

Independent
Complaints Reviewer
to Land Registry

Summary of
Annual Report

03-04

Who is the ICR?



Jodi Berg is the ICR for Land Registry, The National Archives, the Charity Commission and the Housing Corporation. She is also Independent Case Examiner for the Child Support Agency and the Northern Ireland Social Security Agency. Mrs Berg is a solicitor and a Fellow of the Chartered Institute of Arbitrators. The ICR is not a civil servant, an employee of Land Registry or any other public body.

What is the ICR service?

The ICR service was established in 1998 to review complaints made by people dissatisfied with Land Registry's response to their concerns. The service is managerially independent of Land Registry and it has separate offices in Southampton Row in central London. The service is free to complainants.

Jodi Berg says...

"I am pleased to present my annual report as ICR for Land Registry following a year that saw momentous change for the Agency and for users of the Registry's services.

The Land Registration Act 2002 came into force in October 2003, replacing long-established legislation and practice. It introduced a raft of fundamental changes to

the way in which land registration and land information services are delivered in England and Wales. Managing this degree of change was a huge undertaking of the kind that has led other public bodies to experience serious problems and attract criticism.

I reported last year that I considered Land Registry was well placed to meet the challenges ahead and I am pleased to say that this expectation has been borne out by events. Although the change process is still very much under way, early indications are that staff have taken the new systems and procedures in their stride. Importantly, feedback that Land Registry has received from practitioners has been almost wholly positive and this is also my experience. It is a tribute to the care and detail of Land Registry's preparation that things have gone as well as they have.

I am pleased to report again that referrals to my office remain low. In general, complaints are resolved internally so that people do not need to go the extra step to have matters resolved. Where they did so, I found that only a small number of complaints were justified and, even when this was the case, in many instances the Registry had done everything possible to sort things out. As a consequence, few complaints were upheld.

My report describes the ICR service and the work that we did last year. It also contains examples of complaints that I reviewed. I hope that you find it interesting and informative."

Reviews and Recommendations

Complaints represent key opportunities to learn lessons about service. This can be the case even when a complaint is found to be unjustified. The fact that Land Registry provides a very good service to its customers is evidenced by the very low number of complaints that were fully or partially upheld in the reporting year. Nevertheless, the Agency can benefit from the independent consideration of issues highlighted by the complaints that are referred to us. All of these cases have defied internal resolution. Even where complaints are not found to be justified, they are a crucial sample of the kind of Registry cases that challenge internal processes and staff. The following anonymised case summary describes one complaint we reviewed last year.

Right to be notified

Mr and Mrs I attempted to register a caution against first registration in respect of land that they believed was going to be the subject of an adverse possession application by their neighbour. Land Registry rejected this application on the grounds that no cautionable interest had been shown. A few months later, the neighbour successfully registered a possessory title. Mr and Mrs I were not notified of this.

Mr and Mrs I complained that their caution against first registration had been rejected in error. The ICR found that subsequent reviews by Land Registry lawyers concluded that their application should have been approved, although the Agency also said that this failure had not necessarily prejudiced Mr and Mrs I, as any rights that they might have had over the land were not extinguished by their failure to get a caution registered. The ICR considered that the Registry's response failed to address the fact that a caution would have provided an acknowledgement of Mr and Mrs I's claim to an interest, before any consideration of the registration of ownership. People in this situation will often feel that they have been placed at a disadvantage in negotiation with an established registered proprietor as opposed to someone who is in the process of seeking the Registry's approval of their claimed title. The ICR accepted that the Registry's decision had the practical effect of placing Mr and Mrs I in a less favourable position. The ICR upheld this aspect of Mr and Mrs I's complaint and recommended a consolatory payment of £150.

