Large print
Please contact the ICR office if you require a copy of this report in large print.

Other versions
Please contact the ICR office 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
Introduction

As individuals we generally have no difficulty learning from our mistakes. We remember how embarrassed we were when we were late for an important meeting and make sure we set off earlier the next time. Organisations often have more difficulty with this. Their reaction to mistakes can be too defensive – focusing on justifying what has happened and not looking at the situation from the customer’s perspective. My role as Independent Complaints Reviewer (ICR) for HM Land Registry (HMLR) is to support it in making the most of complaints – by welcoming them and using them to make the organisation not just more customer-focused but also more effective.

The number of complaints received by the ICR office fell significantly during the year (from 142 to 105), though this may not be such good news as it appears at first sight. There are continuing problems – which I will describe later – with the operation of HMLR’s complaints process, so the fall in the number of customers contacting us could be the result of complaints being stuck in the system, rather than due to success by HMLR in resolving problems internally.

I am proud to report that the ICR office again improved the speed of completion for investigations and reports. The average is now 14 weeks. Customers are getting a much quicker result than they did five years ago when the average completion time was 22 weeks.

The number of investigations I have completed has fallen. This reflects both the lower number of referrals to my office, and also the fact that there has been an increase in the number of cases in which we have been able to help customers solve their problems without the need for a full investigation.
I made a total of 40 recommendations to HMLR during the year. Approximately 50% asked HMLR to apologise for a service failure or offer a consolatory payment in recognition of the inconvenience and distress caused. Most of the other 50% recommended action by HMLR to reduce the risk of similar failures in future – either by improving procedures or public information or by giving better guidance to staff.

As mentioned, I have ongoing concerns about the functioning of HMLR’s internal complaints procedure. In over a third of the cases investigated in depth I found that HMLR had either failed to recognise a complaint when it was made or had failed to escalate a complaint as required by the complaints process. The result was that correspondence had continued, sometimes for many months, without progress. This caused great frustration and inconvenience for the customers involved as well as being an unproductive use of HMLR resources. Also, of course, it meant that HMLR did not have the chance to benefit from the feedback offered.

Apart from highlighting in my reports the problems customers have been having with the complaints process I have also raised the issue with the Independent Complaints Reviewer Evaluation and Study Team (ICREST). I am sure ICREST will tackle the issue with the determination and persistence it has always applied when I have identified systemic problems with HMLR processes.

In summer 2016 I responded to a Government consultation on proposed amendments to the Land Registration Act and Rules. I welcomed the fact that the Government is looking at the guarantee of title that land registration gives and considering changes to the law on rectification of the register. My experience as ICR suggests that HMLR customers find both these concepts hard to understand and, as a result, often have unrealistic expectations of what HMLR can do for them. Clarification of the law coupled with better public information should improve customer understanding and confidence and help prevent complaints.

My team and I have continued to support the work of the Cross Government Complaints Forum which aims to improve the quality and consistency of complaint handling in the public sector. The forum has a keen and charismatic leader in Edward Troup, the Permanent Secretary at HM Revenue & Customs, and I very much welcome his determination to persuade all senior management teams to demonstrate they recognise the value of complaints and the importance of learning from them.

The ICR office works hard to make sure it provides a service that is accessible to everyone and staff take every opportunity to keep in touch with new ideas on inclusiveness. The whole team attended an Ombudsman Association workshop on Dealing with vulnerable customers to share thoughts on this vital subject with representatives of other complaint-handling organisations.

This report covers a pivotal year for HMLR in which it received a firm answer to the fundamental question of whether its future would be in the public or private sector and, as a result, was able to start setting long-term goals. It will shortly be publishing a strategic plan predicted to include comprehensive registration and expansion of digital services. If HMLR is to maintain and improve its levels of customer satisfaction (which historically have been enviably high) it will be important, as it embarks on its new and exciting programme, to keep in touch with and respond to the experiences and reactions of individual customers. A robust and fully-functioning complaints procedure provides an excellent way of doing this.
Finally I should like to record my sincere thanks to the members of the ICR team for their determination to provide the best possible service to everyone who contacts our office, and also to the HMLR staff who handle our requests for files and other information for their cheerful efficiency in responding.

