

Independent Complaints Reviewer (ICR) for HM Land Registry

Annual Report 2020/2021





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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

As the Independent Complaints Reviewer (ICR) for HM Land Registry (HMLR) I am pleased to present the 2020/2021 Annual Report.

Last year was the first time the ICR was appointed by the Government minister in BEIS (the Department for Business, Energy & Industrial Strategy) who has responsibility for HMLR.

This annual report is the first that the ICR office has produced after a review by Plain English Campaign, an independent group that promotes the use of plain English in public information. Gaining a Crystal Mark, the Campaign's seal of approval for the clarity of a document, was one of the first objectives I set when I was appointed as ICR. I am therefore delighted to say that we have achieved that goal.

This is also the first time we have launched the Annual Report online.

2020/2021 continued to be a difficult time for delivering public services as we entered a third lockdown due to Covid-19. Individuals, families and local communities have coped with thousands of deaths and disruption to their lives, leaving a mark on their 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 these have led to increased distress and anxiety.

It is to HMLR's credit that it has continued to provide a high-quality service in these times. Although its offices have largely been closed, staff have worked from home to keep HMLR 'open for business', making sure that most essential services could continue. Some services have not always been able to be delivered within published targets, but it is important that customers are made aware that different services have different processing times. I remain firmly of the view that HMLR should publish clear service standards so its customers know what they can expect.

Customers have told us about HMLR delays which were causing them particular difficulties. In some instances, these issues were resolved by HMLR speeding up applications using its expedite procedure (where HMLR fast-tracks an application). In other cases, we carried out formal investigations into complaints about delays. Those complaints are explained in greater detail in the Case Studies section.

In my regular meetings with the Chief Land Registrar, I stressed the importance of using the expedite process if delays are likely to cause hardship or threaten subsequent dealings. I have provided examples of where I expected HMLR to apologise or make consolatory payments (that is, payments intended to reflect HMLR's regret for the inconvenience or distress its actions have caused).

ICR staff have continued to work remotely, but they have regular contact with me, and each other, by phone, email and video conference. Like many organisations, I expect our pattern of working to change in the future, with staff working from home more of the time.

Complainants have been encouraged to contact us by email or through our referral form, and we remain up to date with our investigations. I am supported by a small team with many years of expertise. They liaise with complainants and carry out the initial stages of an investigation. I am grateful to them for their patience, professionalism and good humour in difficult times.

The ICR service was established back in 1998 to look into complaints made by service users, including members of the public and conveyancers. People come to us because they want an independent person to:

- give an impartial but informed view of whether their concerns are justified; and
- wherever possible, recommend action to put things right and stop similar problems arising in the future.

Some complaints relate to how cases have been handled, others involve complex legal and procedural issues about land and property and can arouse strong emotions.

The vast majority of service users do not have any problems dealing with HM Land Registry but, where appropriate, I will recommend remedial actions and look for ways in which services could be improved. I am pleased to say that HMLR has welcomed my reports, even where our views differ, and is willing to learn from the independent view I provide.

Some complainants do not get the outcome they had hoped for. This may be because they had hoped I could change a decision. However, my role is limited to scrutinising how HMLR handled matters and whether it provided a reasonable standard of customer service, in line with its own policies and procedures. I cannot challenge or change decisions HMLR has taken under its statutory authority. My staff have the unenviable task of managing complainants' expectations.

Last year I commented that I had been surprised, and on occasions disappointed, by complainants who are insulting or offensive towards HMLR staff or ICR staff. I recognise that emotions can run high, and I make it clear that I consider every complaint fully and fairly. But I do not accept people making unreasonable demands or being rude or abusive.

There have been occasions when HMLR has felt that my decisions have been weighted in favour of complainants, and times when complainants have felt that I have been biased in favour of HMLR. That is the nature of independent review. I 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, and I welcome feedback from both customers and HMLR.

