

Feature

Do you know your boundaries?

The ownership of boundaries comes into focus when a property is bought and sold. **PHILIPPA RUDD**, head of conveyancing at Cozens-Hardy solicitors, based in Norwich, discusses.

We are often asked who owns the boundaries of a property, particularly when a fence or wall needs repairing or when a property is being purchased. Newly built properties have inward "T" marks on the plans and these indicate that the fences or walls belong to the owner of the property if they fall within the boundaries marked. Sometimes the title deeds give no such information, and we therefore have to investigate further. We can ask the seller's solicitors for further information as to who has maintained or replaced particular boundaries in the past.

When the title is registered at the Land Registry, the boundaries are "general" only and they do not show the exact position of the boundaries. If there is any type of overhang, such as a gutter, it will be deemed to belong to that property.

The word 'boundary' has no special meaning in law. There are two senses in which it can be used: legal boundary and physical boundary. The legal boundary is an imaginary line dividing one person's property

from that of another. Ultimately the exact position of a boundary, if disputed, can be determined only by the court or the Land Registration division of the Property Chamber, First-tier Tribunal.

A physical feature that we can see such as a fence, wall or a hedge may, coincidentally, also follow the line of a legal boundary. The legal boundary may run within the physical boundary structure or it might run along one particular side of the structure.

There is no set rule specifying that for example, the boundary on the left always belongs to you rather than your neighbour.

However there are various "common law" presumptions as to boundary ownership which apply where relevant, such as:

The "ad medium filum rule"

A person who owns the land abutting a private or public highway is presumed to own the soil of the highway up to the middle line. The surface of a public highway is vested in the highway authority.

The "hedge and ditch rule"

Where a hedge and a man-made

ditch separate two properties, the boundary line is presumed to lie on the far side of the ditch from the hedge.

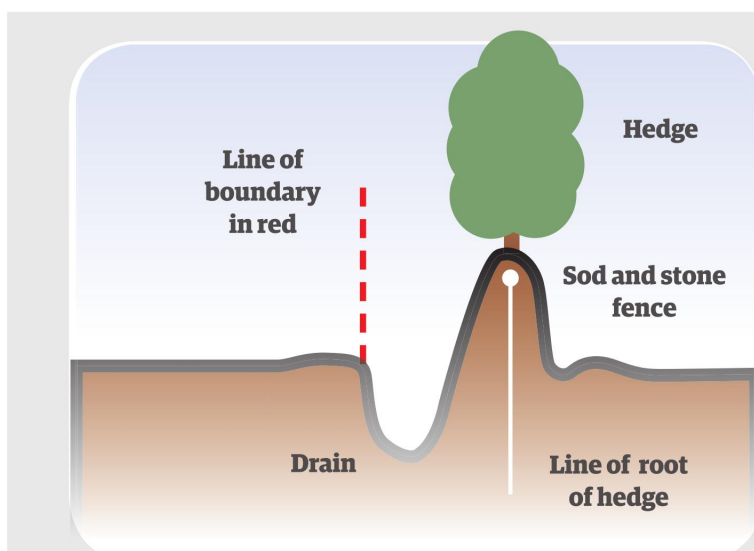
Non-tidal rivers and streams

The ad medium filum rule applies, so that the owners of properties on either bank of the river own the bed up to the middle of the stream or river. The owner of the river is also presumed to own the right to fish in the river but this presumption may be rebutted.

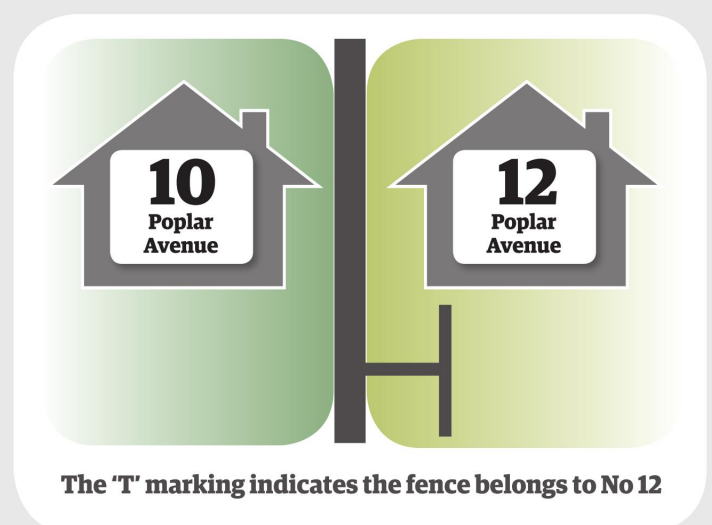
Trees

A tree belongs to the owner on whose land it was planted - even if its trunk, roots or branches extend onto a neighbouring property. Where it cannot be established who planted the tree (eg because the trunk straddles the boundary of the land), ownership may be inferred from the circumstances. Regular maintenance (eg lopping or chopping) by one person may be indicative of ownership by that person.

If ever you are unsure as to who owns a boundary, please contact us and we will look at the title deeds with you in the hope of establishing ownership.



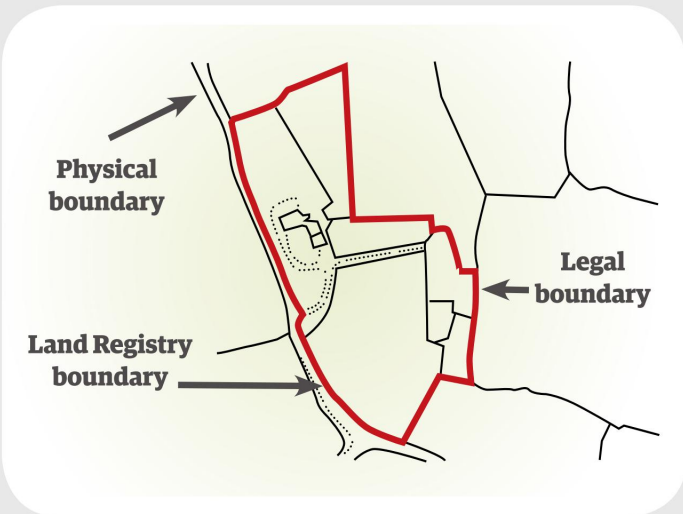
The 'hedge and ditch rule'.



Boundaries indicated on newly built properties.



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Different types of boundary.

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