

LEGAL | LAND REGISTRATION

Obstacles to 'comprehensive' land registration by 2030

Jeremy Lowe and Venetia Taylor look at the Land Registry's plans to achieve "comprehensive" registration by 2030, and difficulties that stand in the way

Many property lawyers' hearts sink when they are engaged in a transaction involving unregistered land. The pressures of time and costs for sellers and buyers can often be exacerbated when the title to land is unregistered; as time passes, fewer practitioners have expertise and experience in dealing with unregistered land. First registration can take many weeks and the extra layer of complexity is unwelcome.

Dealing in unregistered land is not just an added complication and cause of delay; it introduces uncertainty as to what will ultimately be registered. The buyer of unregistered land cannot be certain what interests will be noted on a new title register. First registrations can take months to complete and may involve much expensive correspondence between the applicant's solicitors and the Land Registry, so by the time the register is produced it will be too late to obtain indemnity insurance (for example) from the seller against any defect in the title.

Where plans have been prepared to Land Registry specifications, these must marry precisely with the current Ordnance Survey (OS) to avoid leaving slivers of unregistered land between titles. These can arise where earlier titles have been registered using old and sometimes inadequate plans which do not correspond accurately with digital OS maps. The "general boundaries" principle will apply here, but these issues store up trouble for the future, making boundary disputes more likely.

Buyers are therefore increasingly asking sellers to register unregistered land before they will complete a transaction. That way, any title issues are clearly identified and can be dealt with at the negotiation stage.

An end in sight?

Achieving comprehensive land registration in England and Wales by 2030 is a key target for the government and a core component of the Land Registry's current business strategy.

The Land Registry's most recent annual report states:

"Our aim is to complete registration of all residential and commercial land by 2030. Once the register is practically complete, the market will no longer have to deal with the complications of unregistered land. The register data will also be more useful, as service providers will not have to cater for gaps in coverage."

Though it is now 30 years since land registration became compulsory throughout England and Wales in the event of a sale, and since 1 April 1998 for all other transactions, latest assessments are that 13% of land in England and Wales remains unregistered.

The Land Registry recognises that "total" land registration cannot be achieved by 2030, which is why it describes its target as "comprehensive". Registration of land that can be used for housing and development purposes in the areas of greatest housing need is being made a priority, which the Land Registry hopes to achieve this year. Particularly, this will make it easier to identify surplus public land which could be available for housing development. The Land Registry has a Public Sector Engagement Team to assist local authorities, which aims to have all the "public estate" registered by 2025, but it accepts that achieving comprehensive registration will not be easy.

Target dates for comprehensive registration are not new, and practitioners will remember 2012 as such a date,

10 years after the changes introduced by the Land Registration Act 2002.

Land registration began in 1862, but not until 1925 did the government legislate for areas of compulsory registration. By 1950 there were more than 1m properties registered in England and Wales, most as a result of compulsory registration. By 1975 this had increased to more than 5m, and to 10m by 1990 when the whole of England and Wales became subject to compulsory registration. There are now more than 25m property titles registered, comprising the vast majority of all land in England and Wales.

The prevalence of registered land has resulted in a rise in the expectation (often the requirement) that land should be registered before a transaction proceeds. Sellers, as well as buyers, understand the benefits of registration: convenience, certainty, cost saving, simplicity, transparency, security against adverse possession, and the benefit of the guarantee of ownership afforded by registration. Though the Land Registry tries to accommodate requests to expedite first registrations where a sale is pending, this may not always be possible. No doubt the Land Registry is considering new legal triggers or policy levers to achieve comprehensive registration by 2030.

Why does land remain unregistered?

Where landowners are not concerned about their titles, and do not intend to enter into transactions, land may remain unregistered for many years. This is particularly so where land is held by corporate owners rather than natural persons (whose deaths would trigger a change of ownership requiring registration).



