

Large print

Please let us know if you require a copy of this report in large print.

Other versions

Please let us know if you require a copy of this report in Braille or audio, or in other languages.

Further information

Full details of the service that the ICR provides can be found in our booklet, *Seeking a fair resolution*, which can be downloaded from the ICR's website at www.icrev.org.uk

Contents

Introduction	3		
The ICR office and service	7	ICR casebook	13
– Our mission	7	– Accessibility	13
– Our purpose	7	– The problems of explaining legal concepts and detailed plans	13
– The principles of good complaint handling	7	– The difference between ‘alteration’ and ‘rectification’	15
– Our office	7	– Being seen to be fair	16
– Our remit	7	– The importance of notice	16
– Initial enquiries	7	– Avoiding the appearance of bias	17
– Resolution	8		
– Full review	8		
– Redress	8		
– Confidentiality	8		
– Further information	9		
Facts and figures	9		
– Caseload	9		
– Complaint issues	10		
– Recommendations	11		
– Feedback	11		
– Financial information	12		

Introduction



Elizabeth A Derrington

As I come to the end of my second year as Independent Complaints Reviewer (ICR) for Land Registry, I am proud to look back on a period of solid achievement combined with important progress and innovation. We have continued to help complainants and Land Registry achieve closure in some very difficult cases, and to offer practical recommendations to Land Registry about how to improve its customer service and reduce the numbers of complaints. We have also worked to improve the ICR service and the way in which it works with other organisations.

The work of my office has continued against a background of major upheaval for Land Registry, as it has responded to sharp reductions in workload and income as a result of the economic downturn and its effect on the housing market.

New projects for the ICR office during the year included collaborating with Land Registry in a review of its internal complaints procedure, and the launch of a new procedure on 1 April 2010.

Land Registry decided to carry out the review following feedback from my office (and elsewhere) that the existing procedure, following modification in 2007/8, was causing confusion. The result of this confusion, for my office, was that increasing numbers of people with complaints were contacting us too soon, before they had received a final response from Land Registry, and before we could do anything to assist. In too many cases we had to refer the complaint back to Land Registry for further consideration.

The whole experience caused considerable frustration for complainants, as well as being an unproductive use of ICR and Land Registry staff time. When I presented the problem to Land Registry, it responded very constructively, recognising that the time had come to revamp its internal complaints procedure to make it easier for people to use. I was consulted and updated during the review process, and also worked with Land Registry to ensure that both its staff and mine would be ready for the launch of the new procedure.

I am very hopeful that the outcome of the review will be a simpler swifter complaint process for Land Registry customers, with clear escalation to senior management within Land Registry where necessary, and prompt referral to the ICR for customers who remain dissatisfied. Because the internal process will be shorter, there may be an increase in the number of referrals to the ICR. This

could be challenging for a small office, but we are ready to respond, and determined to maintain the high quality of service we provide.

I mentioned in last year's report that Land Registry was reviewing the effectiveness of its ICR Evaluation & Study Team (ICREST), the working group that oversees implementation of ICR recommendations and other learning points from ICR investigations. I was glad to have the opportunity to contribute to the review. Learning the lessons of complaints is probably one of the most difficult pieces of the 'complaints jigsaw' to complete, and ICREST is at the leading edge of work in this area, but there is always room to improve.

The review team reported back at the end of 2009, confirming Land Registry's commitment to respond to the messages of complaints, and proposing action to increase ICREST's profile both within Land Registry and externally. As part of this initiative I am currently working, with Land Registry's Head of Corporate Legal Services, on a presentation of the review findings for the British and Irish Ombudsman Association (BIOA).

It is important for the ICR office to work effectively with other organisations that deal with disputes and complaints involving Land Registry customers, to make sure that we work together to deliver a joined up service for the public. I was delighted to reach formal agreements during the year with our two most important partner organisations, the Adjudicator for HM Land Registry and the Parliamentary and Health Service Ombudsman (PHSO).

