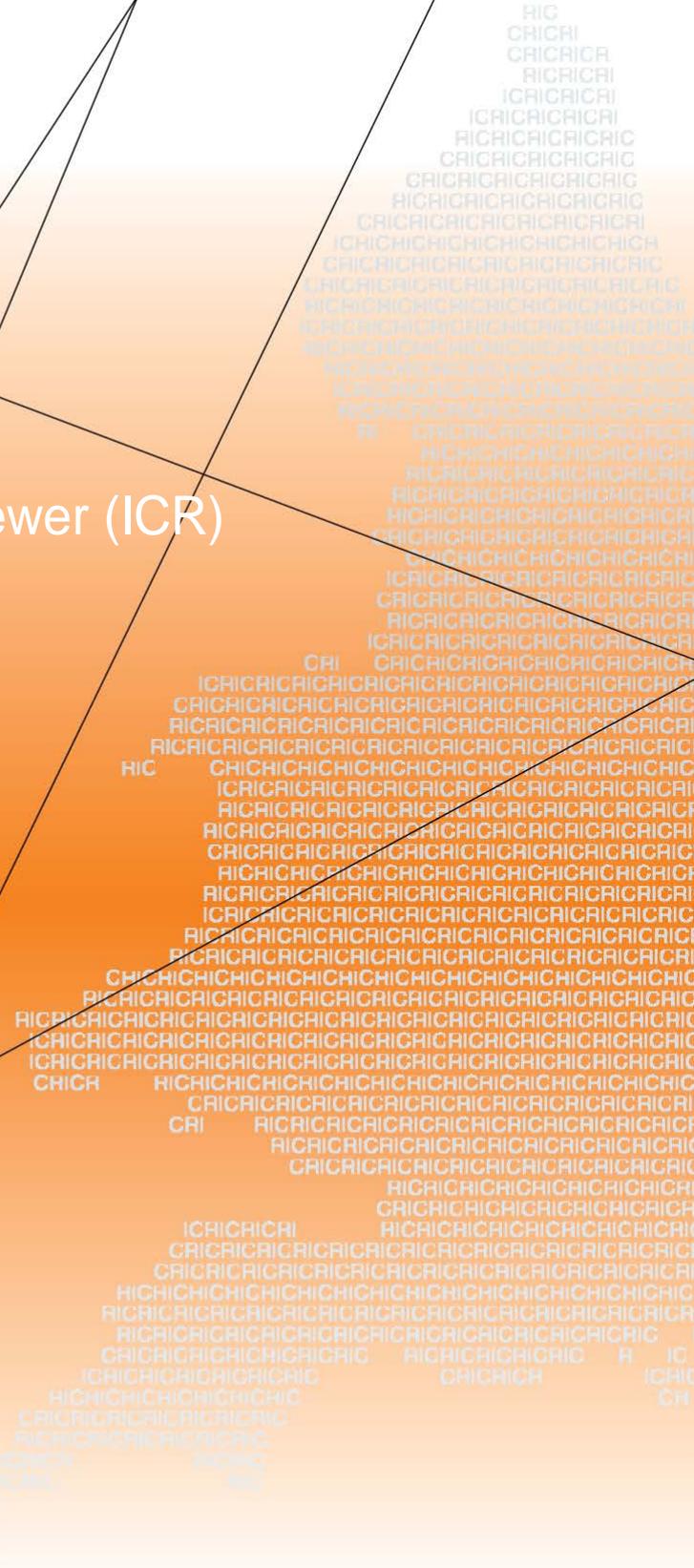


Independent Complaints Reviewer (ICR) for HM Land Registry

Annual Report 2019/2020





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

Other versions

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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



Foreword by Andrea Cook OBE

I am pleased to present the Annual Report from the Office of the Independent Complaints Reviewer (ICR) for Her Majesty's Land Registry (HMLR) for 2019-20. For the first time the ICR's position is an appointment made by the Government Minister in BEIS (Department for Business, Energy and Industrial Strategy) who has responsibility for HMLR.

Who could have known when I was appointed back in September 2019 that, after six months, we would be in lockdown?

This has been a very difficult and distressing time for individuals, families and local communities, resulting in many thousands of deaths and disruption to lives which will undoubtedly leave its mark on people's physical and mental health. Issues relating to land and property are complex and can have a major emotional impact at any time, but during the pandemic they are likely to have been amplified.