Elizabeth Derrington,
Independent Complaints Reviewer

May 2017
The ICR service for HM Land Registry customers

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 HMLR customers.

People can expect from the ICR team:
— courtesy
— honesty
— respect
— objectivity
— plain language.

The principles of good complaint handling
The Ombudsman Association’s principles of good complaint handling underpin the process I carry 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.

The ‘FREDA’ principles of human rights fairness, respect, equality, dignity and autonomy.

Our office
It is vital to my independence that I am not part of HMLR or a civil servant. The service I provide is under the terms of a contract and service level agreement with HMLR, and I am personally responsible for all conclusions and recommendations that come from complaint reviews. I am supported by a small team of staff seconded from HMLR but directly line-managed by me. These staff bring to the office the benefit of their knowledge of HMLR’s practice and procedure and the legislation under which HMLR operates.

Our remit
Anyone who has made a complaint to HMLR and is dissatisfied with the outcome can ask me to review the matter. However, I cannot review or overturn HMLR’s legal decisions, or investigate issues that are subject to proceedings before the Property Chamber or any other court. In addition, I will not generally be able to accept a referral made more than six months after the date of the final complaint response from HMLR.

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 my 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 HMLR in order to clarify that its internal complaints procedure has been fully completed. If the complaint is not one that I can consider, we will offer advice to the complainant on options for pursuing the matter.

Full review
1 From 1 July 2013, the Land Registration Division of the Property Chamber, First-tier Tribunal, took over the functions of the Adjudicator to HM Land Registry. It is part of HM Courts and Tribunals Service and, like the Adjudicator, is entirely independent of HMLR.
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 also sent to HMLR. All the available information is then analysed in detail and I consider whether the concerns that have been raised are justified.

The outcome of the review is a report sent at the same time to the complainant and to HMLR, giving my conclusions and any recommendations. The aim of a report is to set out, in as clear and straightforward a manner as possible, my opinion on the way in which matters have been handled by HMLR, and to provide redress in appropriate cases. Both the complainant and HMLR have the opportunity to comment on a draft before the report is finalised.

**Redress**

I have three main forms of redress at my disposal and these are:

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- that HMLR should take specific action to help put things right for the customer – for example by apologising or providing extra information or explanation

- that HMLR should make a consolatory payment (maximum £7,500) in recognition of distress and inconvenience experienced as a result of shortcomings in the service provided by HMLR

- that HMLR should consider practical changes to improve customer service and reduce the risk of similar problems in future.

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In deciding when to consider making a consolatory payment, I have regard to the ICR office’s Financial Redress Policy. The sums paid are relatively small sums to reflect the distress and inconvenience an individual may have suffered. They are fixed according to the seriousness of any service failures identified, as well as the particular circumstances of the individual complainant.
Facts and figures 2016/17

The table below gives an overview of the work of my office in 2016/17 compared with previous financial years.

<table>
<thead>
<tr>
<th></th>
<th>Complaints received</th>
<th>Complaints resolved through intervention</th>
<th>Complaints investigated</th>
<th>Investigated complaints reported on: fully or partly upheld</th>
<th>Investigated complaints reported on: not upheld</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/17</td>
<td>105</td>
<td>15</td>
<td>78</td>
<td>24</td>
<td>13</td>
</tr>
<tr>
<td>2015/16</td>
<td>142</td>
<td>6</td>
<td>59</td>
<td>29</td>
<td>16</td>
</tr>
<tr>
<td>2014/15</td>
<td>139</td>
<td>11</td>
<td>42</td>
<td>28</td>
<td>15</td>
</tr>
<tr>
<td>2013/14</td>
<td>127</td>
<td>13</td>
<td>29</td>
<td>22</td>
<td>13</td>
</tr>
</tbody>
</table>

As can be seen from the above table, most initial contacts do not lead to an investigation and fewer still proceed to a full review. The reasons for this include:
— the complainant may not have received a final response from HMLR. In these circumstances, we will refer the complaint back to HMLR to provide one
— the outcome sought by the complainant may not be one that the ICR can provide and may be achievable only by taking action in the courts
— the complainant may have referred the complaint for review after the normal six-month time limit has expired, or
— we may be able to secure an acceptable outcome for the complainant without the need for carrying out a full review (resolved through intervention).

