



Tribunals Service

The Adjudicator to HM Land Registry

A short guide for users

**Issued by the
Adjudicator to HM Land Registry**

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| Contents | Page |
|-------------------------------------------------|-------------|
| Useful contact information | 4 |
| The law we must follow | 4 |
| 1 Introduction | 5 |
| 1.1 This leaflet | 5 |
| 1.2 Who we are | 5 |
| 1.3 The types of cases we deal with | 5 |
| 1.4 What is the 'overriding objective'? | 5 |
| 2 Procedure | 6 |
| 2.1 Reference cases | 6 |
| a What is a reference case? | 6 |
| b How reference cases start | 6 |
| c Statement of case | 6 |
| d Order to start court proceedings | 7 |
| e Notice of court proceedings | 7 |
| f Court proceedings started without our order | 8 |
| 2.2 Rectification cases | 8 |
| a What is a rectification case? | 8 |
| b How cases start | 8 |
| c Objections | 9 |
| 3 Orders | 9 |
| 3.1 Directions | 9 |
| 3.2 Consolidated proceedings | 10 |
| 3.3 Adding to and replacing the people involved | 10 |
| 3.4 Further Information | 10 |
| 3.5 Requirement notices | 10 |
| 3.6 Site visits | 10 |
| 3.7 Preliminary issues | 10 |
| 3.8 Extensions of Time | 11 |
| 3.9 Withdrawals | 11 |
| 4 Hearings | 11 |
| 4.1 What is a hearing? | 11 |
| 4.2 What is evidence? | 12 |
| 4.3 Decision without a hearing | 12 |
| 4.4 Notice of hearing | 12 |
| 4.5 Where the hearings take place | 12 |
| 4.6 Representation at a hearing | 12 |
| 4.7 Absence from a hearing | 12 |
| 4.8 What will happen on the day of the hearing? | 13 |
| 4.9 What happens at the hearing? | 13 |
| 5 Decisions | 13 |
| 5.1 Will there be a written decision? | 13 |

| | | |
|----------|-----------------------------------------------------------------|-----------|
| 6 | Costs and fees | 14 |
| 6.1 | Will I have to pay fees? | 14 |
| 6.2 | Will I have to pay costs? | 14 |
| 6.3 | Can I get Community Legal Service funding (formerly Legal Aid)? | 14 |
| 7 | Appeals | 14 |
| 7.1 | Can I appeal against your decision? | 14 |
| 8 | Standards and complaints | 15 |
| 8.1 | Standards | 15 |
| 8.2 | Comments or complaints | 15 |
| 9 | Glossary | 16 |

Useful contact information

The Adjudicator to HM Land Registry

7th Floor
Victory House
30-34 Kingsway
London
WC2B 6EX

Phone: 020 3077 5800

Fax: 020 3077 5836

E-mail: ALR@tribunals.gsi.gov.uk

Website: www.ahmlr.gov.uk

You can contact us from 9am to 5pm, Monday to Friday.

Land Registry

HM Land Registry
32 Lincoln's Inn Fields
London
WC2A 3PH

Phone: 020 7917 8888

Website: www.landreg.gov.uk

Administrative Justice & Tribunals Council

81 Chancery Lane
London
WC2A 1BQ

Phone: 020 7855 5200

Website: www.ajtc.gov.uk

The Council has certain supervisory responsibilities towards us.

The law we must follow

Land Registration Act 2002 ('the Act')

Adjudicator to HM Land Registry (Practice and Procedure) Rules 2003 ('the Rules')

A full version of the Statutory instrument is available on our website.

1 Introduction

1.1 This leaflet

This leaflet aims to give you helpful information on what we do. It is not a substitute for the Act or the Rules and has no legal power. Further information can be found at www.ahmlr.gov.uk. If you are not sure about your position or your options, you should get professional legal advice.