The Adjudicator for Land Registry has power to make judicial decisions in disputes about matters related to land registration, whereas the ICR reviews procedural and customer service issues. A significant proportion of the complaints I review come from individuals who have already had their legal dispute determined by the Adjudicator, but remain dissatisfied with the service they have received from Land Registry. It is clearly important that the ICR office and the Adjudicator's office work together to ensure that members of the public are clear about the roles of the two organisations and are referred smoothly from one to the other where necessary. A formal memorandum of understanding with the Adjudicator was agreed in March 2010, and this will provide an excellent basis for future cooperation.

If complainants are not satisfied with the outcome of a review by the ICR, they can request a further review by PHSO. It is important that the ICR's work should be subject to external scrutiny, and I am keen to take advantage of feedback from the PHSO. With this in mind, we had a series of meetings and discussions with the PHSO's office during 2009/10, and reached a new agreement for information sharing between the PHSO and the ICR. As a result of this agreement I can report that 10 individuals whose complaints I have considered have requested a further review by the PHSO, and one has been accepted for investigation. I look forward to the outcome and will report on it next year.

At the end of November 2009, with Land Registry's support, the ICR office hosted a forum for all the organisations we work with (including the Audit Commission, the Charity Commission, the Northern

Ireland Youth Justice Agency and the National Archives). This allowed ICR staff and complaints managers from our partner organisations to discuss current developments in complaint resolution, and to share ideas on a range of practical issues. It was an exciting and very productive event and looks set to become a regular annual feature.

Another project this year was to look at ways of encouraging more complainants to provide feedback on the ICR service. This led to the introduction of a new questionnaire – shorter and simpler, but also more focused on the things we need to know to help us improve our service. Although it is early days, the rate of response to the new questionnaire has been very encouraging. Further details can be found in the *Facts and figures* section of the report.

In terms of the ICR service itself, I said in my last report that I aimed to simplify the review process and to reduce target times for delivery of the reports of my reviews. Both of these goals have been achieved. A tighter simpler process for the provision of information by Land Registry was agreed during the year, and the target time for completing reviews was reduced by 10 weeks. Details of our success in meeting the new target are given in the *Facts and figures* section.

The complaints I reviewed during the year were, as always, very diverse. The *ICR casebook* section of this report picks up some of the recurrent themes under the broad headings of accessibility and fairness. It seems a good time to reflect on these fundamental principles of customer service. Land Registry is going through a period of major change,

which includes a complete overhaul of its customer strategy. This means that there is an excellent opportunity to look afresh at the fundamental needs of customers and to find innovative ways of responding to them.

The office workload overall was similar to previous years, though the number of reviews completed in 2009/10 was somewhat lower than in 2008/9. The main reason for this was that several of the complaints reviewed this year were particularly complex, with one requiring detailed analysis of Land Registry files going back 20 years. I should like to thank the ICR staff for their continuing hard work and real commitment to understanding and resolving the concerns raised by complainants.

As I have already mentioned 2009/10 has been a year of uncertainty and change for Land Registry. During the second half of 2009 it conducted a public consultation on the need to respond to recent workload changes and expected future trends by reducing staff numbers, closing a number of local offices and also selling its head office in London.

The ICR office made a formal response to the consultation, looking particularly at the potential impact of the proposals from a customer point of view. We highlighted the importance of maintaining customer service standards during the planned changes and expressed the hope that Land Registry would take the opportunity of this major reorganisation to explore new ways of communicating with customers, especially about the limits of its role, and about the technical complexities of land registration. Land Registry received our views very positively, and I have since

had the opportunity to meet members of the Accelerated Transformation Programme team to expand on some of the points made in our formal response.