It is to HMLR's credit that it has continued to provide a service during this time. Although its offices have been closed, staff have worked from home to keep HMLR open, ensuring that the most essential transactions can continue. It expects that, by June 2020, critical services of searches of the index map, official copies and official searches will be processed within normal timeframes and HMLR will focus on building up remaining service delivery back to previous levels. There has been no relaxing of response times, however I think it is too early to say if there will be an impact on complaint handling in the longer term. I welcome HM Land Registry's Chief Executive and Chief Land Registrar to his new post and wish him every success for the future; I am sure he could not have expected this baptism! His contact with stakeholders indicates that he is aware of the differing processing times for different products and, for example, acknowledges the need for Expedited requests where appropriate.

The ICR team are all working remotely but have regular telephone, email and video conference contact. At the time of writing the staff are not travelling to the office in London and, like many organisations, I expect our pattern of working to change in the future, with more use of remote contact. Complainants have been encouraged to contact us by email or through our referral form, if at all possible. (Please note that there is no need to send copies of any correspondence with HMLR – the staff are able to access all correspondence held by HMLR when investigating a complaint). We are up to date with our investigations. It is disappointing that visits to the HMLR offices have temporarily been halted; I thoroughly enjoyed my visits to Gloucester and Swansea to meet large numbers of staff and engage in discussions on the key challenges facing HMLR staff and I hope these can resume later in the year.

Although I am new to my role as the ICR, I have had many years of handling complaints in the energy, financial, legal services and water sectors. I also spent 13 years working for the Parole Board, chairing oral hearings for life sentence prisoners and assessing their suitability for

parole or prisons of lower security based on the risk they present to the public. Therefore, whilst new to complaints handling for land and property, which are undoubtedly technically complex, I understand issues of consumer detriment and the need for complaints resolution. I am also ably supported by a small team with many years of expertise who liaise with complainants and carry out the initial stages of an investigation. I am grateful to them for their patience and professionalism and for helping me to get up the “learning curve”.

The ICR service was established back in 1998 to look into complaints made by service users, including members of the public and conveyancers. Since then Jodi Berg and Elizabeth Derrington have both held the office of ICR for lengthy periods of time. Like the other sectors I have worked in, people come to the ICR because they want an independent person to give an impartial but informed view of whether their concerns are justified and, wherever possible, to recommend action to put things right for them and stop similar problems arising in the future. Some complaints centre on case handling, others involve complex legal and procedural issues about land and property and can arouse strong emotions. The vast majority of HMLR customers find dealing with HM Land Registry unproblematic but, where appropriate, I will recommend redress and look to identify ways in which services could be improved. I am pleased to say that HMLR has been responsive to my reports, and accepting of them where our views differ, willing to learn from the independent focus I bring. For those complainants where the outcome is not what they would have hoped for I recognise that this can be frustrating. This may be because people hope I will be able to obtain a change in a registration decision. However, my role is limited to scrutiny of how HMLR handled matters and whether it provided a reasonable standard of customer service, in line with its own policies and procedures. Decisions taken by HMLR under statutory authority can only be challenged by way of judicial process and do not fall within my remit.

I have been surprised, and on occasions disappointed, by complainants who are insulting or offensive towards the staff of HM Land Registry. I have made it clear from the outset that I will consider every complaint fully and fairly but will not accept people being unreasonable in their demands, rude or personally abusive. This behaviour is always unacceptable, and there are times when I have found it necessary to say so in my reports.

There have been occasions when HM Land Registry has felt that my decisions have been weighted in favour of complainants, and times when complainants felt that I was ‘biased’ in favour of HMLR. That is the nature of independent review. One can do no more than look at each case on its own merits and provide as fair a judgement as possible. In the end, it is the independent view from an ‘informed’ outsider that makes the process worthwhile. The complainant and HMLR both have the chance to comment on my draft report.

Nowadays there seems to me to be a tendency in a general complaint culture to excuse poor service by putting it down to operational problems, to limited staff resources, or for people to complain more than in the past. There is some truth in all of this, however, my experience is that in most cases delay, poor communication, lack of empathy for a customer’s personal problems and/or failure to give a sincere apology, lie behind many of the cases that I uphold. These are things that rely on human reactions and interactions with customers and, in particular, an early recognition of the need for a prompt apology can often provide quick resolution.

Complaints arise when people are unhappy with how HMLR has dealt with their problems and responded to their concerns. The response to them still needs ‘human’ intervention, as does consideration of the complex applications and decisions that may lead up to them. I am aware that HMLR’s Business Strategy shows the wide range of plans for it to become a more digital and data-driven registration business and a world leader for speed and simplicity and an open approach to data. It is nevertheless still essential that consumers remain at the heart of such laudable objectives for housing and infrastructure. There is a challenge for HMLR to support front line staff to record and respond appropriately to day-to-day customer concerns about

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delays and mistakes – which are inevitable for any organisation. When a customer's concern arises from a boundary dispute or a family problem, HMLR staff need to be clear about the limits of their role and what HMLR's procedures can and cannot do.