The ICR also found that Mr and Mrs I should have been notified of the neighbour's application. She noted that they were adjoining owners who had been in previous contact with the Registry regarding the land in question. Although their caution against first registration had been refused, the contact between Mr and Mrs I and the Registry was specifically aimed at alerting the Registry to their interest in any future application. The ICR also took account of the fact that, in breach of its usual practice, the Registry had not recorded the attempt to register the caution on its index map. Had it done so, it would have drawn the Agency's attention to Mr and Mrs I's interest. In addition, by the Registry's own admission the caution should have been approved for registration. It was unreasonable to then argue that notice was unnecessary.

The ICR was also critical of Land Registry for referring Mr and Mrs I's complaints back to the officer who had provided responses that they had complained about. This happened on more than one occasion.

The complaint was upheld.

- ◆ **The fact that one side to a dispute has successfully applied for registration can have a significant effect on the 'balance of power' between the parties, even if the fact of registration may not be determinative of the issue in dispute. Land Registry needs to bear this in mind when representing to the parties that registration has not actually changed anything**
- ◆ **Land Registry may be under a greater responsibility than it sometimes acknowledges to notify interested parties of applications. There may be cases where it needs to consider notifying more widely than just those who have successfully entered some form of entry on the register**
- ◆ **It is a fundamental principle of good complaints handling that officers who have been complained about should not be asked to respond to those complaints**

Referrals and recorded complaints

We received 36 complaints in 2003-2004, a significant reduction on the level of referrals in recent years. We received 54 complaints in 2002-2003.

Although we received fewer referrals in 2003-2004, we conducted almost exactly the same number of reviews as last year (20 this year as opposed to 22 in 2002-2003). In addition, the complaints that we reviewed contained almost exactly the same number of separate allegations. The ICR upheld fewer complaints in 2003-2004.

Year	2002-2003	2003-2004
Allegations	86	85
Fully/partially upheld	19 (22%)	15 (18%)
Not upheld	67 (78%)	70 (82%)

Our performance

The average time taken to complete our reviews in 2003-2004 was 24 weeks from the date of agreement of the summary, which is an improvement on last year when the average was 26 weeks. It is also well within our overall target of 36 weeks. However, several reviews took much longer than this, and we will continue to try to reduce the time taken to deal with more complex or difficult cases.

General comments and emerging issues

Once again this year, the ICR has had cause to commend Land Registry for the quality of its complaints procedures and for its positive response to recommendations. There are few public bodies which can claim the sophistication and effectiveness of the Registry's systems in this regard and this is to be applauded.

During the year, we have sought to identify areas or matters that may give rise to customer service issues or result in future complaints, and these are identified in this report. These take into account the changes brought about to practice by the appointment of Land Registry's Independent Adjudicator, the introduction of new rules and procedures, and the move towards e-conveyancing and complete registration.

The Chief Land Registrar says . . .

"I am pleased to welcome Jodi Berg's Annual Report for 2003-04.

As Jodi rightly says, 2003-04 was a year of momentous change for Land Registry and its customers. Land Registry staff, conveyancers, and other property professionals all had to get to grips with the Land Registration Act 2002, which came into force on 13 October 2003. Given the extent of the changes brought about by the new Act, we were delighted that its implementation seemed to go so smoothly. Whilst there have been some teething troubles, and there are some lessons to be learned, we could not realistically have expected implementation to be any better.

But, exciting and momentous as all this change was, we were determined that we would not take our

eyes off the ball as regards our day-to-day services to our customers. It would, perhaps, have been understandable – but entirely wrong – to make implementation of the Act an excuse for letting our service standards slip. In my view, our greatest achievement of 2003-04 was that, at the very time that we were implementing the Act, we were also dealing with more work, faster and more accurately, than at any time in our history.

However good our overall performance, though, it is of little comfort to the individual who feels that they have not had the service from us which they were entitled to. That is why the role of the ICR is so important: it enables the dissatisfied customer to put their complaint to someone who will investigate it impartially and without fear or favour. Further, it enables us, as an organisation, to improve the way we do things by studying those cases where we did not do as well as we should have.

As ever, my colleagues and I are grateful for the dedicated and professional work of Jodi Berg and her team, and we welcome her report."

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