

# Boundary Disputes Bill

Boundary disputes can be a real thorn in the side for housebuilders. They are usually over very small pieces of land, with marginal value, but the dispute can drag on for years and costs thousands of pounds by way of legal fees. Many boundary disputes end up at court, increasingly to the frustration of the judiciary, who have repeatedly warned that such disputes should be resolved at an early stage, and not end up in their courts.

So it is good news for all concerned that the Government has introduced a Bill that will put in place a new boundary dispute resolution procedure that will mean that the vast majority of boundary disputes will be resolved more quickly and efficiently, and not end up at court. The Bill had its first reading on 25 May, and although it is not likely to become law for some time, it is well worth knowing about it.

The Bill aims to implement a boundary dispute resolution procedure very similar to the one under the Party Wall Act 1996. It provides for appointed surveyors to resolve the dispute, and the procedure will include the following steps:

1. **The Notice:** if a landowner wishes to establish the position of a boundary, then he or she must first serve notice on the adjoining owner, including a plan identifying the exact line of the boundary.
2. **Appointment of surveyors:** if the adjoining owner either objects or does not respond to the notice, then the parties will either appoint one agreed surveyor, or appoint a surveyor each. Where the parties each appoint their own surveyor, then those two surveyors have to select a third surveyor.
3. **Boundary Award:** The agreed surveyor, or the three surveyors, will then make an award, establishing the precise location of the boundary. They can also make an award as to whether any building or structure extends beyond that boundary.
4. **Challenging the Award:** the surveyors' award will be conclusive. The only way that it can be questioned is if

one party appeals to the High Court against the award within 28 days of the award. Unhelpfully, the Bill does not set out the grounds on which an award can be appealed.

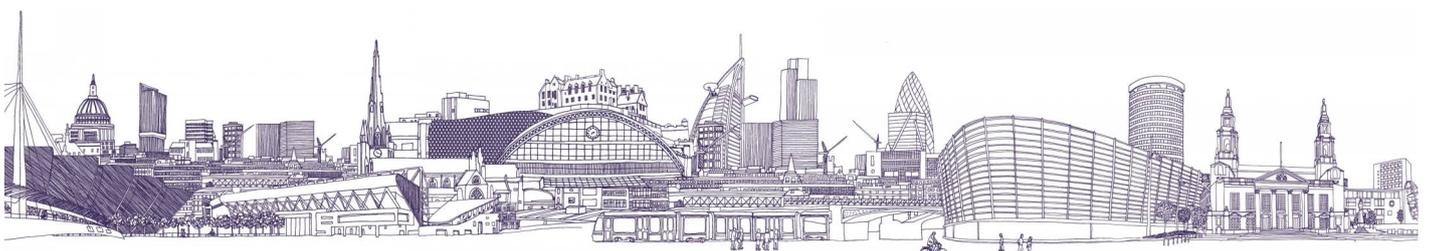
5. **Recording the Award at the Land Registry:** following the 28-day period, the landowner must submit the award to the Land Registry, who will then record it.

This procedure is intended to prevent boundary disputes from going to court. As a result, there are sanctions for not complying with it. For example, if the procedure is not followed before court proceedings are issued, then the claimant will not be entitled to recover his or her costs incurred in the issue and service of those proceedings.

This procedure will apply to every boundary dispute after the Bill is enacted. In addition, where proceedings have already been issued, they will be stayed automatically, so that the dispute can be determined in accordance with the procedure.

The new procedure will not just apply to boundary disputes. It will also apply to disputes as to the extent of a private right of way (note, however, that the procedure is not applicable to the question of whether a private right of way exists or not). It will also probably apply to disputes as to the position and existence of ransom strips (as these are essentially boundary disputes).

The Bill is unlikely to become law until 2017. However, when it does, it should be welcomed by everybody in the housebuilding industry. There is little doubt that it will prove a far swifter and more cost effective way of determining disputes as to boundaries, rights of way and ransom strips.



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If you would like to discuss any of the issues raised in this update, please contact:



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