1.2 Who we are

We are an independent office created by the Act. The areas we are responsible for are set out in paragraph 1.3. We carry out our responsibilities in line with the 'overriding objective' set out in paragraph 1.4.

We can make decisions on cases or order people to start legal action in the High Court or county court under section 110(1) of the Act.

Our offices and permanent hearing rooms are in London and it is easier to arrange a hearing here, but we can arrange a hearing anywhere in England and Wales if necessary, as long as a hearing room is available.

1.3 The types of cases we deal with

- Applications to the Land Registry where there is a dispute between the people involved and no agreement has been reached. The Registrar must refer these cases to us. (Reference Cases).
- Applications direct to the Adjudicator for correcting or setting aside a **document** relating to registered land . (Rectification Cases).

1.4 The 'overriding objective'

The overriding objective of the Rules is to make sure cases are dealt with fairly, as far as possible. This involves the following.

- Making sure that everyone involved is treated equally.
- Saving expenses.
- Dealing with the matter in ways that are in proportion to:
 - the value of the land or other interests involved;
 - how important the matter is;
 - how complicated the matter is; and
 - the financial position of each person involved.
- Making sure that the matter is dealt with as quickly and fairly as possible.

We must aim to meet the overriding objective when:

- using any power given to us under the Rules; or
- interpreting the Rules.

Everyone involved in the case must help us to meet the overriding objective.

2 Procedure

2.1 Reference cases

a What is a reference case?

A reference case is where an application has been sent to the Land Registry and it has been objected to. The Land Registry will encourage the parties to resolve the matter, however, if the people involved cannot reach an agreement, the Land Registry refers the matter to us under the Act.

b How reference cases start

The Registrar at the Land Registry will refer a case to us with a summary of the case to date. However, please note we will approach the case with a “fresh start”. We will send a notice to everyone involved, explaining who is the applicant and who is the respondent and how the case will continue. It may be that the Adjudicator decides the objector at the Land Registry should be the applicant in our proceedings and the applicant at the Land Registry should be the respondent in our proceedings. This is a matter of discretion for the Adjudicator. Generally, the party who the Adjudicator decides needs to prove its case will be named as the applicant.

Unless we say otherwise, the applicant must send us and everyone else involved, within **28 days** of receiving our notice:

- a statement of case; and
- a list of and copies of all documents upon which the applicant relies **in support of** his statement of case; and
- A list of all **other** documents in the applicant’s possession or control affecting his or the respondent’s case. The applicant must allow the respondent to inspect and obtain copies of such other documents

When the respondent receives the applicant’s statement of case, they have **28 days** in which to send us and everyone else involved:

- a statement of case; and
- a list of and copies of all documents upon which the respondent relies **in support of** his statement of case; and
- A list of all **other** documents in the respondent’s possession or control affecting his or the applicant’s case. The respondent must allow the applicant to inspect and obtain copies of such other documents.

We may extend these time limits if the applicant or respondent applies to us to do so, but only if we consider it appropriate to do so. For more information on Extensions of Time, please refer to Paragraph 3.8. We will make whatever arrangements are necessary for the case to be properly prepared.

c Statement of case

A statement of case must be in writing and must include:

- the name of the person and confirmation of their address for sending notices to;
- the person's reason for supporting or objecting to the original application;
- the facts on which that person intends to rely in the proceedings;
- a list of documents that that person intends to rely on in the proceedings including:
 - a brief description and the date of the document;
 - whether the party possesses the document;
 - whether the document is an original or a copy; and
- a list of witnesses that that person intends to call in the proceedings

d Order to start court proceedings

At any stage in the proceedings, we can decide to order the people involved to start court proceedings under section 110(1) of the Act. The people involved may make statements or objections. However, these must be concerned with one or more of the following.

