

equitable manner in relation to the service of notice.

**The complaint was partially upheld.**

- ◆ **It is important to deal with neighbouring property owners equally and fairly when deciding whether to serve notice and to whom. It is also necessary to retain evidence on file of how this decision was reached. Failure to do this may mean that the Registry will have difficulty seeking to argue later on that it exercised proper discretion in a reasoned way.**
- ◆ **Land Registry should be cautious about acting upon information received from people on site as to the potential interest of owners of other properties. This is the case even if properties are currently unoccupied.**

## Year Overview

In her annual report, the ICR reviews the year, identifying a number of issues that have been raised with her and some that she has observed in her contacts with Land Registry and its customers. These include comments on the Registry's drive to complete the register, its overall approach to its work and data integrity.

Independent Complaints Reviewer  
New Premier House  
150 Southampton Row  
London WC1B 5AL

DX35744 Bloomsbury

Telephone: 020 7278 6251  
Fax: 020 7278 9675  
E-mail: [enquiries@icr.gsi.gov.uk](mailto:enquiries@icr.gsi.gov.uk)

Website: [www.icrev.demon.co.uk/icrbook.htm](http://www.icrev.demon.co.uk/icrbook.htm)

## The Chief Land Registrar says...

I am, as ever, delighted to welcome the Annual Report from Land Registry's Independent Complaints Reviewer, Mrs Jodi Berg.

It's very pleasing for me, as Chief Executive, to note Jodi's extremely positive remarks about Land Registry's commitment to customer service, and our ability to handle change well. That we provide such a good service to our customers, and have relatively few complaints, owes much to the attitude of Land Registry staff. Customer service lies at the very heart of the job they do. We are fortunate indeed to have such people.

But we must never become complacent. The more we move forward, whether in registering land or in introducing new systems to improve conveyancing, the more important it is that we have robust processes for treating our customers fairly, in particular those who feel, for whatever reason, that we have not served them as well as we should. We must also have strong feedback mechanisms to ensure that we learn from things that did not go well, as well as from those that did.

I am utterly convinced that we could not serve our customers as we do, or go from strength to strength in the way that we have, without the services of our professional Independent Complaints Reviewer. I am indebted to Jodi Berg and her team for all that they do for us and – more importantly – for our customers.



# Independent Complaints Reviewer to Land Registry

## Summary of Annual Report 2004 – 2005



Seeking a fair resolution

## 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 Registry and the Northern Ireland Social Security Registry. Mrs Berg is a solicitor and a Fellow of the Chartered Institute of Arbitrators. The ICR is not a civil servant, an employee of the Registry or any other public body.

## What is the ICR service?

The ICR service was established for Land Registry complainants in 1998. The ICR reviews complaints made by people dissatisfied with Land Registry's response to their concerns. The service is managerially independent of the Registry and it operates from 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 Independent Complaints Reviewer for Land Registry for the year 2004-2005.

Since its establishment in 1998, the ICR office has been highly regarded by the customers of Land Registry and by its staff for the way in which we respond to complaints about the Registry's service. Land Registry's approach to independent review is mature. It provides an excellent

service to the vast majority of its customers whilst recognising that, even in the best run organisations, things can go wrong.

The complaints that I see represent a very small percentage of the large number of transactions and customer contacts that the Registry handles every year and I am pleased to report that referrals to my office in 2004-2005 remained at similarly low levels to those of recent years. This points to an overall satisfaction with the Registry's service and to the effectiveness of its internal complaint handling procedure.

Nevertheless, the complaints referred to me reflect the most difficult and controversial areas of the Registry's work and are cases that the Registry has been unable to resolve itself. They are often rooted in boundary disputes or in applications for registration of ownership of land for which there is no documentary title or where it is incomplete. There are few more distressing situations than finding oneself plunged into an argument with neighbours. Almost invariably, this has a significant effect on the enjoyment of one's home and family life and can create disharmony in the local community. It is often when people are in this vulnerable position that they turn to Land Registry for assistance. Complaints can then arise if there is a mismatch between people's perception of what the Registry can do to help and its actual legal authority."

## Referrals and recorded complaints

During the reporting year 2004-2005, we received 40 referrals, a small increase on the 36 we received in 2003-2004.

Although we received slightly more referrals in 2004-2005, we conducted 20 reviews. The complaints that we reviewed contained a significant increase in the number of separate allegations compared to last year. However, the ICR fully or partially upheld fewer complaints in 2004-2005 than in the previous year.

	2003-2004	2004-2005
<b>Allegations</b>	85	106
<b>Fully/Partially Upheld</b>	15 (18%)	16 (15%)
<b>Not Upheld</b>	70 (82%)	90 (85%)

## Our performance

The average time taken to complete our reviews in 2004-2005 was 23 weeks from the date of agreement of the summary. This is a slight improvement on the previous year when the average was 24 weeks. It is also well within our published target of 36 weeks. However, several reviews took longer than this. Whilst we will continue our efforts to reduce the time taken, we have noted a marked increase in the complexity of the cases we receive, perhaps because of the Registry's success in resolving those that are more straightforward. Many of our complaint referrals concern cases that are several years old by the time they are referred to us, and often involve several difficult legal and procedural issues. A thorough review of these cases takes a considerable time and, inevitably, this affects our speed of service.

## Casework Review

Complaints represent opportunities to learn about Land Registry's service from a customer perspective. This can be true even of complaints that are not justified, if they are a reflection of the impression that has been given to a customer or demonstrate the potential for a misunderstanding of the Registry's role and authority. The low number of complaint referrals to this office demonstrates that most people are satisfied with the service they receive from Land Registry. Nevertheless, each referral to the ICR represents a failure by the Registry to resolve a customer's concerns during its internal complaints handling process. Inevitably, they number amongst the most difficult and contentious cases for Land Registry. The following anonymised case summary describes one complaint we reviewed last year.

## Informing the neighbours

Mr C was in correspondence with Land Registry about the registration to his neighbour of a possessory title of a trackway that ran alongside a property that he had inherited from his late father. This property was not registered. Mr C maintained that the trackway had been used to gain access to the rear of his property for over sixty years and should not have been registered without his right of way being recorded on it. He considered that Land Registry should accept responsibility for this error and resolve the matter without the need for court action. He also complained that possessory title should not have been granted without notifying him as an adjoining owner with a possible interest in the land.

The ICR noted that service of notice is discretionary. In this particular case, the files showed that the Registry's survey had concluded that neighbours might have an interest in the trackway application, but Mr C's property had been excluded from consideration. This was because a neighbour had informed the Registry's surveyor that the property was unoccupied, as the owner had died.

The ICR found that service of notice should have been considered but there was no objective evidence of this, save for the brief comment on the surveyor's report. The ICR criticised Land Registry for this and found that the reason for this given to Mr C (that the Registry knew the property was unoccupied) was insufficient. The ICR commented that the fact that a property is unoccupied does not mean that the owner would not have an interest in the registration of neighbouring properties. The ICR pointed out that the fact that owners are not on site makes it all the more important for Land Registry to be vigilant in serving notice at the property. The ICR upheld Mr C's complaint and recommended an apology and a consolatory payment of £100. She also recommended that the Registry remind staff of the importance of dealing with neighbouring property owners in an