One recent example of a complaint that did not proceed to a full review illustrates this point. Someone contacted us to complain that HMLR had released wrong property price information about his house. HMLR corrected the error on the register but said it could take over a month for companies such as Right Move to update their information. I had dealt with a similar complaint previously and had recommended that HMLR should consider whether there were further steps that it could take to ensure that urgent corrections could be made both to the data published on its own website and on third party websites. In the present case HMLR had not considered the customer’s complaint so my office referred it back to HMLR. I was pleased to see that HMLR staff acted proactively and contacted the third party website direct who updated their information immediately.

We also receive complaints that are not about HMLR. In those circumstances, my staff use their knowledge of the wider complaints resolution sector to guide the complainant to the most appropriate organisation that may be able to assist.

The following table compares the number of specific complaint issues and their outcomes with those of previous years.
Independent Complaints Reviewer (ICR) for HM Land Registry
Annual report 2016/17

<table>
<thead>
<tr>
<th>Investigated complaints reported on</th>
<th>Total issues</th>
<th>Issues upheld or partially upheld</th>
<th>Issues not upheld</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/17</td>
<td>24</td>
<td>66</td>
<td>20 (29%)</td>
</tr>
<tr>
<td>2015/16</td>
<td>29</td>
<td>68</td>
<td>20 (29%)</td>
</tr>
<tr>
<td>2014/15</td>
<td>28</td>
<td>72(^2)</td>
<td>23 (32%)</td>
</tr>
<tr>
<td>2013/14</td>
<td>22</td>
<td>55</td>
<td>18 (33%)</td>
</tr>
<tr>
<td>2012/13</td>
<td>29</td>
<td>57</td>
<td>14 (25%)</td>
</tr>
</tbody>
</table>

\(^2\) No decision was made on four complaint issues – either because there was insufficient information to make any finding or, on one occasion, because the ICR did not consider the matter within her remit but carried out a review in order to enable a referral to the Parliamentary Ombudsman.

**Recommendations**

My recommendations to HMLR are designed to provide redress to individual customers and also to help HMLR improve its systems and procedures to reduce the risk of similar complaints recurring in future. During 2016/17, I made 40 recommendations to HMLR and they fell into the categories in the table below.

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</thead>
<tbody>
<tr>
<td>Apology</td>
<td>35%</td>
<td>37%</td>
<td>36%</td>
<td>35%</td>
<td>45%</td>
</tr>
<tr>
<td>Consolatory payment</td>
<td>17%</td>
<td>20%</td>
<td>32%</td>
<td>23%</td>
<td>37%</td>
</tr>
<tr>
<td>Review procedures/guidance</td>
<td>15%</td>
<td>14%</td>
<td>14%</td>
<td>11%</td>
<td>7%</td>
</tr>
<tr>
<td>Remind staff of existing procedures/guidance</td>
<td>13%</td>
<td>9%</td>
<td>7%</td>
<td>16%</td>
<td>7%</td>
</tr>
<tr>
<td>Review/improve public information</td>
<td>5%</td>
<td>9%</td>
<td>7%</td>
<td>11%</td>
<td>4%</td>
</tr>
<tr>
<td>Other</td>
<td>15%</td>
<td>11%</td>
<td>11%</td>
<td>4%</td>
<td>0%</td>
</tr>
</tbody>
</table>
HMLR has continued to respond positively and has given serious consideration to all my recommendations – even where, in the case of recommendations for systemic improvement, it has ultimately decided that the action proposed would be impracticable. ICREST continues to facilitate and monitor the implementation of systemic recommendations. I have been impressed by ICREST’s ability to draw lessons from all aspects of my reports, even regarding issues which had not formed part of the actual complaint.