Examples of poor service or unfairness can include:

- Failure to follow proper procedures
- Discourtesy
- Discrimination or injustice
- Excessive delay
- Not answering a complaint fully and promptly
- Failure to apologise for mistakes

I share the hope of my predecessors that HMLR will go from strength to strength as a model of excellence in public service and that the ICR's office will continue to play a central role in promoting good complaint handling and organisational learning. Complaints are an essential element of feedback for an organisation prepared to take a constructively critical look at its own service, placing the culture of customer service and good complaint handling at the heart of the business. My office looks to ICREST (Independent Complaints Review Evaluation Study Team), an internal review body for HM Land Registry, to review my reports for comments or recommendations that are designed to improve HM Land Registry practices, processes and service delivery. ICREST's terms of reference include both the responsibility to review recommendations and, if appropriate, ensure that they are translated into action.

As for the future, I would like to see the ICR's office make further advances in Plain English, achieve the Crystal Mark for Clarity 'seal of approval' for the Annual Report and embody the principles of Plain English in our written reports. As a first stage, the reports issued by my office now have a covering letter which summarises the decision and sets out the key principles to guide complainants through the reports.

April 2020.

The ICR service for HM Land Registry's 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 and 'straightforward' language.

The principles of good complaint handling

The Ombudsman Association's principles of good complaint handling underpin the process of ICR review. 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.

We also take into account the 'FREDA' principles of human rights:

- fairness, respect, equality, dignity and autonomy.

ICR office

It is vital to my independence that I am not part of HMLR or a civil servant. The service I provide is subject to a 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 who are directly line-managed by me. These staff bring to the office the benefit of their expert knowledge of HMLR's practice and procedure and the legislation under which HMLR operates, as well as their commitment to good customer service.

ICR remit

Anyone who has complained 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. Complainants are signposted to me in all final complaint responses that HMLR provides.

ICR process

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 they are 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 further.

Having determined what the complaint was about and that it falls within the ICR remit, we explore the possibility of an agreed settlement between the complainant and HMLR. If there is none, we carry out a review by way of a thorough examination of HMLR's records and with reference to information provided by both the complainant and HMLR.

The ICR report includes a summary of the background to the complaint and my conclusions on whether or not the complaint was justified, supported by reasons for my decision. Where complaints are upheld, I can make recommendations to HMLR, either for personal redress, such as an apology or consolatory payment up to £3,000, or for practical improvements to HMLR's systems and processes to reduce the likelihood of similar complaints arising in the future. Both the complainant and HMLR have an opportunity to comment on a draft before the report is finalised and their comments are fully considered.

Case Digest

This section is intended to provide a ‘flavour’ of the sort of complaints that are brought to me and also the approach that I and my staff take.

An early resolution

As mentioned in the previous section, when my staff receive a new complaint referral, they explore whether there is a possibility of an agreed settlement or resolution.

Ms A complained to my office about what she described as a “shambolic” experience: she had to contact HMLR on numerous occasions about a minor matter, the refund of a cheque. Three months later, the issue still had not been resolved. My staff investigated and established that, although Ms A had received several complaint responses, the correct procedure had not been followed and she had not received the final response which would enable me to investigate. My staff referred the complaint back to HMLR and an HMLR lawyer wrote to Ms A apologising for the poor service and offered £50 to compensate her for the inconvenience and distress she had experienced. HMLR later described the offer as being “in full and final settlement” and said that, by accepting it, Ms A would forego any further claims.

Ms A told me that she considered the offer to be insulting and that, as there had been “so much drama over a trivial request”, she still wanted to pursue her complaint.

I expressed my view to Ms A that, while HMLR had fully acknowledged its service failures, it had not offered redress proportionate to the length of time Ms A had been inconvenienced. I also considered that the legal nature of the offer had undermined what should have been a goodwill payment.

My staff liaised with both Ms A and HMLR and established that Ms A was prepared to accept a further apology accompanied by the consolatory payment totalling £200 that I had suggested and also that HMLR agreed that would be a reasonable and appropriate outcome. Ms A thanked my staff for resolving the matter and expressed the hope that HMLR would *“put steps in place to implement change, so that no one has to endure the awful customer experience that [she] did”*.