At the end of 2009 Land Registry Chief Executive Peter Collis announced his retirement. Others have written more authoritatively than I can on his contribution to Land Registry. I would, however, like to pay special tribute to his unflinching support for the work of the ICR office and recognition of its value both to complainants and to Land Registry. He promoted a relationship between Land Registry and the ICR that was cordial and constructive but in which the ICR's independence was never compromised. At the end of the financial year there was a further important retirement, Land Registry's Director of Legal Services, Joe Timothy. I know that he was held in huge respect within Land Registry as the ultimate authority on all the intricacies of the law relating to land registration. As ICR I appreciated his close interest in the work of my office and his respect for the principles of independent complaint review.

Looking forward, the decisions on Land Registry's Accelerated Transformation Programme have now been announced, and work is under way to create a leaner organisation and also to develop a new customer strategy. A new Chief Executive, Marco Pierleoni, has been appointed. The ICR office is committed to continuing to provide a complaint review service that commands the confidence of Land Registry and of the public for its accessibility, professionalism, and impartiality.

Elizabeth A Derrington

July 2010

The ICR office and service

Our mission

To seek a fair resolution of complaints.

Our purpose

To provide a free, effective and impartial complaints review and resolution service that settles complaints in a proportionate manner and makes a positive difference for future Land Registry customers.

People can expect from the ICR team:

- courtesy
- honesty
- respect
- objectivity
- plain language.

The principles of good complaint handling

The ICR is an associate corporate member of the British and Irish Ombudsman Association (BIOA) and BIOA's principles of good complaint handling underpin the process the ICR carries out when reviewing a complaint. They are:

- clarity of purpose: each review includes a clear statement of its purpose, intent and scope
- accessibility: the service is free, open and available to all who need it
- flexibility: procedures are responsive to the needs of individuals
- openness and transparency: we provide public information that demystifies our service

- proportionality: the process and resolution are appropriate to the complaint
- efficiency: the service strives to meet challenging standards of good administration
- quality outcomes: complaint resolution leads to positive change.

Our office

The ICR office was opened in February 1998 and has been reviewing complaints about Land Registry since that time. A team of staff seconded to the office, on a short-term basis, from Land Registry supports the ICR. These staff bring to the ICR office the benefit of their knowledge of Land Registry practice and procedure and the legislation under which Land Registry operates. Their independence of approach is assured by initial training in the ICR methodology, and the fact that, during their period of secondment, they are responsible directly to the ICR rather than to Land Registry management.

Our remit

Anyone who has made a complaint to Land Registry and is dissatisfied with the outcome can ask the ICR to review the matter. However, the ICR cannot review or overturn Land Registry's legal decisions, or investigate issues that are subject to proceedings before the Adjudicator to HM Land Registry or a court. In addition, the ICR will not generally be able to accept a referral made more than six months after the date of the final complaint response from Land Registry.

Initial enquiries

Before a complaint is accepted for review, a

preliminary investigation is carried out to determine whether or not the complaint is one that falls within the ICR's remit. This may involve discussion with the complainant to find out more about their continuing areas of dissatisfaction, and to gain an understanding of the outcome the complainant is hoping to achieve. It may also be necessary to make enquiries of Land Registry in order to clarify that its internal complaints procedure has been fully completed. If the complaint is not one that the ICR can consider, we will offer advice to the complainant on options for pursuing the matter.

Resolution

Where complainants have a clear idea of the outcome they are seeking, the ICR may be able to facilitate an agreement with Land Registry without the need for a full review. However, resolution of this type is only suitable in some cases and it has not been possible to achieve any this year.

Full review

Where there is a full review, a summary of the issues is sent out to the complainant for agreement. This is to make sure there is a clear, shared understanding at the outset of the areas to be addressed. A copy of the summary is sent to Land Registry for comment, and at the same time the original files are requested. All the available information is analysed in detail and the ICR considers whether the concerns that have been raised are justified.