This year my recommendations have led to changes to HMLR’s customer information and changes to staff guidance, and reminders to staff of the procedures they must follow.

A useful development has been the introduction of quarterly “blogs” on the HMLR intranet in which a member of the ICREST team writes an account of the previous meeting and highlights for the benefit of the staff the key learning points from the reports that were discussed. I was also pleased to hear that ICREST are now overseeing new targets designed to ensure that HMLR responds more quickly to my recommendations – both for individual redress and for systemic change.

**Feedback from customers**

Feedback for the ICR office – as for HMLR – is fundamental to improving the quality of the service we provide. Since we launched our new website in February 2016, our service users have had the opportunity to complete an interactive form to provide online feedback although we still provide paper questionnaires to those who prefer not to use computers.

It remains the case that we rarely receive feedback through these structured routes. More commonly our service users provide comments in emails or letters responding to reports. Sometimes, even though I have not upheld a customer’s complaint, my report has helped to shed light on what has happened and why: this is reflected in some of the examples provided below.

“I understand that many hours must have been spent investigating and writing this report and I respect the findings …You have certainly cleared matters that were upsetting me on a personal level as I have had a lot of stress relating to this case and matters relating to the Land.”

“Admittedly, as a member of the public going “up against” a department of government I was daunted, especially considering the Land Registry’s responses, but I now feel that I was both justified and well supported in escalating the issue.”

“We know how very time consuming the review must have been and you have been extremely thorough and helpful within your remit.”
“Thank you for the draft investigation report, I would like to thank you and Elizabeth Derrington on how thorough the investigation you have undertaken has been. The draft investigation report and comments accurately sum up how we feel in regards to this matter and the way in which it has been handled…”

Customers dissatisfied with my conclusions can ask for a final review by the Parliamentary Ombudsman’s office. These reviews involve expert external scrutiny of the ICR office’s work. I am pleased to report that once again the Ombudsman has not upheld any complaints about either HMLR or my office.

**Our speed of service**

While we seek to provide a swift response to all enquiries, formal investigations can be extremely time-consuming. We look at all the paper and electronic files relating to a complaint; they are often large and extend over many years. We also need to allow time at each stage of the process for the complainant and for HMLR to provide comments. Our published target is to complete a formal investigation within 26 weeks from the date that I have agreed the complaint is within my remit.

The table below shows the average time (in weeks) taken to complete an investigation and, as mentioned in the introduction, I am pleased to report that the average completion time for 2016/17 has decreased still further to 14 weeks.

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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of weeks</td>
<td>14</td>
<td>17</td>
<td>19</td>
<td>20</td>
<td>22</td>
</tr>
</tbody>
</table>
Financial information
As already mentioned my office is managerially independent from HMLR.

The following table compares expenditure over the last six years and demonstrates our continuing efforts to manage our budget as effectively as possible and provide good value for money.

<table>
<thead>
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</thead>
<tbody>
<tr>
<td>Staff costs</td>
<td>£202,832</td>
<td>£199,753</td>
<td>£190,547</td>
<td>£181,857</td>
<td>£178,358</td>
</tr>
<tr>
<td>Administration$^3$</td>
<td>£199$^4$</td>
<td>£20,035</td>
<td>-£276$^5$</td>
<td>£42,556</td>
<td>£47,355</td>
</tr>
<tr>
<td>Total</td>
<td>£203,031</td>
<td>£219,788</td>
<td>£190,271</td>
<td>£224,413</td>
<td>£225,713</td>
</tr>
</tbody>
</table>

$^3$ Includes accommodation costs.
$^4$ This figure includes an adjustment to allow for an over-estimation of rent in 2015/16.
$^5$ This includes a refund of rent paid for our former office.
Case studies

A complaints process can deliver real value for customers and organisations – but only if it works properly

I have drawn attention in previous annual reports to evidence of malfunctioning in HMLR’s complaints process. I had hoped to be able to tell a more positive story this year but instead I have to say that the situation appears to have deteriorated. As mentioned earlier, I found in just over a third of cases investigated that HMLR had failed in some significant way to follow its complaints procedure. Customers have also continued to contact my office to say they were dissatisfied with HMLR’s service but were not clear about how to take matters further. In each case my staff helped the customer by liaising with HMLR – either to resolve the matter or to let the customer know the next steps.