- Whether we should make an order to start proceedings.
- Who we should order to start proceedings.
- The time within which court proceedings should start.
- The questions the court should decide on.

e Notice of court proceedings

Whoever we have ordered to start court proceedings under section 110(1) must send us, within **14 days** of the start of the court proceedings, a written notice stating:

- that court proceedings have been issued in accordance with our order;
- the date court proceedings were issued;
- the names and any known addresses of the people involved in the court proceedings;
- the name of the court at which the court proceedings will be heard; and
- the case number given to the court proceedings.

Where the court gives a decision on an application for an extension of time, the same party must serve on us a copy of that decision, within **14 days** of the date of the decision.

At the conclusion of the court proceedings, the same party must, within **14 days** of the date that the matter before the court is finally settled, serve on us a copy of the final court order.

f Court proceedings started without our order

Any party may commence court proceedings to resolve the dispute referred to us. If anyone involved starts, or has started, court proceedings without our order under section 110(1), that person must send us, within **14 days** of the start of the court proceedings, a written notice stating:

- that court proceedings have been issued;
- the way and to what extent the court proceedings concern or relate to the matter referred to us;
- the date the court proceedings were issued;
- the names and any known addresses of the people involved in the court proceedings;
- the name of the court at which the court proceedings will be heard; and

- the case number given to the court proceedings.

At the conclusion of the court proceedings the same party must, within **14 days** of the date that the matter before the court is finally settled, serve on us a copy of the final court order.

They must also send the court a copy of any substantive decision we make on the matter within 14 days of receiving that decision.

2.2 Rectification cases

a What is a rectification case?

We may correct or set aside certain documents relating to registered land, as set out in section 108(2) of the Act.

Our power is the same as that used in the High Court. The general law about the effect of an order of the High Court will apply to an order we make.

b How cases start

The person applying for rectification must apply directly to us. An application form can be downloaded from our website. A rectification application must:

- Be made in writing and be dated and signed by the applicant or their authorised representative.
- Include:
 - the name and address of the person (or people) the applicant wants the order to be made against;

- details of what the applicant wants us to do;
 - the grounds the application is based on;
 - a list of documents the applicant wants to rely on to support the application including:
 - a brief description and the date of the document;
 - whether the party possesses the document;
 - whether the document is an original or a copy;
 - a list of witnesses the applicant intends to call to give evidence to support the application; and
 - the applicant's name and address for service.
- It must also include:
 - a copy of each of the documents included in the applicant's list of documents; and
 - a copy of the document the rectification application relates to, or (if a copy is not available) details of the document.

When an application is accepted by the Adjudicator, we will send a notice to the person the applicant wants the order to be made against. That person then has **28 days** to lodge an objection.

c Objections

If a person wishes to object, they (or their authorised representative) must date and sign their written objection and explain why they object. An objection form can be downloaded from our website.

The objection should include:

- a list of documents that person intends to rely on to support the objection; including:
 - a brief description and the date of the document;
 - whether the party possesses the document;
 - whether the document is an original or a copy;
- a copy of each of the documents included in the list of documents;
- a list of witnesses that person intends to call to give evidence to support the objection; and
- written confirmation of the objector's name and address for service.

They must also send everyone else involved a copy of the objection and documents they have sent to us.

3 Orders

3.1 Directions

At any time, we may issue directions:

- so that the people involved can prepare for the hearing;
- to help us carry out the proceedings; or
- to make a decision on the matter or any questions of dispute in the proceedings without a hearing.

Non-compliance with our directions may result in sanctions being imposed. Any people involved in a case may ask us to issue a direction.

3.2 Consolidated proceedings

If a reference or rectification application is related to another reference or rectification application, we may (if we feel it is appropriate or practical to do so) direct that any or all of those related references or rectification applications should be dealt with together.

3.3 Adding to and replacing the people involved

If we believe that it is desirable to do so, we may give directions for any person to:

- become involved;
- not be involved; or
- replace someone who is already involved.

A party may apply to be added to or replaced in the proceedings.