Neighbourhood Dispute

Disputes sometimes arise over the use of land and cause people to question whether HMLR has carried out its job properly. Mr B believed that HMLR had wrongly granted a title for land adjoining his property. He complained that HMLR should have given him notice of the first registration application and that it had failed to follow procedures in its own published guidance relating to adverse possession. In line with my remit, I cannot say whether any registration decision is legally right – that is for the Court, but I can check whether HMLR has followed proper procedures in reaching its decision. After investigating Mr B's complaint, I found that HMLR had correctly followed its procedures, that there was no maladministration or any suggestion of bias. I also found that HMLR had responded appropriately to new information Mr B had provided. I did, however, recommend that HMLR apologise for not disclosing a relevant letter when corresponding with Mr B and his Member of Parliament.

Registration Delays

Ms C complained that HMLR had given unsatisfactory and inconsistent answers about how long her application would take to be completed and that it had failed to respond appropriately to the concerns she had raised. After investigating, I found that HMLR publishes clear service standards on its website for most of the applications it processes. Ms C needed to register a deed that had extended the term of her lease and she was planning to put her house on the market. Her application fell into a category for which HMLR did **not** provide a service standard but instead published an average completion time. During the course of her contact, Ms C was told that the relevant times for her applications were variously 106, 116 and 120 working days.

HMLR completed Ms C's application shortly after she contacted my office (154 working days after it had first been received) but I was critical of a number of aspects of the service provided. I recommended that HMLR should publish service delivery standards for all types of application and until then HMLR staff needed to be clear about the difference between average completion times and speed of service targets so as to avoid giving misleading information. I also identified a number of failures in following both the complaints procedure and also the "expedite procedure" (which is in place to mitigate problems caused by the backlog) and I recommended that appropriate training be provided to customer facing staff.

Legal representation

Following his father's death, Mr D believed he was entitled to a share in his father's house and was in dispute with another member of the family. Mr D made several applications to HMLR to protect his claimed interest in the property but HMLR cancelled the applications because they did not meet the basic criteria. By the time Mr D had made an application that met HMLR's requirements, the house had been sold. Mr D complained that HMLR had treated him unfairly. I did not uphold the complaint and found that HMLR had dealt with all of the applications without bias and according to the published procedures. I said it was unfortunate Mr D did not have the legal representation which would have helped him when he needed it but that it was not HMLR's role to provide legal advice or even to assist people in obtaining it: HMLR has a responsibility to be strictly impartial to all parties in a dispute.

A failure to listen

Ms E had purchased a property which had a complicated conveyancing history and problems with the registered title. She was confident that she could sort out those problems after the purchase but unfortunately that confidence was misplaced. After investigation, I found that HMLR was not responsible for causing the initial problem but did not subsequently deliver an acceptable level of service. I said to Ms E: *"In 2015, you found yourself frustrated by HMLR's inability (as you perceived it) to understand that you were saying there was a mistake with the register and title plan and, despite extensive correspondence, you received no clear information as to what HMLR could and could not do to take matters forward. From August 2018, HMLR did not acknowledge or answer your complaints about the service you had received and did not seem to understand your request for costs. As I have discussed, it did not demonstrably follow its own guidance in considering that request."* I upheld the complaint and recommended that HMLR apologise and make an additional consolatory payment of £800 (to add to one of £200 previously offered). Ms E, while appreciative of my findings, did not consider that the amount recommended was sufficient for the stress she had suffered. I reminded Ms E in my final report that all complainants can ask an MP to refer their complaint to the Parliamentary Ombudsman if they are dissatisfied with my findings. I said that I was satisfied my recommendation had been proportionate and I drew her attention to the Ombudsman's published guidance about financial redress.

Learning from complaints

In last year's annual report, my predecessor, Jodi Berg said:

"Most of my systemic recommendations this year have focused on improving HMLR's complaints procedures, with a view to ensuring that complaints are identified and recorded, responded to and escalated appropriately. My aim in making these recommendations is to assist HMLR to respond more effectively to customer dissatisfaction. It is notable and regrettable that, even in cases where I have not upheld any of the complaint issues, I have still had cause to be critical of complaint handling and to recommend that apologies be offered for this."

Unfortunately, failures in complaint handling have remained a theme in this year's reports and I have made further recommendations about improving the ability of staff to recognise, respond to and escalate complaints appropriately. Other systemic recommendations have related to improving communication with customers when there are unavoidable delays and providing clear information about the service standards that customers should expect to be delivered.

HMLR's dedicated team for this purpose – ICREST – continues to enable the consideration of systemic recommendations and monitor their implementation. I am grateful to all those who serve on ICREST for their serious consideration of my reports and the recommendations I have made and for their efforts to make changes within HMLR which result in an improved service for future HMLR customers.

Facts and Figures 2019/20

The small number of service complaints referred to me shows that by far the majority of people and organisations having contact with HMLR are satisfied with the service they receive. Even when they have cause to complain, HMLR resolves most complaints within its internal complaints process.