I recognise it is not always easy to tell whether an HMLR customer is dissatisfied with HMLR’s administrative handling of matters, which I can investigate, or with HMLR’s legal decision, which I cannot. However HMLR has similar processes for responding to both types of dissatisfaction and in each case the final response comes from a senior manager. This response should explain the options for further action – to go to court to challenge a legal decision or to ask the ICR to investigate administrative and service issues.

I appreciate also that it can be difficult for HMLR staff to identify a specific point at which correspondence shifts from being a request for information to being an expression of dissatisfaction. In some cases, however, I found that correspondence had continued for many months without progress and with growing irritation on the part of the customer.

I found cases of failure to identify expressions of dissatisfaction as a complaint, failure to respond in line with published timescales, failure to see things from the customer’s point of view, and failure to escalate in accordance with the complaints procedure so the customer received a final response. These findings led me to recommend that HMLR should:
— remind staff of the guidance on how to identify and respond to complaints, and that any expression of dissatisfaction should be treated as a complaint
— remind staff of the policy on timescales for complaints and keeping customers informed
— emphasise to staff the importance of looking at situations from the customer’s perspective
— ensure that all staff understand when to issue a final complaint response

Complaints can be a hugely valuable tool for improving performance and customer satisfaction. But they only work if they are recognised as a good thing and used effectively. An organisation which fails to respond constructively to customer dissatisfaction causes great frustration for the customers affected and puts the organisation’s public reputation at risk. Moreover it blunts its capacity to benefit from customer feedback and wastes resources on unnecessary correspondence.

I know that HMLR is aware of the importance and value of complaints and that it has delivered training for all staff on complaint recognition and handling. I can only say that on the basis of the evidence I have seen in the past 12 months, more work needs to be done to make sure the organisation is responding positively to customer dissatisfaction and enjoying the resulting benefits to its overall effectiveness.
Many customers turn to HM Land Registry for help it cannot give

About half of the complaints referred to me turned out, when I investigated, to stem from misunderstanding about HMLR’s role. HMLR’s legal responsibilities are wide-ranging and complex but also quite specific and in fact relatively limited. These complaints demonstrate clearly that people continue to expect far more of the organisation than it can deliver. Such unrealistic expectations can lead to disappointment and frustration for customers as well as time-consuming correspondence for all involved.

HM Land Registry cannot re-open a decision by a court of tribunal

HMLR’s task when looking at applications is mainly administrative – to consider whether they meet the legal requirements for registration. It has no power to decide disputes. This is the role of courts and tribunals. HMLR’s customers, however, do not always appreciate the different roles of HMLR and the courts and the fact that, if a court or tribunal has made an order regarding a registered property, then HMLR has a duty to comply with that order. It has no power to look again at the facts and legal questions behind the order.

Ms A had been involved in court proceedings about a property registered in her name. The outcome was that a judge ordered the property to be transferred to another person and signed the transfer documents on behalf of Ms A. Following this HMLR received an application to register the transfer and, in spite of objections from Ms A, proceeded to do so. Ms A said that she totally rejected the court’s decision and that HMLR should have considered her arguments before taking any action. HMLR’s response was that it had no option but to register the transfer as it had been ordered by a court, and that if Ms A wanted to challenge the transfer she would need to make an application to the court.

While I recognised that Ms A had hoped that HMLR would look again at her arguments before registering the transfer, I was satisfied that HMLR had acted in line with its responsibilities and had done its best to explain its actions and to make Ms A aware that if she wanted to challenge the transfer she needed to go back to Court.