The outcome of the review is a report to the complainant, copied to Land Registry, giving the

ICR's conclusions and any recommendations. The aim of a report is to set out, in as clear and simple a way as possible, the ICR's opinion on the way in which matters have been handled by Land Registry, and to provide redress in appropriate cases.

Redress

The ICR has three main forms of redress at her disposal and these are:

- that Land Registry should issue an apology
- that Land Registry should make a consolatory payment (maximum £5,000) in recognition of distress and inconvenience experienced as a result of shortcomings in the service provided by Land Registry
- that Land Registry should consider making changes to its practice and procedure.

In deciding when to consider making a consolatory payment the ICR has regard to the ICR *Financial Redress Policy*. They are fixed according to the seriousness of any service failures identified, as well as the particular circumstances of the individual complainant.

Confidentiality

The ICR recognises that many of the complaints that she is asked to review contain issues of a personal or sensitive nature and it is important that complainants feel comfortable in revealing details of their complaint during the course of a review. We will not discuss individual cases with the media or any other third party. If Land Registry receives a request under the Freedom of Information Act for

disclosure of an ICR report it will consult the ICR before making a decision on how to respond.

Facts and figures

Caseload

The number of complaints referred to the ICR continued at a very similar level to the previous year – 64 in 2009/10 compared with 65 in 2008/9. The number of full reviews completed was lower, 24 as against 30 in 2008/9. It is fair to say, however, that this year's cases included two particularly complex complaints, and also that the number of staff working on investigations was smaller. The 24 reviews were completed within an average of just over 24 weeks (the advertised timescale is 26 weeks).

Of the cases that did not proceed to full review 65 per cent (21) were referred back to Land Registry, as its internal complaints procedure had not been exhausted. It is anticipated that the introduction of Land Registry's revamped complaints procedure should help to significantly reduce the issue of complaints being referred to the ICR office prematurely. The other main reasons for declining to accept cases for review were either that they did not fall within the ICR's remit or that it was not possible for the ICR to achieve the outcome the complainant had asked for.

Complaint issues

The tables below give a breakdown of the individual complaint issues considered, by outcome and subject matter.

Year	Complaint issues	Fully/partially upheld	Not upheld	Resolved
2008/9	139	42 (30.2%)	95 (68.4%)	2 (1.4%)
2009/10	79	34 (43%)	45 (57%)	0 (0%)

As can be seen from the figures, the number of complaint issues fell significantly. The proportion of complaint issues upheld, on the other hand, increased. Both of these changes appear to reflect ongoing work by ICR staff to achieve greater clarity when agreeing with our customers which complaint issues we are able to consider and how we can have the most positive impact on the matters that have been raised with us.

We were slightly disappointed not to succeed in resolving any complaints by negotiation during the year. However, resolution can only be achieved where there is a simple answer to a problem that has not been recognised or offered during the internal complaints process. In an organisation with a well-established complaints procedure such situations are bound to be fairly rare.

Issues reviewed by category	2008/9	2009/10
Advice	2	2
Bias	5	4
Communication	23	17
Complaints handling	6	1
Cost	4	3
Delay	7	7
Discourtesy	6	1
Mistakes	1	0
Other	3	0
Practice and procedure	75	39
Register errors	6	2
Responsiveness	1	3
Total number of issues reviewed	139	79

Recommendations

During the year the ICR made a total of 35 recommendations either for individual redress or for Land Registry to consider making changes either to its procedures or to the information it publishes, to reduce the risks of similar complaints arising in the future. The table below shows a breakdown of the proportions of recommendations falling into these main categories.

The ICR recommended consolatory payments in 10 cases and the total sum awarded was £9,150. The minimum awarded was £150 and the maximum was £3,000. As already mentioned, the levels of awards were fixed by reference to the ICR's Financial Redress Policy.

Recommendation type	Proportion
Apology	37%
Consolatory payment	28.5%
Review procedures/guidance	8.5%
Remind staff of existing procedures/guidance	6%
Review/improve public information	3%
Other	17%

Land Registry has responded positively to all recommendations, and the implementation of recommendations has been monitored by ICREST.