Complaints arise when people are unhappy with how HMLR has dealt with their problems and responded to their concerns. Many of the complaints I uphold (because I have found that there were reasons for the complaints) relate to delays, poor communication, lack of empathy for a customer's personal problems or failure to give a sincere apology. These are things that require human contact with customers, and a prompt apology can often resolve the matter.

I share my predecessor's hope that HMLR will go from strength to strength as a model of excellence in public service, and that we will continue to play a central role in promoting

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good complaint-handling and learning from complaints. Complaints are an essential part of feedback for an organisation prepared to take a critical look at its own service and to place customer service and good complaint-handling at the heart of the business. ICREST (Independent Complaints Review Evaluation Study Team), an internal review body for HMLR, review my reports for comments or recommendations designed to improve HMLR practices, processes and service delivery. ICREST's terms of reference include both the responsibility to review recommendations and, if appropriate, make sure that they are put into action.

July 2021

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.'

The principles of good complaint-handling

Our review of complaints about HMLR is based on the Ombudsman Association's principles of good complaint-handling, as set out below.

- Clarity of purpose – for each review we provide a clear statement of its purpose, intent and scope.
- Accessibility – our service is free and available to everyone who needs it.
- Flexibility – our procedures are responsive to the needs of individuals.
- Openness and transparency – we provide public information that 'demystifies' our service.
- Proportionality – investigations and recommendations are appropriate to the complaint.
- Efficiency – our service strives to meet challenging standards of good administration.
- Quality outcomes – our service and recommendations lead to positive change.

We also consider the 'FREDA' principles of human rights:

- fairness;
- respect;
- equality;
- dignity; and
- autonomy.

People can expect the ICR team to:

- be courteous, honest and objective; and
- use 'straightforward' language.

ICR Office

To remain independent, it is vital that I am not a civil servant or part of HMLR. I provide the ICR service under a service-level agreement with HMLR, and I am personally responsible for all conclusions and recommendations that come from our reviews of complaints. I am supported by a small team of staff who are seconded from HMLR but directly managed by me. These staff bring the benefit of their expert knowledge of HMLR's practices and procedures, and the legislation HMLR operate under, as well as their commitment to good customer service.

My role

Anyone who has complained to HMLR and is dissatisfied with the outcome can ask me to review the matter. However, I cannot overturn HMLR's legal decisions or investigate issues that relate to proceedings before the Property Chamber or any other court. Also, I will not generally be able to consider matters referred to me more than six months after the date of HMLR's final response to the complaint. All final responses that HMLR issues explain that complainants can contact me if they are not satisfied with the response.

The review process

When I am asked to review a complaint, my team carry out a preliminary investigation to determine whether the complaint is one that I should look into. This investigation may involve discussions with the complainant to find out more about the matter and gain an understanding of the outcome they want. It may also be necessary to ask HMLR to confirm that its complaints procedure has been completed. If the complaint is not one that I can consider, we will give the complainant advice on their options for taking the matter further.

I also consider whether an investigation can provide an outcome that the complainant will find acceptable or useful.

If the complaint is one that I can consider, I first explore the possibility of agreeing a settlement directly between the complainant and HMLR. If a settlement cannot be agreed, we carry out a formal investigation by thoroughly examining HMLR's records and the information we have received from the complainant and HMLR.

After the investigation I produce a report that includes a summary of the background to the complaint and my conclusions on whether the complaint was justified. If I uphold a complaint, I can make recommendations to HMLR for it to do one or both of the following.

- Provide some form of redress to the complaint, such as an apology or a consolatory payment of up to £3,000.
- Make practical improvements to its 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 of the report before it is finalised and I fully consider any comments.

Case Studies

Most of the complaints I upheld this year concerned service failures (such as delays or poor customer service) rather than procedural failures (procedures being insufficient or not being followed correctly). The following section gives examples of the complaints referred to me and the approach my staff and I took.

Delay

Customers have told us about HMLR delays that caused them difficulties. In some instances, following our preliminary investigations, HMLR solved the problem quickly by using its expedite procedure to complete the application. In other cases, I needed to carry out formal investigations.

