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*Tom Warrender
Partner and Commercial
Property Solicitor
Wilson Browne Solicitors
wilsonbrowne.co.uk*

RESIDENTIAL CONVEYANCING TRANSACTIONS

LOST OR MISSING TITLE DEEDS

In his inaugural contribution to Property Law UK, Tom Warrender delves into the actions individuals can take in cases of lost or missing title deeds.

The first piece of advice is “don’t panic!” Easier said than done perhaps, but do

not panic; of course, Title Deeds are important where Land is not already registered, but it may be possible to reconstitute Title where Deeds are missing.

In terms of whether land is registered or unregistered, my fellow Partner Jenny Woodruff explains more in her

informative article [here](#).

If you are not sure whether Title is registered or not, and simply cannot find any paperwork, then the first thing is to check at the Land Registry. It is public record, but if you are not sure how to go about it then your solicitor can help you check whether the property is registered. If it is then they can simply obtain copies of the Title from Land Registry for you and give you a note of your registered Title Number.

If on the other hand Title is not registered, that is when the question of missing Title Deeds becomes an issue, but fear not, it is not one that is insurmountable.

The first question is, of course, are they definitely missing? Have you checked everywhere? Have you made enquiries of former advisers (such as the Solicitors from the time of purchase) or the Bank (if you purchased with the aid of a mortgage)? Have you asked former colleagues or (where it is a company or trust) former directors and/or trustees?

If the original Title Deeds cannot be found, then the next question is whether you are able to locate any copies. Whilst they are not originals, the copy documents, coupled with Statement(s) of Truth, could be lodged at the Land Registry. Even where copies cannot be found, then all is not lost (forgive the pun!).

You may apply for first registration of land if the title deeds have been lost or destroyed, and your solicitor can help you with that process. The Land Registry has special requirements and procedures for these applications as set out in Land Registry Practice Guide 2 which is accessible [here](#). Specific provisions regarding applications where title deeds have been lost or destroyed are contained in rule 27 of the Land Registration Rules 2003, and again, your solicitor can talk you through exactly what that means and assist you with the process of reconstituting Title.

You will need to give an account of the events that have resulted in the loss or destruction, which the Land Registry will then consider on individual merit. It is most likely that, where an application is





successful, the Land Registry will grant only a possessory title where the evidence supplied does not establish those events and the history of the title is beyond doubt. It is often more important to prove who held the deeds prior to their loss or destruction than to establish what they contained. That being said, we have seen many instances where, with sufficient evidence, the Land Registry have granted Title Absolute, which is the highest class of Title you can obtain.

When the Title Deeds have been lost or destroyed the Land Registry will sometimes ask a surveyor from Ordnance Survey to inspect the land before they will complete the registration and in turn a fee may be payable if such an inspection is required. This does not negate the need for a Land Registry compliant plan to accompany the original application to reconstitute Title.

Many of these applications relate to situations where the deeds (or some of them) have been lost or destroyed while in the custody of a solicitor or lender. However, the Land Registry will also consider applications where the loss or destruction has occurred in other circumstances.

The key thing with an application to reconstitute Title is to set the scene for the Land Registry. Think of it like a jigsaw puzzle, by finding as many pieces of the jigsaw (or explaining in a Statement of Truth as best you can why certain pieces are missing, and what you believe those pieces were), the puzzle then comes together and the Land Registry can establish a picture of ownership, notwithstanding the missing Deeds.

When making an application to

reconstitute Title you must ensure the following prior to submission:

- The Land Registry can identify the land on the Ordnance Survey map;
- the account of events (in Statement(s) of Truth or Statutory Declaration(s)) adequately accounts for the loss or destruction of the deeds;
- Title has been established/explained (think of those jigsaw pieces) as best as possible
- include evidence of possession (or if not personally occupied) then evidence of ownership, such as rent accounts if you rent the Property to someone else
- any disclosable overriding interests that you are aware of and that are not apparent from the reconstructed title have been disclosed (using the Land Registry form DI);
- you have enclosed an undertaking to send to HM Land Registry any lost deeds that are subsequently found in the future;
- an approximate value of the land (as the Land Registry will use this to calculate their registration fee and will also note that value on the Title).

Visit wilsonbrowne.co.uk for more information and advice about applications to Reconstitute Title.



Meet the editor

Tom Warrender
Partner and Commercial
Property Solicitor

Wilson Browne Solicitors

Tom Warrender is a Partner and Commercial Property Solicitor with a wealth of experience acting for clients both locally and nationally since 2005. Tom acts for private individuals, pension funds, small businesses, national companies, banks, charities and social landlords on a wide range of legal matters from land acquisitions and developments as well as business leases, sales and purchases, lease renewals and extensions, through to larger commercial property and land transactions. He also sits on the Board of Management at Wilson Browne Solicitors.

wilsonbrowne.co.uk twarrender@wilsonbrowne.co.uk