Feedback

We welcome comments about our service and we issue a feedback form with every case. We recognised that our return rate was disappointing for 2008/09 (23 per cent) and in March 2009 we redesigned the feedback form with the aim of boosting responses. The form was shortened from six pages to two and a wider range of options was provided for customers to tell us what they thought about our service.

We have issued five 'new' feedback forms so far this year (2009/10) and the response rate so far has been 60 per cent. These initial results are very encouraging, and we shall be keen to see whether they are maintained during 2010/11. In addition we plan to contact a sample of customers who have not returned their feedback forms to see if there is anything further we can do to improve the proportion who respond.

The feedback we have received indicates that even when our customers are dissatisfied with the outcome of their complaints they are still positive about the service provided by the ICR office.

Financial information

As already explained, the ICR office is managerially independent but Land Registry provides its staff and other resources.

The following table gives details of expenditure for 2009/10, which shows a decrease in the overall running costs of the office. This can be attributed to staff changes within the ICR office and also our commitment to efficiency savings.

ICR running costs	2008/9	2009/10
Staff costs	£224,497	£204,133
Administrative expenditure	£87,997	£33,473
Total	£312,494	£237,606

Contributions of £27,746 were received from other organisations for which the ICR office provides a service.

ICR casebook

This section of my report looks back at the complaints I have reviewed in the last 12 months, identifies some of the main messages and highlights positive action that Land Registry has taken in response to my recommendations. As I mentioned in my introduction I have decided to focus this year on issues of accessibility and fairness.

One of the basic things that Land Registry customers are entitled to expect is an accessible service. This means not only that they can contact Land Registry easily, but also that they can get prompt and clear answers to their questions about land registration matters. Customers' questions often raise difficult points about the law or about maps and plans, so Land Registry faces real challenges in making its answers easy to understand. I have no easy solution to suggest, but I do know from the cases I have investigated that lack of effective communication can increase the distress that people feel as they try to sort out a problem.

It is also crucial for customers that they should feel confident that they have been treated fairly. I know that Land Registry is committed to dealing with land registration issues in a fair and impartial way and that staff take this commitment very seriously. As in previous years, however, I have seen cases in which customers have, understandably, felt unfairly treated. These serve as a recurrent reminder that Land Registry must not only act fairly, it must also be seen to do so.

Accessibility

As I have said, land registration is a complex business, and it is not easy to explain it in simple terms. In several of the cases I reviewed this year, I found that, although Land Registry had taken the complainants' concerns seriously and made real efforts to respond, the answers given had been in such technical language that they had been almost impossible for a lay person to understand.

In some cases there was an additional problem that the specific technical terms used to describe amendments to the register ('alteration' and 'rectification') had been used by Land Registry in different ways at different times. A key difference between the two terms is that 'rectification' of the register can lead to payment of an 'indemnity' to the person affected, whereas 'alteration' of the register cannot.

Where Land Registry failed to provide clear answers on technical points, I found that the customers concerned were left confused and dissatisfied and, in some instances, convinced that Land Registry was guilty of a deliberate 'cover up' or 'shifting the goalposts'.

The problems of explaining legal concepts and detailed plans

Mr A was the owner of land at the seaside and complained that Land Registry had failed to explain its reasons for excluding an area of tidal riverbank from his title. The situation was legally complex, with a number of interrelated issues, and I found that

Land Registry had made real efforts to respond to Mr A's concerns. However I concluded that Land Registry should have done more to ensure that its responses addressed some specific questions Mr A had asked about the law regarding river banks, and the situation where extra land is created as a result of natural changes or human activity. I recognised that it would not be easy to give clear answers on these complex issues. At the same time, it was clear that Mr A had not so far been convinced by Land Registry's justification of its decision, and that he was not likely to be convinced until he had received direct answers to all his questions. I recommended that Land Registry should provide further explanation of its point of view, including direct answers to the points Mr A had raised.

