neighbour agree that the title plan is wrong ?

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2. If you and your neighbour want to play by Land Registry's rules, then land needs to be "transferred":
 - from one party that Land Registry thinks owns the land (but doesn't)
 - to the party (that owns the land) that Land Registry thinks doesn't own the land.

Hence a Transfer of Part is needed: this permits Land Registry to move the boundary, thereby "transferring" the discrepant land back to its rightful owner. Creating such a (manifestly false, in the context of the real world) transfer of land is the only way that Land Registry will correct a misdescription made by a conveyancing solicitor in drawing a conveyance plan or a transfer plan.

In this scenario, you have to understand that the transfer-of-part that Land Registry requires operates only to satisfy the correction needed to the map of "LR-land": it does not affect either of the real properties that adjoin each other in the real England & Wales.

If you recognise the distinction between "LR-land" and England and Wales, and your neighbour doesn't, then you have a problem. Your neighbour will want to believe either that title plans define boundaries or that title plans are the gospel truth because they are based upon legal documents. Your neighbour will never agree to the (real world) transfer-of-part that Land Registry insists is the only way to correct the (LR-land) title plan.

Ignoring 'LR-land' and working in the real England & Wales

3. You can circumvent the discrepancy between LR-land and the real England & Wales by one of several methods. Most will result in an application to Land Registry to note a boundary agreement on the registers to both affected titles, the last may result in a judge ordering Land Registry to alter the two affected title plans.
 - a. Agree with your neighbour that the boundary follows one face or the other of the fence or wall (or some other agreed place). Get a boundaries expert to draw up a suitable plan and a boundary agreement formatted as a deed and make an application to Land Registry to register the Boundary Agreement against both title registers (this will not change the title plan, but an "official copy" of the boundary agreement will be available to anyone who wishes to purchase it, The agreed boundary will be enforceable in law, i.e. it will be recognised as the true boundary both in conveyancing and in litigation).
 - b. As for a. but with the plan drawn to Exact Line of Boundary standards. Same advantages, slightly higher cost.
 - c. If you and your neighbour cannot agree where the boundary is, then the next best thing is to jointly instruct an expert to make an Expert Determination, resulting in a boundary agreement with an exact line of boundary plan and an application to Land Registry to register the Boundary Agreement against both title registers.

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- d. If you and the neighbour cannot agree on appointing an expert to determine the boundary, then the next step on the ladder of dispute resolution is mediation. The mediator will referee a negotiation between you and the neighbour. As far as the mediator is concerned, the boundary is not necessarily where Land Registry thinks it should be, nor where it should really be, but it can be negotiated, along with any other issues between the two parties, to any position that both parties can be persuaded to live with. I don't offer mediation services, and can only hope that the mediator will ensure that a settlement agreement will include an exact line of boundary and boundary agreement for submitting to Land Registry.
- e. The final rung of the ladder is litigation. Don't use the County Court, who will insist on mediation, but go to the Land Registration Division of the Property Chamber (First Tier Tribunal). The judge will decide on the true position of the "legal boundary" and may instruct the Chief Land Registrar to alter the affected title plans.

With options 3.a to 3.d. Land Registry will not alter the title plan, but will mark two points, 'A' and 'B' on the title plan and make an entry on the title register to the effect that the part of the boundary between the points 'A' and 'B' is the subject of a boundary agreement and/or an exact line of boundary. All lawyers, other than those working for Land Registry, will recognise the boundary agreement and/or exact line of boundary is the true [position of the boundary.

Conclusion

This system enables Land Registry to claim that their "general boundaries" are the truest indication of the "legal boundaries" described in the pre-registration conveyance deeds. It enables Land Registry to cling to the notion that they are the definitive source for the positions of the legal boundaries. At the same time:

property litigation solicitors and barristers will argue that Land Registry's general boundaries reflect the position of the "paper title boundary" that appears in the pre-registration conveyance deed whilst the "legal boundary" is capable of moving to a different position from the paper title boundary at any date after the date of sale, and

conveyancing solicitors will advise their clients that the boundary agreement / exact-line-of-boundary is the true position of the boundary.

General boundaries on title plans perpetuate ambiguities built into conveyance deeds by unskilled boundary describers. General boundaries do not reflect the real world.

It is no wonder that boundaries are such a confusing subject!

[See also JMB35 – Boundaries Terminology](#)

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