

Legally Referenced Overview of Land Registry Issues

1. Origins of the Present System

HM Land Registry was established in 1862 to provide an “economic and safe” record of title. Today, it maintains over 26 million titles for England and Wales. The key modern statutes governing land registration are:

- **Land Registration Act 2002 (LRA 2002):** <https://www.legislation.gov.uk/ukpga/2002/9>
- **Land Charges Act 1972 (LCA 1972):** <https://www.legislation.gov.uk/ukpga/1972/61>

2. Split Management of Legal Charges (1986–1999)

During this period, there was a bifurcated system for managing legal charges:

- **Land Charges (Unregistered Land):** Administered under the LCA 1972.
- **Legal Aid Charges (Registered Land):** Post the **Access to Justice Act 1999**, the Legal Services Commission (LSC) replaced the Legal Aid Board and could lodge statutory charges against property to secure costs.

Relevant legislation:

- **Access to Justice Act 1999:** <https://www.legislation.gov.uk/ukpga/1999/22>

This dual system led to inconsistencies and potential oversights in recording charges.

3. Large-Scale Legal Aid Fraud (“Operation Alison”)

The Serious Fraud Office investigated extensive abuses of the “green-form” legal aid scheme between 1987 and 2004, recovering approximately 21.5 tons of fraudulent files. Several solicitors were convicted.

Applicable legislation:

- **Fraud Act 2006:** <https://www.legislation.gov.uk/ukpga/2006/35>
- **Theft Act 1968:** <https://www.legislation.gov.uk/ukpga/1968/60>
- **Data Protection Act 2018:** <https://www.legislation.gov.uk/ukpga/2018/12/contents>

These laws address fraudulent activities and the misuse of personal data.

4. 2006 Privatisation Drive & Mass-Registration Flyer

In 2006, HM Land Registry (HMLR) targeted members of the Countryside Landowners’ Association—representing about 50% of private landowners—encouraging “voluntary first registration” to guard against adverse possession and overriding interests.

5. Advertising Standards Authority (ASA) Rulings

- **30 May 2007:** ASA initially accepted HMLR’s claims.
- **25 July 2007 (Review Decision):** ASA concluded that the flyer misled the public, confirming that overriding interests do not have to be disclosed to buyers or owners. This ruling was not widely publicised.

6. Legislative Changes Narrowing Police Involvement

- **Police Reform Act 2002:** Reorganised serious crime work. <https://www.legislation.gov.uk/ukpga/2002/30>
- **Land Registration Act 2002:** Introduced a civil “alteration & indemnity” regime and established the **Adjudicator to HM Land Registry (AHMLR)** for title disputes.

Relevant rules:

- **Land Registration Rules 2003:** <https://www.legislation.gov.uk/uksi/2003/1417>

7. Systemic Criticism of the AHMLR

Senior property counsel Geoffrey Littman and the legal text *Emmet & Farrand on Title* documented that “tens of thousands” of cases referred to AHMLR were more appropriately suited for higher courts. The Law Commission member who drafted the LRA 2002 was described as being aligned with Land Registry interests.

Reference:

- **Emmet & Farrand on Title:** <https://www.sweetandmaxwell.co.uk/en-gb/products/emmet-and-farrand-on-title-binderlooseleaf-and-elooseleaf-subscription-30928857>

8. “Disengagement” and the Hidden Backlog

Internal policies allowed HMLR to “disengage” with applicants deemed intractable. In a 2018 interview, then-CEO Graham Farrant admitted to approximately 250,000 unresolved cases being kept as “stock.” If each file concerns multiple titles, the potential exposure could be up to 3 million defective titles—just under 1/8 of all registered land.

9. Risks Now Faced by Owners

1. **Adverse Possession (Squatters’ Rights):** Despite HMLR’s 2006 flyer, a squatter can still apply for ownership after 10 or 12 years under LRA 2002, Schedule 6.
2. **Overriding Interests:** Rights such as short leases or rights of way bind purchasers even when absent from the register.
3. **Secret Registers & Data-Sharing:** Banks and some councils have back-office links to HMLR; historical “telephone-only” amendments leave little audit trail.

10. Practical Safeguards

Step	Legal Basis	Importance
Conduct a full OC1/OC2 search before completion	LRA 2002, Section 66	Ensures access to all documents HMLR holds
Make a Protection Entry (Form UN1) if you have an unregistered interest	Land Registration Rules 2003, Rule 128	Flags your right and blocks dealings without notice
If faced with fraud, report to Action Fraud and cite the Fraud Act 2006 in any police complaint	Fraud Act 2006, Section 1	Aligns the case with the correct offence category
Challenge “disengagement” via a pre-action protocol letter	Civil Procedure Rules, Part 54	Opens the way to judicial review of HMLR’s refusal to act

11. Conclusion

The cumulative effect of the 1987–2007 failings—including Legal Aid fraud, misleading public communications, and legislative gaps—combined with today’s backlog, means that title guarantees under LRA 2002, Section 58, are only as reliable as the data HMLR holds. Property owners and practitioners should:

- Maintain independent evidence of boundaries and occupation.
- Insist on full disclosure where statutory charges or overriding interests may exist.
- Escalate issues swiftly through AHMLR appeals, judicial review, or Serious Fraud Office referrals when official errors are identified.

These steps align with the statutory framework while addressing the systemic weaknesses highlighted above.