

Flood damage – reinstating your boundary

What every property owner should know

A useful guide from RICS on how to reinstate a boundary following flood damage and where you can go for advice



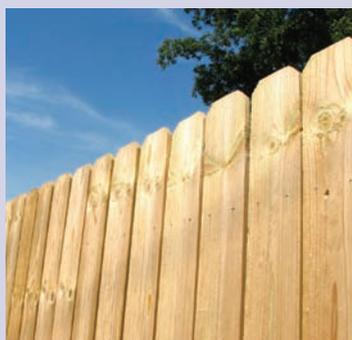
Floods typically destroy established fences and boundary features. Post flood repairs and damage assessments can often highlight the difficulties of reinstating the line of the legal boundary. Establishing the boundary line of your property ownership is one of the first steps of making a property a home again as it helps to define a person's sense of place and belonging.

RICS has prepared a list of simple instructions to follow when the clean-up operation begins to assist in making the reinstatement dispute free.

RICS spokesperson **Andrew Thompson**

'When you come back to your property after a major environmental event such as a flood things will look and feel very different. This sense of change will affect not only you but also your neighbour making the task of reinstatement of the legal boundary line difficult. The key to a swift return to normality will be communication between the parties and trust. Therefore do not rush or jump to assumptions on the boundary line when you return without talking with your neighbour.'

'Domestic boundary disputes are emotionally intense and after the pain of a major flood the use of and sensible assistance of an expert surveyor can help avoid dispute. This will assist all parties to get back to normal relationships even when communication is already strained between the parties.'



RICS Top Tips

- Before you seek to reinstate any boundary that has lost historic demarcation due to a flood speak with the other boundary party, if possible.
- If this is not immediately possible record fully what you have done to temporarily reinstate the boundary line and be open minded that when your neighbour does return they may have evidence or information which may cast into doubt your initial assumptions on the right boundary line.
- Accept that things are going to look and feel very different on your return. Therefore try and be flexible and open minded to the comments from your neighbour as to the correct boundary line.
- Seek to reach an agreement with your neighbour on the boundary line and if this is not possible try and agree with them a method of alternative dispute resolution (ADR) as this may provide a quicker and more cost effective solution. It is quite possible that you do not have a real boundary dispute but due to the flood things have become unclear to both parties and the assistance of an expert will help provide reassurance and prevent a real dispute.



- People's memory is not ideal after a traumatic experience in remembering the exact boundary demarcation on a site. Therefore look for old photographs taken before the flood of your house at the boundary. Aerial photographic images via internet sources such as **Microsoft Virtual Earth** <http://local.live.com/> and satellite imagery via **Google Maps** <http://maps.google.co.uk> will help refresh the memory of both neighbours on the pre flood boundary line. However, also accept that due to the very disruptive nature of the flood both parties may have lost their historic information.
- Land Registry (LR) Title Plans are at 1:1250 scale and their purpose is to indicate where the physical features are on or about the boundary. These plans do not show the legal boundary line (a line of no thickness) and LR advise against scaling distances from these plans.
- The underlying Ordnance Survey (OS) map used by LR is a good indication of the position of physical features which existed at the date of survey and in most instances, the knowledge that the boundary was a defined feature on the ground (or not) will be all that the property owners need to know as it is likely that evidence of that feature will be found when the flood water recedes and the boundary can be reinstated.



The RICS Dispute Resolution Service (DRS) provides access to a specialist panel of expert Chartered Surveyors with experience of resolving neighbourly boundary disputes. This can involve expert determination of the boundary and mediation of a dispute. Therefore, you do have an alternative to formal litigation if any doubt or uncertainty exists between parties on the correct boundary line following the flood. The advantage of ADR is that it is a quicker method of dispute resolution; it is private between the parties and is typically significantly lower in cost than court based litigation.

Post Flood Cross Boundary Repair

Once you have established again the legal context of your property it is possible that due to the significant nature of the flood damage the repair and reinstatement may need access to or from your neighbours land. Whilst minor access should be within the scope of good neighbours to agree without complex agreements. It is quite possible in severe cases of damage that some properties may need major repair requiring disruptive access onto the neighbours land. Depending on the context of the boundary you may need a Chartered Surveyor to help with either Notices under the Party Wall etc Act 1996 or drafting an Access Licence for Repair if the work is more general in nature.

Whilst it is hoped and encouraged that most parties will reach agreement without dispute both domestic and commercial property may have a legal right of access to repair under the Access to Neighbouring Land Act 1992 if the repair is necessary for the basic preservation of a property after a reasonable request has been refused. This access right requires an application to the County Court for an Access Order. If this is required due to an unreasonable or absent party a Chartered Surveyor can provide the necessary report needed for Court purposes confirming the need for repair and the extent of access required by the Court Order.

If you have any concerns, consult a Chartered Surveyor. Contact RICS for details of a local Chartered Surveyor offering specialist advice on post flood boundary reinstatement. Visit our Find a Surveyor service at www.ricsfirms.com, email contactrics@rics.org or telephone **0870 333 1600**.

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RICS (Royal Institution of Chartered Surveyors) is the largest organisation for professionals in property, land, construction and related environmental issues worldwide. We promote **best practice**, regulation and **consumer protection** to business and the public. With 130 000 members, RICS is the leading source of property related knowledge, providing independent, **impartial advice** to governments and global organisations.

RICS Boundaries and Party Walls Working Group (B&PWWG)

Further information
jkavanagh@rics.org
www.rics.org/environment

Related B&PWWG guidance:

Party Walls Guidance Note 5th Ed (2007 amended)
Boundary Disputes - public leaflet

RICS Flooding online resources - www.rics.org/flooding
RICS Mapping and Positioning online resources - www.rics.org/mappp
RICS Faculties and Forums professional guidance - www.rics.org/guidance
RICS Public Leaflets - www.rics.org/usefulguides
RICS Find a Surveyor - www.ricsfirms.com

RICS Neighbour Dispute Service

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