Mr B contacted Land Registry to point out an error in his title plan. Land Registry accepted that there was an error and was keen to correct it. Unfortunately the proposed correction involved removing from the title a strip of land which Mr B believed that he owned. After considerable correspondence, Mr B remained seriously dissatisfied with the situation and with the reasons Land Registry had given for removing land from his title, and asked me to review the matter. I found that Land Registry had made genuine efforts to sort the problem out by arranging for the mapping of the area to be checked and updated, and also by inviting Mr B to mark on the Ordnance Survey map the boundaries as he believed them to be. I also found, however, that when Mr B continued to question Land Registry's proposed solution to the problem, he did not receive clear direct answers. I felt that Mr B's questions had been reasonable, and that Land Registry should have attempted to

answer each of his points directly. I recommended a consolatory payment to Mr B. I also asked that Land Registry should consider, in the light of my report, what further action it could take to help Mr B understand the reasons for the amendment to the title plan, and to outline possible options for resolving the situation.

In Mr C's case mistakes had been made when his house and his neighbour's had been sold by the local authority, some 20 years ago. As a result, the same outbuilding had been included with both properties. This had not been spotted by Land Registry staff when the properties were registered. In spite of objections from Mr C, Land Registry granted an application by his neighbours and removed the outbuilding from his title. When he referred the complaint to me, Mr C complained specifically that Land Registry had failed to provide proper explanations of its decision to change his title, or of the legal situation regarding his boundary. After investigating, I was satisfied that Land Registry had made real efforts to understand Mr C's point of view and to explain its decision to amend Mr C's title. I also found that Land Registry had been open in admitting that that it should have noticed the problem with the outbuilding when it registered the properties. It had apologised for this error, and also offered to reimburse Mr C's costs. With regard to Mr C's boundary, however, I found that Land Registry's explanations were in technical legal language and very difficult for a lay person to understand. I partially upheld his complaint on this point, and recommended that Land Registry should apologise for the extra distress caused by the failure of communication.

The difference between 'alteration' and 'rectification'

Land Registry has power to amend the register to correct mistakes or to bring it up to date. It also has power, in some situations, to make indemnity payments to cover losses caused by amendments to the register. The type of amendment which can lead to an indemnity payment is described by the legal term 'rectification'. Other amendments are legally known as 'alterations'. The law relating to 'rectification' and indemnity payments is complex, and difficult to explain in ordinary language. Nonetheless it is important that when Land Registry amends the register, it also makes clear to customers whether or not they may be eligible for an indemnity payment.

The complaint I received from Mr D included three issues that centred on Land Registry's use of the words 'rectification', 'alteration' and 'correction'. Land Registry accepted that the registration of a property belonging to Mr D's sister had included some errors, and that the register needed to be amended. When Mr D requested compensation or 'indemnity', Land Registry refused, saying that statutory indemnity payments could only be made when there had been 'rectification' of the register. In this case, Land Registry said, there had been 'alteration' rather than 'rectification' so he could not claim an indemnity payment. Mr D argued that Land Registry had consistently used the word 'rectification' up to the point when he made an application for indemnity; only then did Land Registry start describing the amendment as an 'alteration'. I found that Mr D had received confusing and inconsistent information from Land

Registry about the arrangements for rectification and indemnity. As a result, in spite of protracted correspondence, he had been left unclear about the reasons for Land Registry's decision about an indemnity payment. I recommended that Land Registry should provide a clear statement of its position to Mr D. I also asked Land Registry to consider whether there was scope to improve the clarity of the information it provides for customers on rectification and indemnity.