In the following three examples, the initial delays arose before the outbreak of Covid-19.

- In August 2019, Mr A made the final payment for the shared-ownership house he was buying from his local council. From October 2019, he contacted HMLR every month to find out when the property would be registered in his name. Each time he phoned he was given different information about how long he should expect to wait. In January 2020, he said the delay was causing problems because he needed to raise finance to build an extension. HMLR completed the application in June 2020.
- Ms B bought a new-build house in October 2019, and her solicitors applied to register her purchase the following week. Her solicitors asked for an update in January 2020. In April 2020, Ms B asked HMLR why she had had to wait nearly seven months to receive her title deeds. She quoted HMLR's published waiting times, all of which had been exceeded. HMLR completed the application in August 2020.
- Mr C extended his lease in June 2019 and an application for registration was sent to HMLR the following day. Mr C first contacted HMLR in October 2019, and again in December 2019, explaining that the delay was causing him problems in putting the property on the market. He then contacted the Chief Land Registrar's Office and the Government minister responsible for HMLR. The application was completed in February 2020.

I agreed that in all three cases the service HMLR provided had been poor. I explained to HMLR that I had identified failures in its complaint-handling policy and its expedite procedure, which HMLR should use when delays cause hardship or give rise to subsequent problems. I recommended that HMLR apologise and make consolatory payments for the inconvenience caused.

I also noted that in June 2018, HMLR said it aimed to complete simple applications to update the register within five working days, and to complete more complex applications (including registering properties for the first time) within 25 working days. By July 2019, HMLR had removed the 25-day target from its website and replaced it with a report of average completion times. However, in February 2020, a Government minister told the House of Commons that the 25-day target remained in place.

In December 2020, HMLR also removed from its website the service standard for simple applications.

In my reports on the cases mentioned above, I recommended that HMLR should publish clear service-delivery standards so that customers know what they can expect.

A claim of unfair influence

Mr D was in dispute with Mr E, a barrister. One reason was that Mr E was parking his car next to the windows of Mr D's flat.

Separately, Mr E applied to HMLR to become the registered owner of land, formerly used for bin storage, on the basis that he had acquired ownership rights through adverse possession (a legal principle that grants ownership to someone who does not own the land concerned but has used or occupied it for a certain period). HMLR gave notice of this application to Mr D. He objected, making allegations about Mr E but not challenging the statements Mr E had made in his application. HMLR found Mr D's objection to be groundless (that is, that the objection he had made would not succeed if the case went to court), and later completed Mr E's application.

I found that HMLR had followed its published procedures as set out in 'Practice Guide no 4: adverse possession of registered land', and I did not uphold Mr D's main complaint.

Mr D also complained that HMLR had been 'unduly influenced' by Mr E's profession. I found that HMLR had not acted unfairly and would not have known that Mr E was a barrister if Mr D had not said so. Even though Mr E might have had a better understanding of the legal principles relating to his application, HMLR had to remain impartial and treat Mr E's application on its merits. As it happened, Mr D had been represented by solicitors, and had received independent legal advice, so would have been on an equal footing. I explained that it was not HMLR's responsibility to make sure that people received independent advice

An interest in land?

- Mrs F found out about a planning application to build flats on vacant land next to her house. She also found out that in 2004, HMLR had granted the applicant ownership of the land due to adverse possession. Then, in 2018, HMLR had upgraded the class of title from 'possessory freehold' to 'absolute freehold'. Mrs F complained that she had not been given notice of the applications (the adverse possession application and the upgrade of title application), even though she had an interest in the land.

HMLR publishes two relevant practice guides (no 5 on adverse possession of unregistered land and no 42 on upgrading the class of title). HMLR practice guides are intended to describe HMLR procedures for legal professionals, not to give legal guidance to the public.