HM Land Registry cannot settle boundary disputes

HMLR title plans show the position and extent of registered properties in relation to the features – roads, fences, hedges etc – that appear on Ordnance Survey maps. The plans aim to reflect accurately the position and extent of properties but make no claim to show its exact legal boundaries. The Land Registration Act specifically says that title plans show only “general” boundaries unless registered owners make a formal application to HMLR for the boundaries to be “determined”. Property owners may make an informal boundary agreement and ask HMLR to make a note of it, but this does not affect the fact their title plans show only “general” boundaries.

Mr and Mrs B reached an agreement to settle a long-standing boundary dispute with their neighbours. Although Mr and Mrs B believed their boundary had been “determined” there was no formal application to HMLR. Unfortunately the agreement broke down and Mr and Mrs B believed that their neighbours had encroached on their property. They turned to HMLR for help in enforcing what they viewed as the “determined boundary”. HMLR said it could not help and that if Mr and Mrs B could not settle the matter it would be necessary for them to take court action. When they came to me Mr and Mrs B complained that HMLR had let them down.

I concluded that as the boundary had not been “determined,” HMLR had not been in a position to comment on the position of the legal boundary, and that in the circumstances its responses had been fair and
reasonable. I confirmed that the only option for Mr and Mrs B, if they could not reach a further agreement with their neighbours, would be to go to court.

The complexities of covenants
Mr C asked HMLR to help him and his neighbours resolve a dispute with their neighbours to the rear. Mr C and his neighbours had agreed personal covenants to erect and maintain fences at the end of their gardens but now the owners of new properties built at the rear, who had themselves agreed similar covenants, were claiming ownership of the fences. Mr C argued that HMLR, when registering the new properties, should have looked at his and his neighbours’ titles to see whether there was already a covenant regarding the fences. He asked HMLR to tell the owners of the new houses that the covenants they had agreed had been a mistake, and that the fences in fact belonged to Mr C and his neighbours. HMLR responded that there was no error in the register, and that it could not therefore alter the register or help in any other way. Mr C was dissatisfied with this reply and asked me to investigate.

HMLR has a legal duty to refer in the register to restrictive covenants that affect registered land, such as a covenant not to use a house except as a residence, but is not required to mention purely personal covenants between a seller and a buyer, such as a covenant to put up a fence. I found that HMLR has, nonetheless, agreed to mention personal covenants about fencing because it is helpful to conveyancers.

I concluded that although HMLR included the fencing covenants in the registers for both sets of properties, it had done so because of its agreement with conveyancers and there had been no reason for it to check that the two sets of covenants were consistent with each other. I was concerned, however, that it is difficult to work out the significance of covenants in the register. Although I did not uphold Mr C’s complaint, I could understand why, having seen the covenants recorded in the registers for the various properties, he expected that HMLR would be able to help. I therefore asked HMLR to consider publishing guidance for customers on the different items of information that appear in the register and the significance of the most common items, including information about covenants.

The challenge of fighting property fraud
HMLR works to combat property fraud and customers can sign up to its Property Alert service to receive notification of any activity affecting their titles. But it is important for the public to recognise that HMLR’s specific role is to ensure the integrity of the register. It relies on customers to keep information up to date and on the police to carry out actual investigations.

Ms D complained to HMLR that she had been defrauded of her share of the proceeds of the sale of her late parents’ property and that HMLR had failed to prevent this. HMLR responded that it had dealt properly with the applications it had received affecting the property and that it could play no part in regulating the administration of estates. Ms D was very disappointed with HMLR’s response and asked me to investigate.

I was satisfied that HMLR had indeed fulfilled its role in accordance with relevant guidance. I could understand, however, why Ms D had expected it to take a more active role bearing in mind especially the warning against fraud printed on HMLR forms. I explained that HMLR’s focus is on deterring and preventing fraud and that once a fraud has taken place, although HMLR may be able to alter the register to correct an entry obtained by fraud, it is a matter for the Police and Crown Prosecution Service to investigate and take action against the offender(s). I recommended that HMLR should consider expanding its guidance to staff to help them (a) explain to customers that HMLR has limited powers to address allegations of fraud and (b) to provide information on how to pursue such allegations.
Shortly afterwards Mr E asked me to look into a similar issue. He had written to HMLR about a transaction in relation to family property which he believed was fraudulent. HMLR did not comment on the allegation of fraud but said its staff had acted appropriately and that if Mr E wanted the result reversed he needed to make a formal application for the register to be altered. Mr E remained under the impression that an investigation was in progress and was surprised and dismayed when he found that it was not. I recommended that HMLR, in addition to expanding its guidance for staff, should emphasise the importance of explaining, when it receives an allegation of fraud, how it is responding and what it can and cannot do.