In another case, Mr E objected to a registration application made by his neighbour. After receiving assurances from Land Registry that his land would not be affected, Mr E withdrew his objection and the application was granted. Some time later Mr E wrote to Land Registry to say that he was in dispute with his neighbour about the boundary between their properties. At that point Land Registry realised that the assurances previously given had been mistaken. It apologised, and suggested that Mr E should make an application for 'rectification' of his neighbour's title. His neighbour objected to the application and the matter was referred to the Adjudicator for HM Land Registry for a judicial decision. The Adjudicator found in Mr E's favour, and also awarded some of his costs. When Mr E's solicitors wrote to Land Registry asking for an indemnity payment to cover the remainder of Mr E's costs, Land Registry responded that Mr E's application had been for 'alteration' rather than 'rectification' and that no indemnity was payable. Mr E complained (among other things) that Land Registry had specifically advised him to apply for 'rectification' and had only changed the terminology when he applied for an indemnity payment. I upheld Mr E's complaint and recommended that Land

Registry should give further consideration to the justice of the situation as a whole and how to reflect this in financial terms.

Being seen to be fair

A number of complaints I investigated during the year raised issues regarding the fairness and openness with which Land Registry had handled applications. The great benefit of an independent review in these situations is that it looks at the whole issue from an external viewpoint. I can reassure Land Registry customers and staff that I found no examples of deliberate unfairness. In some cases, however, I concluded that Land Registry could have done more to demonstrate to the customer that it was being fair.

The concerns about fairness that I have investigated fall into two broad groups: one group where complainants have been aggrieved because Land Registry had dealt with an application by a neighbour without informing them, depriving them of any opportunity to object; and a second group where complainants have felt that Land Registry has been actively biased in its handling of an application.

The importance of notice

Land Registry has procedures for informing individuals who may be affected by a land registration decision (for example to grant title by 'adverse possession' or 'squatter's rights' to a piece of land) and giving them the opportunity to object before the application is granted. Where arguable objections are put forward, they must be 'disposed

of' before the application can proceed. This means that, unless the objection is withdrawn, or some agreement can be reached, the matter will be referred to the Adjudicator for HM Land Registry for a judicial decision.

Land Registry has quite wide discretion as to whether it should serve notices in individual cases. I am not able to comment on whether it has taken the right decision in a particular case, but I can consider whether it has given the matter appropriate consideration. A number of the complaints referred to me during 2009/10 included allegations that Land Registry had acted unfairly by failing to inform the complainant of an application before granting it.

Mr F, the owner of a riverside public house, complained that Land Registry had failed to serve notice on him of the local council's application to register part of a pier adjacent to his public house. When Mr F complained, Land Registry accepted that it had not given full consideration to all the available information about who might have an interest in the pier, and that, if it had done so, it was likely that it would have served notice of the council's application on Mr F. After reviewing the case, I found that, as a result of Land Registry's failure to notify Mr F of the application, he had lost the opportunity to object, and that it was entirely understandable that he should have felt that he had been unfairly treated. I was not able to say what the outcome would have been if Mr F had been able to challenge the council's application, but I felt that he should have had the chance to put forward his claim to the pier. I upheld his complaint, and recommended that Land Registry should formally

apologise. Land Registry had already made a consolatory payment and, in view of the uncertainty about whether Mr F's claim would have had any real prospect of success, I decided against proposing a further financial award.

A significant proportion of the complaints I investigate relate to Land Registry's handling of 'adverse possession' applications. One of these was the case of Mrs G, who was concerned that Land Registry had granted Mr Y title to a large section of a beach on the basis of adverse possession (or squatter's rights). Although the issues did not directly affect Mrs G (she no longer lived in the area) she was concerned that local people would be excluded from an area that they had previously used freely. She argued specifically that Land Registry should have notified an adjoining owner, Mr Z, who, Mrs G believed, might have wished to claim title to the land in question. I was satisfied that Land Registry had gone through the required procedures and had specifically considered whether it would be appropriate to notify Mr Z of the application. In the circumstances I did not uphold Mrs G's complaint. I commented, however, that there might have been benefits in serving notice, as this would have enabled arguments to be raised and resolved before Land Registry made a decision on the matter, reducing the risk of later complaints of unfairness.