My investigation found that HMLR had made appropriate enquiries and followed its standard procedures before completing the adverse possession application and the upgrade of title application. Practice guide 5 said that HMLR would serve notice on anyone who, according to the information available, might have an interest in the land. Mrs F believed she had an interest in the land because she enjoyed the views over the land, she owned the land next door and she had trimmed trees on the land. I explained that by 'interest', HMLR meant specific legal rights over the land (such as a formal right of way granted in a deed) rather than, for example, the concern a landowner would naturally have about adjoining property. HMLR had previously suggested to Mrs F that she should get advice from a planning law specialist. In my report to Mrs F, I supported that view.

The limits of HMLR's responsibility

- Mr and Mrs G complained that HMLR did not hold the correct information about the ownership of a wall at the boundary of their property. They also complained that they and their neighbours knew that they shared ownership of the private road serving their property, but HMLR wrongly said it was owned by one of their neighbours. My investigation established the following.
 - HMLR had followed appropriate procedures when it registered the various details.
 - HMLR does not record the exact position of the legal boundary between two properties, so it does not need to check the ownership of a structure, such as a wall, on the boundary (although it might be mentioned in the title deeds).
 - Mr and Mrs G's solicitors had given them incorrect information about the ownership of the road and the matter should have been checked with HMLR before they had bought the property. I commented:

“...that is one of the main functions of HMLR – so that information about registered land can be quickly and easily checked before people enter into property transactions rather than having to rely on a local word-of-mouth tradition.”
 - Mr and Mrs G's solicitors believed that there were mistakes in the documents prepared for the conveyance (the legal process of transferring ownership of a property) but had confused conveyancing errors with registration errors. Conveyancing errors normally have to be resolved by applying to a tribunal or court rather than to HMLR.

The role of the conveyancing profession

- Following Mrs H's divorce, a family-court judge ordered property be split – Mrs H was to keep the main house, and a nearby cottage would be transferred into Mr H's sole name. The cottage was to have parking spaces next to the main house, but only for private cars rather than commercial vehicles. The judge ordered that the deed transferring the cottage to Mr H must contain a covenant to reflect that provision.

Mrs H told me she signed the transfer deed at Mr H's solicitor's office and that the solicitor was going to fill in the details of the covenant later. Mrs H later found that the transfer deed sent to HMLR did not prevent commercial vehicles from parking next to her house and said that HMLR should have checked with her and the court before registering the transfer.

In investigating Mrs H's complaint, I found that the solicitors had claimed to act for both Mr H and Mrs H, which Mrs H said was untrue. I explained to Mrs H that the very highest standards of honesty were expected of solicitors, and dishonesty would most likely result in them being struck off the 'roll of solicitors' held by the Solicitors Regulation Authority, as well as being prosecuted. As a result of this expectation, public bodies (including HMLR) can rely on solicitors' applications and statements, and it was reasonable for HMLR to have completed the registration of the transfer without making further enquiries.

I explained the options Mrs H had for solving the problem, and that the difficulties Mrs H was facing had not been created by HMLR. However, I did find that HMLR's complaint-handling had been poor, and there were at least three instances where HMLR staff failed to identify Mrs H's dissatisfaction as a complaint. That created two months' unnecessary delay and added to Mrs H's distress.

I recommended that HMLR apologise for the way it handled the complaint and make a consolatory payment of £200. In thanking me, Mrs H referred to the thorough investigation and the 'brilliant service' provided by my office.

Facts and Figures 2020/2021

The small number of complaints referred to me shows that the vast majority of people and organisations dealing with HMLR is satisfied with the service they receive. Even when they have cause to complain, HMLR resolves most complaints through its complaints procedure.

The table below gives an overview of the work of my office in 2020/2021 compared with the previous financial year. Of the complaints we received this year, 24 proceeded to a formal investigation.

Complaints referred to the ICR Office

	Complaints received	Formal investigations resulting in findings of maladministration	Formal investigations resulting in findings of no maladministration	Complaints settled by agreement
2020/2021	114	11	13	8
2019/2020	120	9	15	11

We carefully examine all complaints that we receive and decide whether we may be able to help, and how. As can be seen from the above table, most complaints do not result in a finding of maladministration (a failure which can cause injustice).