3.4 Further information

We may give directions requiring a party to serve a witness statement, a statement of facts, a summary of arguments, or such further information as reasonably required for determination of the matter. A witness statement should contain the reference number and names of the parties to the case, the name, address and occupation of the witness, and on whose behalf the statement is being made. The statement should clearly differentiate between facts in the knowledge of the witness and any matters referred to that are a matter of belief. A statement of truth, signed by the witness and made in the following terms, should verify the statement:

“I believe the facts and matters contained in this statement are true.”

3.5 Requirement notices

We can require any person to go to a hearing to give evidence, or to produce any document or other material we ask for, which is in that person’s possession or control.

3.6 Site visits

We may want to visit a property to help us make a decision on the matter. In this case, we will send a formal request to the person who owns or controls the property. We will make requests at least seven days before the proposed visit and will send copies to everyone involved.

3.7 Preliminary issues

If any of the people involved asks us to, or the Adjudicator thinks it is appropriate, we may decide on any matter that is in dispute as a ‘preliminary issue’ (with or without a hearing). If our decision on the preliminary issue will decide on the whole of the matter, we will treat that decision as a substantive decision.

3.8 Extensions of Time

Any party may request an extension of time to comply with a direction at any point of the proceedings. If a party gets the consent of all other parties involved and gives proof of this consent to us, the Adjudicator will grant the extension of time request if he thinks it is appropriate to do so. This is the most efficient way of applying for an extension of time and it is recommended that the consent of the other parties be gained before an application is made.

If a party does not show proof of the consent of all other parties, we will contact these parties to see if they agree or object to the request.

If the other parties agree, the administrative staff can grant an extension of time for up to 4 weeks.

If the other parties object to the extension of time, or the request is for longer than 4 weeks, the Adjudicator will consider the request and make the appropriate order.

Please note that an extension of time should not be taken as granted until written confirmation has been received from us. An extension of time cannot be granted over the telephone.

Please note that it is unlikely that an extension of time will be given

- (a) to a respondent for service of statement of case where the application is only on the ground that the respondent has had inadequate time to inspect and/or obtain copies of documents which the applicant has disclosed but on which the applicant does **not** rely in support of his statement of case; or
- (b) for the return of the listing questionnaire

3.9 Withdrawals

Any party may withdraw its application, or its objection to the application, at any time. The Adjudicator will be able to make an order for costs as outlined at **6.2** below where a party withdraws.

Any party who wishes to withdraw must inform us, or the Land Registry (which is a separate office from us) of its withdrawal in writing. It is not sufficient for another party to tell us of the withdrawing party's withdrawal.

4 Hearings

4.1 What is a hearing?

A hearing we control is similar to a hearing in a court of law, although in some ways it is slightly less formal. The people involved come with their witnesses to argue their case and to present their evidence. Each side is expected to put their evidence together and let the other side see it before the hearing. This allows each side to see how strong a case they have and to prepare a reply to the other side's evidence, if they need one. The people involved must also help us to maintain the 'overriding objective'. Directions regarding the preparation and

exchange of evidence will normally be given after the parties have served their statements of case .

4.2 What is evidence?

Evidence is anything that can be used to prove or disprove facts which can help to support each side's case. It includes what witnesses say, either in witness statements or at the hearing itself. We will take more account of witnesses who go to the hearing and who can be asked questions in cross-examination except where we have directed that witnesses do not need to attend. Evidence also includes title deeds, plans, photographs and other documents, and experts' reports if we allow an expert witness to give evidence.

The people involved cannot call an expert witness at the hearing, or use an expert's report as evidence, without our permission.

4.3 Decision without a hearing

We may make a decision without a hearing if we feel there is no important public interest that needs a public hearing and we give notice to the people involved and no party objects to our proceeding in this way. The people involved may also ask us to make a decision without a hearing.

4.4 Notice of hearing

We will send everyone involved a written notice of our intention to hold a hearing no later than 28 days before the hearing. We will give them the date, time and place of the hearing.

