

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice**

Date: 3 May 2016

Public Authority: HM Land Registry
Address: Trafalgar House
1 Bedford Park
Croydon
CR0 2AQ

Decision (including any steps ordered)

1. The complainant has requested information about a boundary change to her property. HM Land Registry (the Land Registry) has set out that no information falling within the scope of the request is held. The Commissioner's decision is that Land Registry was correct to assert that it does not hold the requested information.
2. The Commissioner does not require Land Registry to take any further steps.

Request and response

3. On 1 June 2015, the complainant wrote to the Land Registry and requested information in the following terms:

"I enclose two Land Registry documents.

- 1. Numbered document relating to complainant's property*
- 2. LR of (specified property)*

As you can see, the boundary seems to have been changed.

According to the planning permission and later Planning inspectorate judge (before my time) and sales documents the houses all had the same width: ,

[three named properties]

As you can see from the two enclosed, the boundary between [named] Cottage and [named property] appears to have been moved.

Could you please tell me what date the boundary was moved and if there are any documents available supporting exactly why it was moved.

4. The boundary detailed between the two properties is the left hand (western boundary).
5. The Land Registry responded on 4 June 2015 providing an explanation of the situation regarding title plans being prepared to general boundaries.
6. Following some initial confusion over the handling of the request and whether it should be handled under the FOIA or not, on 11 June 2015, the Land Registry wrote to the complainant advising that in accordance with the FOIA, the requested information was exempt from disclosure under section 21 FOIA. That letter set out that two relevant files existed at Land Registry, each containing one document. In support of the application of section 21, the letter set out how the complainant could obtain these from the Land Registry by paying a £7 fee for each.
7. In a follow up letter to the Land Registry also dated 11 June 2015 the complainant set out that the Land Registry had failed to grasp what the FOI request was for. She clarified that what was requested was the internal paperwork file of why the decision to change the boundary was made and that she already had the relevant maps that the Land Registry letter referred to and to which it had applied section 21.
8. In a letter dated 12 June 2015, the Land Registry set out again that in respect of the request being about the boundary between the complainant's property and another property, section 21 applied. In respect of the 'boundary change' issue, the Land Registry set out that the boundary "difference" was due to the different editions of the Ordnance Survey map and that this was not a Land Registry decision. The Commissioner accepts that Land Registry was confirming that in the circumstances it did not hold the requested information, ie. any internal paperwork file of why the decision to change the boundary was made. He considers that the section 21 issue was irrelevant as the complainant had already clarified that she was not requesting the documents

showing the title plans which are available upon payment as she already had these.

9. During the course of considerable written correspondence and some telephone conversations (not all of which has been available to the Commissioner) between the complainant and Land Registry raising a variety of related issues, on 12 August 2015 the complainant requested 'computer data logs'. The Land Registry sought clarification of exactly what information the complainant was requesting. She set out that she was not a computer expert but asserted that each time a computer is accessed to record information or to read it, it leaves an information trail on record.
10. The Land Registry did not treat this request as a new request for information but as part of the request for information showing why the boundary had been altered.
11. The complainant set out her position that her property file must have been accessed in order to redraw the boundary. She also stated that all of the file data should have been given under her initial request under FOIA.
12. On 21 August 2015 the Land Registry disclosed, in the format of an excel spreadsheet, a copy of the requested information regarding the computer logs. It further set out that it had now disclosed all of the information it holds falling within the scope of the request, ie. the issue of the boundary between the complainant's property and the other named property. It remained the Land Registry's position that it had not changed the boundary in question.
13. Following further correspondence on the issue, the Land Registry wrote to the complainant on 21 September 2015 reviewing all of the requests for information and the other issues raised over the course of the correspondence and conversations with it.
14. With regard to the request for file information, the Land Registry set out its position that it had disclosed all of the information it holds falling within the scope of the request.
15. The complainant responded to this letter on 21 September 2015 asking again why the boundary had been moved.
16. The Land Registry responded on 22 September 2015 and in that letter made it clear that the review in respect of the FOI request had been concluded.

