



# Your land and property rights: guaranteed and protected

We give assurance

We have integrity

We drive innovation

We are professional

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# **Land and Property Rights: Guaranteed and Protected**

**Nicky Heathcote**

Head of the Chief Land Registrar's Office

HM Land Registry

England and Wales



- Created as a government department in 1862
- Non-ministerial executive agency and trading fund, where running costs are covered by fees paid by the users of its services
- 4,700 people working across 14 locations:
  - lawyers
  - technical caseworkers
  - IT specialists
  - strategy and policy advisers
  - other specialists





- Statutory function of keeping the Register of Title to freehold and leasehold property for England and Wales
- Register ownership in England and Wales
- Record dealings with land once it is registered such as changes to ownership, mortgages and leases
- Underpinned by state guarantee – any loss suffered due to an error or omission in the Register may trigger compensation
- Ensure compliance with Stamp Duty Land Tax requirements and will not register transaction without evidence
- Support the wider economy through the provision of data that others can use



- Over 84% of land in England and Wales is registered
- Over 24 million titles registered
- 5 million updates to the Register each year
- Land Register estimated to hold £4 trillion of property value with security for £1 trillion of mortgages





# State Guarantee



- Any loss suffered due to an error or omission in the Register
- Operates on a no-fault basis
- Unlimited
- Funded through fees, but ultimately backed by the state
- ‘Reasonable’ costs reimbursed with prior consent of the Chief Land Registrar
- Interest is paid
- Rights of recourse
- Right to go to court – within six years
- Anti-fraud measures and data sharing reduce indemnity payments
- Also make provision for errors **Incurring But Not Recorded**



## In 2015/16 HM Land Registry:

- Generated an income of £295m
- Paid out £8m in relation to 1,003 indemnity claims
- Of which 49 claims were fraud related at a cost of £5m