4.5 Where the hearings take place

Our main premises for holding hearings are in London but we can hold hearings at local venues if necessary. If the people involved want a hearing to take place locally, we will normally arrange for a suitable hearing room to be available. It is usually possible to arrange hearings more quickly in London.

4.6 Representation at a hearing

Any of the people involved may represent themselves or ask another person (whether legally qualified or not) to represent them or help them. Getting evidence together and arguing a case at a hearing is not always easy. If you want advice, you should get professional help from a solicitor, Citizens Advice Bureau or other adviser.

We will respond to correspondence and phone calls and give advice only on matters of procedure. We cannot give you advice on your case or how to prepare it.

4.7 Absence from a hearing

If any person does not go to the hearing and is not represented, the Adjudicator may:

- continue with the hearing and reach a substantive decision in their absence, if the Adjudicator feels the reasons for absence are not justified or that it would be unfair to postpone the hearing;
- adjourn the hearing; or

- if the hearing is postponed or continues in their absence, make an order as he or she sees fit.

4.8 What will happen on the day of the hearing?

On the day of the hearing, you will be shown to the room where the hearing will be held. Do not worry if you have not been to a hearing before. You will be shown where to sit. You will also be given other necessary information, such as how to address the Adjudicator and where witnesses sit when giving evidence.

4.9 What happens at the hearing?

The usual order of events is:

- The person named in the notice as the applicant (or the person presenting the applicant's case) begins the hearing by giving a summary of the questions that the Adjudicator has to decide.
- The applicant's witnesses are called in turn to give evidence on oath or affirmation. Usually, each witness is asked to give his or her name and address and to confirm that the contents of his or her statement are true. The respondent (or the person presenting the respondent's case) may then cross-examine the witness about the facts set out in the statement. If the applicant (or the person presenting the applicant's case) has any questions for the witness which arise from the cross-examination, he or she can ask them once the cross-examination has finished. The Adjudicator may also ask questions.
- The respondent's witnesses are called to give evidence. The procedure is similar to that of the applicant's, with the applicant (or the person presenting the applicant's case) cross-examining and the respondent (or the person presenting the respondent's case) asking further questions if necessary. Again, the Adjudicator may ask questions.
- The respondent (or the person presenting the respondent's case) puts his or her legal arguments to the Adjudicator, referring to the evidence that has been given.
- The applicant (or the person presenting the applicant's case) does the same.

5 Decisions

5.1 Will there be a written decision?

At the end of the hearing, the Adjudicator may give a decision straight away. The Adjudicator may also give detailed reasons for the decision at the same time. In most cases, however, the decision will be delayed, with the reasons given later in writing and sent to the people involved as soon as possible. Once the substantive decision has been given, the Adjudicator will then make a substantive order and send it to the people involved.

6 Costs and fees

6.1 Will I have to pay fees?

Our services are free of charge.

6.2 Will I have to pay costs?

We are able to decide whether to make orders for costs in relation to proceedings we control, unless the people involved have agreed who should pay. We may decide that the losing side should pay all the costs of both sides. This will not always happen because we must take account of all the circumstances and try to do what is fair in each case.

An order to pay costs may mean one side has to pay all (or part) of the costs of the other side and set a fixed amount or proportion to be paid. It may also say that we will assess the costs if they cannot be agreed. We may also set the time limit within which the costs are to be paid.

Please note that litigants in person can only recover their out of pocket expenses by way of costs.

6.3 Can I get Community Legal Service funding (formerly Legal Aid)?

Community Legal Service funding is not available for matters we deal with.

7 Appeals

There is provision to appeal against a decision of the Adjudicator, to the Chancery Division of the High Court on questions of both law and fact. If a party wishes to appeal they should first ask for leave (permission) from the Adjudicator. A letter setting out the reasons for the appeal will suffice. Any application for leave to appeal should be made within 28 days of the issue of the written decision. If the Adjudicator refuses permission to appeal then a party may make a further application for permission to the Chancery Division of the High Court within 28 days of the refusal by the Adjudicator.