Scope of the case

17. The complainant contacted the Commissioner on 4 November 2015 to complain about the way her request for information had been handled. The complainant set out that she needed to understand why the left hand boundary of her property had been changed.
18. In that respect the complainant explained that she sought the reasoning behind the boundary change. She set out that she needed the request to tell her why the gap had occurred and that her request was solely to find out why the boundary lines on the two properties did not match.
19. The complainant set out that her logic is that if two of her property boundaries have been awry or altered this is a systemic Land Registry fault rather than a single human mistake.
20. She went on to say that she just wished to understand why the boundary had been changed by reading how the second situation came about, to see if it replicates an earlier mistake made by the Land Registry regarding this property.
21. The Commissioner considers the scope of the case is to determine if the Land Registry holds any information relating to the reasons for the 'boundary change'. It is not for the Commissioner to determine whether or not Land Registry has altered the boundary.

Appropriate legislation

22. Regulation 2 of the Environmental Information Regulations 2004 provides the definition of environmental information for the purposes of the Regulations. It defines environmental information as:

"any information in written, visual, aural, electronic or any other material form on-

(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases

into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

23. As the request is about a difference in the land boundary and documents relating to any change to that land boundary, the Commissioner considers that this falls squarely within the EIR as it is about the landscape and measures relating to the landscape.

Reasons for decision

Regulation 5 – Duty to make available environmental information on request

24. Regulation 5 of the EIR requires public authorities which hold environmental information to make that information available on request as soon as possible and no later than 20 working days following receipt of a request.
25. Having considered the correspondence submitted by the complainant, the Commissioner notes that on 22 September 2015, she wrote to the Land Registry and stated:
- “I take your points that you have provided all of the information on file that you have – and thank you again. It was very comprehensive.”*
26. The complainant has since set out to the Commissioner that this statement related only to the individual to whom her email was addressed.
27. In scenarios where there is some dispute about the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
28. In other words, in order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any information which falls within the scope of the request (or was held at the time of the request).

29. To assist with this determination, the Commissioner approached the Land Registry with a number of questions. The Land Registry's response was also sent to the complainant.
30. In its submission to the Commissioner, the Land Registry provided some background information about its mapping system.
31. The Land Registry's Computer Mapping System (CMS) is a large scale electronic digital map representation of the real world containing more than 470 million uniquely identified geographic features. This is called MasterMap. Changes to MasterMap are automatically supplied daily to the CMS in files known as 'Change Only Update files' which include all the changes made nationally to the map.
32. Within CMS there is a system known as 'Historical Versions' This system of previous versions of MasterMap allows the Land Registry to compare different versions of maps by overlaying one on top of the other and also over the current version of MasterMap. Therefore, when an amendment is made, for example by survey, a new version of MasterMap is created and the previous version is then held in Historical versions. The process of maps being archived into 'Historical Versions' is an automated process.
33. The Land Registry has submitted that Ordnance Survey (OS) continually and automatically updates the current map on which Land Registry prepares all new title plans. This is part of the OS continuous revision process. The Map Version Information screen within CMS shows a list of dates of all the updated versions of a map tile that have been loaded on to the CMS since the system was introduced. The map tile is a grid square of an area of a map. The tiles vary in size but never include just a single property.
34. The Land Registry has also provided detailed background regarding its position about the complainant's boundary and that of neighbouring properties. Whilst the Commissioner notes that this provides useful background, he considers that it would be inappropriate for him to comment on the issue of the complainant's dispute with the Land Registry about the boundary.
35. With regard to the complainant's request regarding the boundary between her own and a second named property, it is the Land Registry's position that the boundary has not been moved. It has set out its position in numerous letters and has provided the complainant with detailed explanations as to the position regarding general boundaries.