The table below gives an overview of the work of my office in 2019/20 compared with the previous financial year. Of the complaints we received this year, 24 proceeded to a full report compared to 29 in 2018/19.

Complaints referred to the ICR

	Complaints received	Complaints considered by ICR	Investigations resulting in findings of maladministration	Investigations resulting in findings of no maladministration	Complaints resolved through conciliation
2019/20	120	100%	9	15	11
2018/19	109	100%	11	18	7

As can be seen from the above table, most initial contacts do not result in findings regarding maladministration. 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 through intervention or conciliation.

We also receive contacts that are not specifically 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 to assist them.

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 terms of personal redress, apologies are recommended in most cases where maladministration or poor service has been identified. Consolatory payments can be for sums of up to £3,000. In general, they are for much smaller amounts that 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 to the particular circumstances of the individual complainant. Last year, eight recommendations for consolatory payment were made for sums ranging from £100 to £800. Specific action recommendations may include, for example, that

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HMLR should address issues such as rights to compensation not previously considered or check the records for additional information that can be provided to help the customer.

Systemic recommendations may be that HMLR provide or improve public explanations for processes or decisions. They may also be for HMLR to consider changes in procedures or provide training or further guidance aimed at helping HMLR staff to follow appropriate procedures.

Recommendations made in the reporting year were as follows:

	Apologies for service failures	Consolatory payments	Specific action recommendations	Systemic recommendations
2019/20	11	8	1	9

HMLR continues to respond positively to all my recommendations and I am pleased to report that HMLR accepted and implemented all of my recommendations for personal redress made in the reporting period.

ICR speed of service

We seek to provide a swift response to all enquiries and contact from complainants. However, when we carry out a full investigation, it can take a considerable time to examine the paper and electronic files which are often large and can 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 of agreement that the complaint is within remit. This year, all but one of our reports were completed within that timescale and the average completion time was 14 weeks.

Financial information

While the ICR office is managerially independent from HM Land Registry, the overall running costs of the office are met by HMLR. We continue to manage our budget as effectively as possible. The figures for the last three financial years are set out below.

ICR running costs	2017/18	2018/19	2019/20
Staff costs	£231,404	£212,193	£260,531
Administration ¹	£17,232	£15,736	£16,197
Total	£248,636	£227,929	£276,728

¹ Includes accommodation costs.

Customer feedback

Feedback for the ICR office – as for HMLR – is fundamental to improving the quality of the service we provide. Since we relaunched our 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.

Our customers often comment on the detail and work that goes into our investigations. Complaints about HMLR can stem from underlying conveyancing problems and ICR reports seek to unpick and explain what has happened as well as provide my opinion on whether HMLR's actions may have contributed or added to a complainant's problems. Feedback on some of this year's reports has included:

"[Thank you for] all the detailed work and effort you have put into this report. It really is very comprehensive and informative."

"An excellent and very supportive organisation that I can fully recommend."

"Again, I cannot thank you enough for your tremendous support in bringing this complaint to a highly satisfactory conclusion."

"I feel sure that this will endeavour to help improve HMLR's timings and procedures in the future."

"After months of obfuscation from HMLR it was gratifying to read a well written and detailed analysis of the issues encountered in my efforts trying to get an acceptable level of Customer service from this bureaucratic Behemoth. Thank You."

I cannot change registration decisions nor substitute my judgement for HMLR's in interpreting conveyances. These are matters for the courts but dissatisfaction with the ICR's remit can result in complaints about our service:

"I wish to make a formal complaint against the failure of your organisation and your complaint investigator to have properly investigated a very serious matter that has resulted at this time, in the substantial loss to my property, but which must be restored to my name and added to my registration document, which remains highly incorrect, even without this additional land belonging to my property."

This illustrates the difficulties in meeting customer expectations, and indeed in achieving closure.

In other instances, customers have withdrawn from the review process while acknowledging assistance my office has provided in achieving the outcome they were seeking:

"I feel the LR process and communications was very poor, and the worst service imaginable. Having said that, I have reached my objective and I am not sure what a protracted investigation will bring any us? So, in the interest of giving some time back to your good-selves and the LR, I would like to think this is diverted to people like me who are still trying to get issues desperately resolved."

The Parliamentary Ombudsman's office

Customers dissatisfied with my conclusions can ask for a final review by the Parliamentary Ombudsman's office following a referral by their local MP. These reviews involve expert external scrutiny of the ICR office's work. I am pleased to report that, in the last year, the Ombudsman has not had cause to investigate any complaints about HMLR reviewed by my office.



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