Alternatively, permission to appeal can be sought directly from the Chancery Division of the High Court. Again, this must be done within 28 days of the issue of the Adjudicator's decision. For information about appealing or permission to appeal visit our website (noted above) or contact:

The Clerk of the Lists
Appeals Office
Room WG7
Royal Courts of Justice
The Strand
London
WC2A 2LL

020 7947 7354

Please note that if you want a stay of the Adjudicator's order pending any application for leave to appeal you should apply for that expressly at the

same time as you apply for permission to appeal giving reasons for your application. A stay of the order is not automatic.

Please also note that if you want a stay of an order of the Adjudicator to the Land Registry, you should notify the Land Registry immediately on receipt of the order, of your intention to appeal and to ask for a stay. This is because we have no control over when the Land Registry implements an order of the Adjudicator.

8 Standards and complaints

8.1 Standards

There are certain standards of service and performance that we are committed to achieve. These are to:

- process new cases and acknowledge we have received notices of cases within five working days;
- offer hearing dates within 10 weeks of the case being ready;
- tell everyone involved the hearing dates within five working days of fixing the date;
- draw up and send everyone involved signed decisions within five working days of receiving them;
- deal with all enquiries and correspondence politely and promptly; and
- reply to 95% of correspondence within five working days and 100% of correspondence within 10 working days.

8.2 Comments or complaints

If you have any comments or complaints about the service you have received from us, contact the manager at:

Margaret Haig
7th Floor
Victory House
30-34 Kingsway
London WC2B 6EX

Phone: 020 3077 5800
Fax: 020 3077 5836
E-mail: ALR@tribunals.qsi.gov.uk

If you want to take the matter further, please write to:

Mike Watson
3rd Floor
Victory House
30-34 Kingsway
London WC2B 6EX

Please note this procedure cannot be used if you are unhappy about a decision of the Adjudicator. If you are not happy with a final decision of the Adjudicator, you can ask for permission to appeal the decision in accordance with the guidance given above. If the decision you are unhappy with is not a final decision you can either ask the Adjudicator to reconsider or appeal as above.

9 Glossary

The Act: the Land Registration Act 2002.

Address for Service: address of the party or party's representative where correspondence will be sent and documents served. This address **must** be in England and Wales.

Applicant: the person we name as such on a reference case for serving their statement of case, or the person who makes a rectification application.

Cross Examination: questions asked by an opposing party of a party's witness.

Hearing: we hold hearings to help us reach or announce a substantive decision. This does not include a hearing to:

- consider an application, a statement or an objection made during an earlier part of the proceedings; or
- consider an application for permission to appeal or delay our final substantive order being put into force before an appeal.

Matter: the subject of a reference or a rectification application.

Original application: the application originally made at the Land Registry that resulted in a reference.

Proceedings: the proceedings or matter we are dealing with. This does not include any negotiations, communications or proceedings that took place before the reference or rectification application.

Record of matters: a record of references, rectification applications and certain other applications and decisions, kept in line with the Rules.

Rectification: correcting mistakes in a document.

Rectification application: an application to us made to put right or set aside a document.

Reference: a reference from the Registrar to us under section 73(7) of the Act.

Registrar: the Chief Land Registrar.

Respondent: the person who we name as such on a reference case for serving their statement of case, any person who responds to the statement of case of the applicant, or the person making an objection to a rectification application.

The Rules: the Adjudicator to HM Land Registry (Practice and Procedure) Rules 2003.

Substantive decision: a final decision on all or part of the proceedings.

Substantive order: an order that records and gives force to a substantive decision.

Witness statement: a written statement signed by a witness containing the evidence that the witness intends to give.

Working day: any day other than a Saturday or Sunday, Christmas Day, Good Friday or any other bank holiday.