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Notably, the cost of registration is an issue and, though the fee for voluntary first registration is discounted by 25% as an encouragement, the professional fees involved in dealing with large areas of land can be considerable. In the 2000s, the Land Registry assisted with the registration of large private estates and some commercial property portfolios, removing the requirement for the landowner to produce up-to-date OS plans of the land to be registered, which was prohibitively expensive in many cases. The Land Registry



WHY DOES THE LAND REGISTRY WANT ALL LAND IN ENGLAND AND WALES REGISTERED?

- The Land Registry, as an agent of government, wants complete information on who owns land in England and Wales. In due course no doubt this information will be shared with other branches of government to ensure compliance with taxation and regulatory schemes.
- It is hoped that comprehensive registration will make buying and selling homes simpler, faster and cheaper, though this may not always be the case given the length and complexity of some registered titles.
- The stated priority is to register publicly-owned land that could be used for housing and development in areas of greatest housing need.

REGISTERING RIGHTS OF WAY

Associations such as the Ramblers Association and the Open Spaces Society have accelerated their focus on registering rights of way across the British countryside in the light of the encroaching 1 January 2026 deadline for registering certain "lost" public rights of way in existence before 1949.

The Ramblers Association estimates that as many as 10,000 miles of paths have not been registered and has launched a project called Don't Lose Your Way, with an interactive tool comparing historic maps with the definitive maps, to encourage members of the public to apply for Definitive Map Modification Orders (DMMOs) which would record historic rights of way.

County councils are charged with maintaining definitive maps and statements (DMSs) of the footpaths, bridleways, restricted byways and byways open to all traffic in their areas. However, many are running a significant backlog of pending DMMO applications. While it is possible to search a council's list of pending DMMO applications, the list will not be closed until 1 January 2026 and the DMSs are unlikely to catch up until many years after that.

A landowner can (and would be advised in most cases) deposit a highways statement declaring the rights of way which exist on the land and forestalling claims for others arising, but this will not prevent historic claims such as those that the Don't Lose Your Way project seeks to record.

NICHOLAS AND SHERRY LU ALDRIDGE/FLPA/IMAGEBROKER/SHUTTERSTOCK

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may presently not have the resources to assist in this way, though such assistance could be re-commenced and funded from registration fees, or from elsewhere, if there was the political will. Indeed, the Land Registry is required to pay the Treasury an annual dividend being 3.5% of the average capital employed during the financial year plus the latest inflation estimate for the year, which amounted to over £27m for 2018/19.

There remains the issue of land to which title cannot be shown, often owing to inadequate documentary

title or the lack of evidence of factual possession and intention to possess sufficient to sustain a claim for adverse possession. The most pressing problems can arise when the title cannot be shown to be contiguous with the highway, resulting in uncertainty as to rights of access. All too often these issues have not been examined or addressed until a transaction is under way, and a quick solution is required, frequently involving statutory declarations and title insurance.

It has to be said that some landowners value the anonymity of unregistered

land: since 1990, registers of title have been open to public inspection, which some consider an irritant resulting in unsolicited correspondence.

It is often argued that land registration and, in particular, the public availability of proprietorship information, facilitates property fraud: the fraudster simply needs to be able to impersonate the freeholder in order to sell or charge registered property, where previously the documents of title (as well as land and charge certificates) would have had to be produced. And there is something authoritarian about the idea of forcing private landowners to register their land when they neither need nor want to.

It should also be noted that proprietorship information is now being used in ways not anticipated by the Land

Registration Act 1925. *Private Eye*, for example, hosts an online page featuring a searchable map of England and Wales, highlighting those properties in foreign ownership. This information has been downloaded from the Land Registry at a small cost and made freely available. One of the purposes of this is to name and shame companies "evading" taxation in the UK, whether or not there is any evidence of such evasion. We live in an age of information, much of which is held digitally and can easily be made widely available. In this brave new world, transactions are quicker, easier and cheaper than ever, but come with all the inherent dangers of identity theft, cyber-crime and fraud that we are coming to know so well.

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