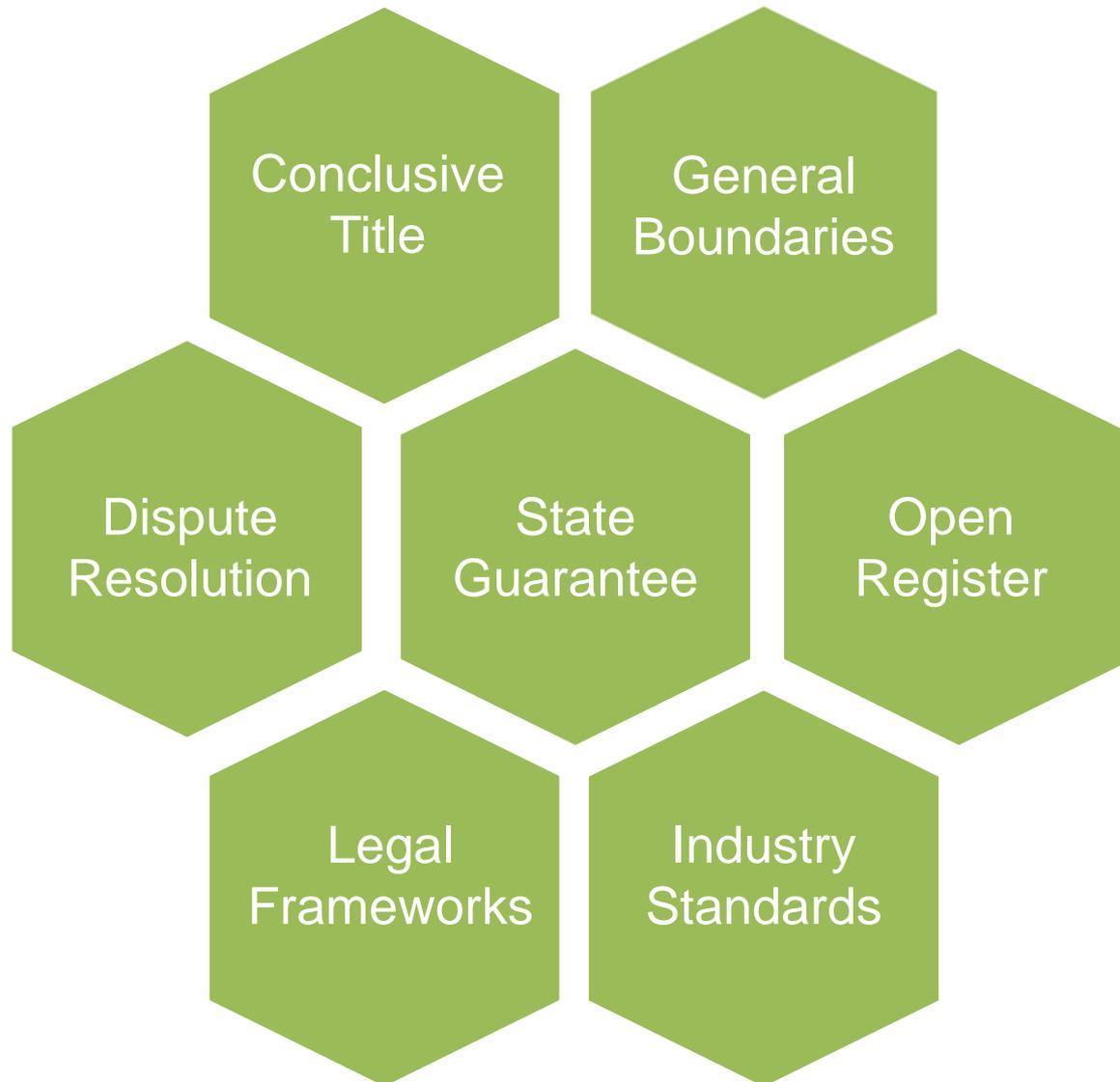


- How will indemnity be funded?
- Will costs be covered?
- Will interest be paid on the claim?
- Will the indemnity fund be capped?
- Will you want an in-year and an IBNR provision?
- How will you determine the value of the property?
- What quality and fraud checks will you build into the system?
- Will you set a time limit for the right to go to court?
- Will you define risk boundaries between Land Registry and the customer, legal practitioner and lender? Payments can be reduced if lack of care can be proved
- Will you set industry standards?
- How will disputes be dealt with?



# **Inspiring Trust in the Land Authority**

# The Foundations of Secure Property Rights





- The act of registration confers title, not the creation and signing of the deed
- The registration permits the registered proprietor(s) to exercise all of the powers of an absolute owner subject only to entries on the register
- The registered proprietor(s) therefore have unassailable and conclusive proof of ownership of property
- Conclusive land titling maintains a careful balance of interested parties as it confirms what the purchaser is buying and preserves and protects the rights and interests of others



- When a title is presented for registration for the first time, HM Land Registry investigate the root of title to determine the validity of the application
- In some cases it may be difficult to establish a conclusive title so HM Land Registry has four grades of title that can be granted, which alert the buyer to a potential defect in the title:
  - Absolute
  - Good leasehold
  - Possessory
  - Qualified
- The use of different classes of title can increase confidence in the system and help reduce disputes and indemnity risk



- Trying to determine the exact boundary at the time of registration is time consuming and expensive and can lead to boundary disputes
- A few titles in England and Wales have determined boundaries where the exact position of the boundaries have been established
- Most titles are registered with general boundaries
- This system is trusted, low cost and boundary disputes are relatively low



- The Land Register has been open to the public since 3 December 1990 and online since 2005
- Having visible, enforceable land and property rights gives investors, whether a private individual or a business, a level of certainty and an understanding of the level of risk they are undertaking
- HM Land Registry has a strategy to release all its publishable data and shares data across government
- A land authority should have a clear data publication policy and, on developing the component parts of the register, consider what future usage it wishes to gain from the information in the register
- HM Land Registry is also exploring better ways of recording not only the ownership of land but who has control of the land
- Having an open approach to data that is carefully managed, and a clear line of sight on all interests and control of land, can increase transparency, deter corruption and provide assurance to buyers and sellers



- Majority of property transactions in England and Wales involve a conveyancing professional
- Solicitors and conveyancers are regulated by independent professional bodies
- If there is a high level of trust in an established process, the awareness of the process can be enough to result in the desired confidence
- A regulated market place benefits HM Land Registry, as it can rely on the due diligence process by the practitioner



- Robust policy and legal frameworks can ensure the effective protection of land and property rights and continued ability to inspire confidence in the system
- Land laws should be transparent and clear but not overly prescriptive
- And be aligned with other legislation and Government policies
- HM Land Registry has steadily changed its Act and Rules so it has the flexibility to respond to new challenges and customer needs without the need to constantly rewrite its legislation
- Customers need to understand what protection they will receive under law if they register their land and be aware of what the process and costs are and who is responsible for all of the parts of the process
- Without this awareness it is very difficult to persuade people to register their land



- HM Land Registry may not be able to complete an application because someone has raised an objection – anyone has the right to object to an application
- If the Registrar is satisfied that the objection is groundless, the application will not be affected
- If not groundless, the parties will be given the opportunity to negotiate and reach an agreement
- If they cannot agree, the Registrar refers the matter to the Land Registration division of the Property Chamber, First-tier Tribunal (the tribunal), an independent body within the Ministry of Justice
- Between December 2015 and December 2016, HM Land Registry referred 1,207 cases to the tribunal
- The awareness of a fair and honest process for dealing with any objections or disputes can provide a level of integrity that instils necessary confidence in the system to reduce the number of disputes



- The values of the organisation delivering the land administration system, and how those values are applied to staff, customers and stakeholders, can have a great effect on generating trust and confidence
- These values, and the land authority's commitment to them, can ensure that staff feel protected and valued and that customers and stakeholders feel that corruption is limited or eradicated
- HM Land Registry's values are:
  - We give assurance**
  - We have integrity**
  - We drive innovation**
  - We are professional**
- Internal and external governance frameworks, assurance procedures, strategies and accounts are publically available
- Publically setting out the objectives of the organisation and how it plans to achieve them will inform as to the intentions of the land authority and enable it to be held to account if it does not deliver against its own strategy



- The availability of financial compensation provides assurance, and this is the most common way that a land administration service can inspire high levels of confidence at scale
- Given the low levels of compensation that is paid in England and Wales, this would also appear to be a cost effective system
- However, for a land administration system which delivers secure land tenure rights to be effective it needs a number of other supporting foundations
- These other elements are capable of providing confidence in the market and inspiring trust in the land authority
- It may not always be viable to introduce some or all of these in every jurisdiction. Lack of trust in government, political instability, financial constraints and/or a lack of transparency at local or national level may require a more flexible fit-for-purpose approach to be adopted when transforming or creating a land titling system



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