36. Despite the fact that the Commissioner must restrict himself to the handling of the case under the EIR, he notes that it must be acknowledged that the complainant and Land Registry do not agree on the issue of whether the Land Registry has changed the boundary. In answering the Commissioner's questions about this case, it does not necessarily mean that the Land Registry accepts the complainant's position regarding the boundary.
37. Specifically asked what searches were carried out for information falling within the scope of the request, the Land Registry confirmed that it has searched all available paper records for the relevant titles from 1997 to 2002. The information is held off site and retrieved on a request basis. The Land Registry confirmed that it had not held paper files since 2008. It set out what is generally held on the paper files and also explained that by interrogating CMS, the Land Registry can electronically view the changes which have been made to the OS map detail over time.
38. The Land Registry's search revealed that there were only two versions of the complainant's title, the original and the updated title of 2002. The Land Registry has explained that the title change in 2002 was made as a result of the update of the title plan for a different, neighbouring property. This resulted in only an update to the eastern boundary which is on the right hand side of the property. Land Registry has reiterated its position to the Commissioner that it does not hold information relating to the western boundary ie the left hand side which is the boundary about which the complainant has requested information.
39. The Land Registry confirmed that no information was held on personal computers. It further confirmed that electronic searches used title numbers and property addresses.
40. In its submission the Land Registry sets out that if information were held it would be held on both paper and electronic records. It set out its position as to why both would exist if the information were held. Essentially, the Land Registry stopped holding paper files after 2008 but paper files for applications pre 2008 still exist. It set out that the transfer document which would have originally accompanied that paper application would have been removed from the paper file and scanned. This will therefore be held electronically whilst the remainder of the file is held in paper format.
41. With regard to destruction of records, the Land Registry confirmed that neither paper nor electronic records are deleted or destroyed.
42. The complainant's position is that where a boundary change is made, there must be an audit trail to support that change and it must have been authorised at the Land Registry. The Land Registry's position is

that the mapping changes are automated and therefore there is neither an audit trail, other than the previous versions of the map held in 'Historical Versions' on CMS nor is there any authorisation as the process is automated and the updated mapping information comes from OS.

43. The Land Registry has submitted that it updates title plans to show new detail where it is beneficial to processing casework; for example, when processing an application for registration or perhaps as a result of a change in a neighbour's boundary and this is what has happened in the complainant's case. As a result of an update in the title plan of a neighbouring property, an application was taken out by the Land Registry to update the title plan of the complainant's property also. This was to show the latest version of the OS map detail. At the time, the complainant did not reside at the property but the Land Registry issued a notice to the registered proprietors at that time. The Commissioner understands that the complainant has been provided with a copy of that notice. The only relevant documentation in respect of the change to the title are the two documents which the complainant already has and they are not within the scope of the request as they do not relate to the boundary referred to in the request.
44. The Commissioner asked the Land Registry to set out how it has discharged its duty in accordance with Regulation 9 EIR – advice and assistance. It has explained that it has entered into a great deal of correspondence with the complainant setting out explanations about boundaries and what information is available. It has set out how to access any information, and has also supplied copies of documentation on a complimentary basis.
45. In concluding its submission, the Land Registry has reiterated its position that it does not hold any information relating to the Western (left hand) boundary. It has confirmed that it does hold information relating to adjoining properties and the relevant title as a whole. Those relevant files were all checked again in order to ensure that the Land Registry was correct to assert that it did not hold any information falling within scope of the request.
46. The Commissioner will not consider the issue of what should or should not be held by a public authority but in this case accepts the Land Registry's position that the mapping system is automatically updated with newer, more up to date versions of the MasterMap on a daily basis. These updates are provided by Ordnance Survey and the Land Registry has no responsibility for the updated map details. The mapping system covers the whole of England and Wales. He accepts that in these circumstances this process represents an established practice which does not require any authorisation on the part of the Land Registry and

therefore there is no audit trail documentation about changes to the mapping system at the Land Registry.

47. Having fully considered the submission from the Land Registry and the documentation submitted by the complainant, the Commissioner accepts that on the balance of probabilities, the Land Registry does not hold any information falling within the scope of the complainant's request.

Right of appeal

48. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 123 4504
Fax: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

49. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
50. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Alexander Ganotis
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