The risks of appearing biased
Customers must be able to rely on HMLR’s impartiality, and feel confident, especially where there is a dispute, that HMLR is not favouring the other side. There is a clear Advisory Policy, and in my experience staff follow it carefully. However it can be difficult to identify in advance situations where HMLR is at risk of appearing biased.

Mr F and Ms G complained that HMLR had acted unfairly regarding the loss of a conveyance that created a right of way referred to in the register for their property. They said that HMLR had informed their neighbours of the loss but had failed to tell them, and this had left them at a disadvantage in a dispute. I found that HMLR had followed normal procedure and had recorded the loss of the document in the register. It had not informed Mr F and Ms G of the loss but HMLR’s procedure did not require this. Solicitors for the owners of the property – and with whom Mr F and Ms G were in dispute – applied to HMLR for a copy of the document. HMLR told them the document had been lost and asked for help in finding a replacement. Two years later Mr F and Ms G’s own solicitors contacted HMLR, after spotting the record of the loss in the register, and supplied a copy of the missing document.

While I was satisfied that HMLR had followed its own guidance in respect of the lost document, I could understand why Mr F and Ms G felt it was unfair that their neighbours’ solicitors had been informed of the loss whereas they had not. I recommended that HMLR should acknowledge that its current procedures for dealing with lost documents could result in customers feeling unfairly treated and should apologise for this. I suggested that it should also consider changing its procedures to improve transparency and reduce the risk of similar problems in future.

The need for care in dealing with applications for adverse possession
Cases of adverse possession or “squatters rights” are always potentially controversial as they involve a person getting a registered title to land just by occupying it for a certain period.

Ms H complained that the HMLR had granted adverse possession of land which was already registered to her, without making proper checks and without giving her the chance to object. As a result she had been obliged to make an application for alteration of the register to put matters right. HMLR accepted that it had failed to recognise that the land was registered and apologised, offered a consolatory payment in recognition of the inconvenience and distress caused, and contributed to the costs Ms H had incurred in putting matters right. Ms H came to me because she felt strongly that HMLR had not got to the bottom of what had gone wrong nor taken action to prevent similar problems in future.

I found, in addition to the mistake about whether the land was registered, that there was no record of the reasons why HMLR had decided, following a survey, to grant adverse possession. In addition it appeared it had not taken any specific steps to learn lessons from the
mistakes it had admitted. I expressed the opinion that HMLR could have done more to get to the bottom of the situation and also to avoid the risk of similar failures in future. In addition to a further apology and consolatory payment I recommended HMLR should consider issuing extra guidance to staff on dealing with claims of adverse possession.

The Land Charges Register – bankruptcy records
HMLR records in the Land Charges Register information it receives from HM Courts and Tribunals Service about bankruptcy orders. As the information it receives is generally relatively limited – a name, address and date and place of the order of bankruptcy – the register may include a number of entries in the same name. One of the enquiries conveyancers make when acting for a housebuyer is a search for the name of the seller in the Land Charges Register. If HMLR responds by providing a name from the register matching the name of the seller, the seller is asked to make a declaration that the entry does not apply.

Ms I complained that HMLR had recorded two bankruptcy orders in the Land Charges Register in a name that was the same as hers. She had been asked by the purchaser’s conveyancers, when selling her house, to confirm that neither of the names referred to her. She suggested that HMLR could avoid causing similar distress to others by making sure that a date of birth was included with each entry in the same name. One of the enquiries conveyancers make when acting for a housebuyer is a search for the name of the seller in the Land Charges Register. If HMLR responds by providing a name from the register matching the name of the seller, the seller is asked to make a declaration that the entry does not apply.