Avoiding the appearance of bias

Applications relating to land can be extremely contentious and it is vital to public confidence in Land Registry that it should be recognised as acting totally impartially, without favouring either side in a

dispute. I know that Land Registry makes every effort to ensure an even-handed approach, and I have not found any cases of actual bias. This is an area, however, where perceptions are particularly important, and it is crucial that Land Registry's procedures and guidance help staff to handle even the most sensitive cases with confidence, and with impartiality that is clear for all to see.

In the case of Mr H the allegation was that Land Registry 'took sides' when it dealt with an application to cancel a note on the register regarding a lease, and did not extend its timescales to take into account ongoing court proceedings. Mr H felt that Land Registry had been biased against him, and had taken sides with the large company that had made the application. When I reviewed the case I concentrated on looking at whether or not Land Registry had adopted a fair and balanced approach. I was satisfied that Land Registry had gone to great lengths to be fair to Mr H. I also found, however, that there appeared to have been a lack of confidence in the decision making process. Land Registry had been slow to reach a final decision and had changed its opinion on several occasions. It was not surprising that this caused Mr H to wonder what was going on. Although I did not uphold the complaint, I suggested that it might help to reassure customers if it gave greater prominence in its customer information to its commitment to impartiality and even-handedness.

Mr J complained that Land Registry had shown bias in favour of his neighbours when dealing with their application to correct a mistake on the register. He said he felt that Land Registry had been 'employed

or engaged' to act on behalf of his neighbours and he was aggrieved, in particular, that he had not been informed before a survey was carried out. With regard to the survey, I found that Land Registry had followed the procedure current at the time, which did not require both parties to be informed when a survey was arranged. I commented, however, that it was easy to see how this procedure could create an impression of bias. I welcomed the fact that Land Registry guidance had changed and now requires staff to ensure that all parties are aware of a proposed survey. As far as general bias was concerned, I did not uphold Mr J's complaint. I commented, however, that not all of Land Registry's communications had been as carefully worded and judged as they might have been. I emphasised that it is important in such cases for staff to make clear to customers that they will keep an open mind, and not make a final decision, until they have considered the arguments on both sides.

I mentioned in my annual report for 2009 that I had received a number of complaints from customers who felt that Land Registry had been biased in favour of applications by members of its own staff. This year I investigated a case that raised the opposite concern. Ms K, a former member of Land Registry staff, argued that Land Registry unfairly allowed an application by her neighbour to be referred to the Adjudicator for determination, when it should have told her neighbour that his application had no prospect of success. Ms K felt that Land Registry treated her unfairly because it was worried about being accused of bias in her favour. While I have found no evidence of actual bias, I concluded that Land Registry could have handled matters

better in a number of respects. There had been considerable uncertainty and delay in dealing with matter. As in Mr H's case, this led the customer to question the fairness of the process. It was also of concern that Land Registry acknowledged that there is no clear benchmark to help staff decide how proactive to be in identifying weaknesses in an application, and that this leads to inconsistency of approach in different offices. Following Ms K's complaint Land Registry took a more active role, facilitating a settlement of the dispute and reimbursing the costs both of Ms K and her neighbours. I took into account the steps already taken by Land Registry to resolve the problem. I also recognised that, following my recommendations in 2008/9, Land Registry had drawn up new procedures for cases involving staff and former staff. These should reduce the risk of similar problems occurring in future. I recommended a formal apology by Land Registry to Ms K.



Independent Complaints Reviewer

Independent Complaints Reviewer

2nd Floor, New Premier House,
150 Southampton Row, London WC1B 5AL

T 020 7278 6251F 020 7278 9675

enquiries@icr.gsi.gov.uk

www.icrev.org.uk