We will not make a finding of maladministration if:

- the complainant has not yet received a final response from HMLR (in which case we will refer the complaint back to HMLR);
- the outcome the complainant wants is not one that I can provide, and could only be achieved by taking action in the courts;
- the complainant referred the complaint to us after the end of the normal six-month time limit; or
- we can agree an acceptable outcome through conciliation.

We also receive complaints that are not specifically about HMLR. In those circumstances, we guide the complainant to the most appropriate organisation to help them.

Recommendations

My recommendations to HMLR are designed to:

- provide redress to individual customers; and
- help HMLR to improve its systems and procedures, to reduce the risk of similar complaints in the future.

In terms of personal redress, we recommend apologies in most cases where maladministration or poor service has been identified. We may also recommend consolatory payments of up to £3,000, but we usually recommend smaller amounts that reflect the distress and inconvenience an individual may have suffered.

Last year, we recommended seven consolatory payments, for amounts ranging from £50 to £500.

Specific action we may recommend can include, for example, that HMLR should address issues such as rights to compensation or provide extra information to help the customer.

Wider recommendations may be that HMLR:

- provide or improve public explanations for processes or decisions;
- consider changing procedures; or
- provide training or 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 recommendations	Wider recommendations
2020/2021	7	7	1	4

HMLR continues to respond positively to our recommendations and I am pleased to report that HMLR accepted all recommendations we made for individual redress in 2020/2021.

Speed of our service

We aim to provide a swift response to all enquiries and complaints. 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 date back over many years. We also need to allow time at each stage of the process for the complainant and HMLR to provide comments.

Our published target is to complete a formal investigation within 26 weeks from the date of us agreeing to look into the complaint. This year, after allowing for delays outside our control, only one report did not meet the expected timescale. It took an average of 13 weeks to complete reports.

Financial information

Although we are independent from HMLR, it pays our overall running costs. 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	2018/2019	2019/2020	2020/2021
Staff costs	£212,193	£260,531	£210,080
Administration	£15,736	£16,197	£16,725
Total	£227,929	£276,728	£226,805

Note – the administration cost shown above includes the costs of office accommodation.

ICR staff did not use office accommodation during the financial year, but HMLR has informed us that it still had to pay its proportion of the annual landlord rent and Government Property Agency's service charges.

Customer feedback

Feedback helps us to improve the quality of the service we provide. Our service users can fill in an online form to provide feedback. If we send a report by post, we will enclose a paper questionnaire.

Our customers often comment on the work that goes into our investigations. Complaints about HMLR can stem from conveyancing problems, and my reports aim to 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 we have received this year has included the following.

"The time and effort ICR have taken to explain to us and to consider carefully all the information (of which there was a huge amount) is to be commended. It was simply amazing how in-depth you have been, because we are sure you would have known the time and hours we have spent these past few years doing our own investigation, with the help of our present estate agent, local chartered surveyor and our new solicitors, because of the serious position in which we find ourselves, and that of other owners of the bungalows on our private drive."

"My overall observation [about the ICR's report] ... is that of disappointment. I still hold the view that staff at HMLR were complicit by not ensuring the evidence existed and was adequate."

"I have found the response to my questions (on process/timescales) clear and helpful, with any telephone call returned within a reasonable time frame. This has helped me to have confidence in the ICR's review process."

"I cannot fault your prompt performance and thank you."

"Absolutely BRILLIANT service. I was at my wits' end before I contacted the ICR. The ICR thoroughly investigated my complaint."

"Thank you for taking time to help us....Anyway we thank you so much for helping us and getting a result for us."

"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."

Parliamentary Ombudsman Office

Customers who are not satisfied with my conclusions can ask their local MP to refer the matter to the Parliamentary Ombudsman's office for a final review. These reviews involve external experts scrutinising our work. I am pleased to report that, in the last year, the Ombudsman did not have cause to investigate any of my conclusions.



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