My investigation confirmed that HMLR relies on the courts for the information in the Land Charges Register and has a duty, when it receives a search application, to disclose all the entries that match the name given in the application. Although I was satisfied that HMLR had complied with its responsibilities and guidance, I also understood why Ms I had been shocked and distressed to be asked, in effect, to clear her name. I suggested that HMLR should ask the Courts and Tribunals Service to consider whether including more personal details in the information supplied to HMLR would reduce the risk of others experiencing similar distress in future.

What happens when mail is misrecorded or lost
HMLR receives thousands of items of mail every day, including many important documents. Any errors made either in recording documents received or in copying and filing them electronically can have serious results for customers. It is important that HMLR’s systems – both for logging mail and for responding if documents are lost – should be as robust as possible.

Four complaints which I reviewed in 2016/17 related to the loss or misrecording of incoming post and the impact this had on the customers concerned.

Mr and Mrs J’s solicitors applied for first registration of their property. HMLR recorded the application and gave it a provisional registration number. Some time later, HMLR wrote to the solicitors to ask for extra information, suggesting that this should be incorporated in a fresh application form. When the solicitors returned the fresh form they sent a covering letter quoting the provisional registration number. HMLR did not consider the contents of the letter on receipt and mistakenly treated the fresh form as a new application. Shortly afterwards it cancelled the original application thinking that the solicitors had not provided the extra information required. The second application was processed but this did not happen until seven months after the original application and the delay caused problems for Mr and Mrs J who were in the process of selling the property. Errors of this sort can have serious consequences for
HMLR’s customers and I recommended that HMLR should act to reduce the risk by reminding staff of the importance of reading letters attached to applications as soon as they arrive even if the applications themselves cannot be processed immediately.

Mr L’s solicitors sent two applications to HMLR at the same time but only one was recorded as having been received. The second, an application to enter in the register an agreed notice regarding an option to purchase, was overlooked until several months later. By that time another person had made an official search prior to registering a transfer of part of the land covered by the option to purchase. HMLR admitted it had been at fault and accepted that if the application had been spotted at the right time the agreed notice would in all probability have been noted in the register before the official search was made, and the subsequent transfer would have been subject to the notice. HMLR said that the error had been the result of the introduction of a new system for recording post and that it had taken steps to avoid the error being repeated. I accepted this explanation and so did not recommend any systemic action. However the case further illustrates the potential for simple recording errors by HMLR to have important implications for customers.

Ms M sent HMLR an application to cancel a “caution title”. Normally full details of applications received by HMLR are recorded automatically on receipt, but this was an unusual type of application and it was only possible to record automatically the date of receipt. The application was then forwarded to another HMLR office for the details to be recorded on HMLR’s computer system. HMLR’s published timescale for dealing with applications was five weeks, but Ms M was keen for the matter to be dealt with and enquired about progress after two weeks. HMLR staff initially could not find the application but having followed the guidelines for dealing with lost documents, succeeded in locating it two weeks later and processed it immediately. I recognised that the temporary loss of the application had been distressing for Ms M, but I was satisfied that HMLR had offered sincere apologies, and also that once it was realised that the document had gone astray staff took the recommended action and succeeded in finding it. This case should, I think, give comfort to customers that HMLR does take its responsibility for documents seriously and has robust procedures in place to respond if they are reported lost.

Mr K wrote several times to HMLR about the handling of his late father’s estate. He sent the letters by tracked post and three of them, although recorded as having been delivered to HMLR, were mislaid. I agreed with Mr K that this was alarming, especially as one of the letters had been sent specifically to meet a deadline imposed by HMLR. Fortunately in Mr K’s case it did not appear there had been any serious consequences, and as I was satisfied that HMLR had admitted its failures and had offered appropriate apologies I did not propose additional redress. I did however ask HMLR to take steps to reduce the risk of similar mistakes in future.