

Independent Complaints Reviewer (ICR)
for HM Land Registry
Annual Report 2022/2023





Large print

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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

Welcome to our annual report for 2022/2023. This is the third annual report of ours that has gained Plain English Campaign's Crystal Mark, which is an internationally recognised accreditation for the clarity of a document.

This has been another busy year for us. More people than ever have applied to use our service, and their complaints against HM Land Registry (HMLR) have raised many different issues. As demonstrated in the 'Case studies' section, a common theme has been the difficulties caused by registration delays for people remortgaging.

More detailed information about our work in the last year is set out in the 'Facts and figures' section.

In recent years there has been an increased emphasis on my independence from HMLR. I was appointed by government ministers and my team's role is to carry out independent 'arm's length' investigations of complaints that have gone through HMLR's two-stage complaints process. To carry out our investigations we need an in-depth understanding of HMLR's role, practices and procedures. In our reports to complainants we explain these procedures using clear understandable language.

Our role is to:

- review and investigate complaints about HMLR's service, but not about registration decisions;
- provide a balanced, objective review, but not act as a complainant's representative; and
- set out our findings and recommendations in a report.

My team first decides whether a complaint is one we can consider. If we can, the team then:

- considers whether it might be possible to settle the complaint without a full investigation;
- agrees issues that can be investigated and drafts a summary of the issues raised by the complainant;
- asks HMLR to provide its comments within an agreed timescale;
- investigates the matter by comparing what should have happened with what did happen;

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- sends draft reports to both the complainant and HMLR for them to comment on; then
- issues final reports to the complainant and the Chief Land Registrar.

The principal challenges for my team are to:

- demonstrate independence from HMLR;
- be fair and proportionate in our work;
- demonstrate that we value and welcome complaints as a way of putting things right and improving service;
- show an understanding of both perspectives;
- address factual and procedural complexities;
- focus on outcomes and 'getting it right';
- bring complaints to satisfactory conclusions; and
- help HMLR to recognise areas for improvement and take positive action to make those improvements.

Another challenge is dealing with complainants who have become emotionally invested in their complaint and find it difficult to 'let go'. This is particularly the case if the complaints process is used for a purpose which it was never intended for, such as challenging legal decisions. In those circumstances, once we are certain that there is nothing more we can usefully say and we have explored all options for the complainant, we will bring correspondence to a close. Prolonging contact in such cases risks raising false expectations.

I continue to have regular conversations with Simon Hayes, the Chief Land Registrar, and other senior members of HMLR. These conversations enable me to raise concerns in an open and upfront way and make sure that we co-operate to provide the best outcomes for customers. HMLR has agreed that recommendations for redress will be dealt with promptly and, where necessary, it will contact customers to explain the reasons for any delay.

In June, responsibility for appointing an Independent Complaints Reviewer was transferred to the Secretary of State for the Department for Levelling Up, Housing and Communities (DLUHC). This was part of a much wider reorganisation, which included transferring HMLR from the Department for Business and Trade to DLUHC. A statement made by the Prime Minister said that the move will 'aid the delivery of DLUHC's key policy objectives including improving the home buying and selling process and delivering the land transparency provisions in the Levelling Up and Regeneration Bill'. HMLR has told me that 'the transfer provides an opportunity for closer alignment and collaboration on areas where HMLR plays a key role in supporting delivery of DLUHC's strategic ambitions to speed up the home buying and selling process, improve land transparency and to reform the leasehold system'.

Also in June, our office moved to the Government Hub at 10 South Colonnade, Canary Wharf. Like many offices, we take a hybrid-working approach, promoting office-based and remote working. We have demonstrated that the experience of people who contact us has improved because of the flexibility and responsiveness

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that hybrid working has brought to our team. Whether in the office or working remotely, my team remains in close contact with me to make sure that we settle complaints as effectively as we can.

My team and I would like to thank the staff in HMLR and the Government Property Agency, and also at 1 Victoria Street and 10 South Colonnade, who helped make our relocation a success.

July 2023

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 operates under, as well as their commitment to good customer service.

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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 look at whether the complaint can be resolved by agreeing a settlement between the complainant and HMLR. If this is not appropriate, 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 complainant, such as an apology or a consolatory payment (compensation) 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

The following section gives examples of the complaints referred to me and the approach my staff and I took.

Delays

As in previous years, many complaints I received were about delays in processing registration applications.

HMLR publicises an expedite process that customers can use to fast-track applications if delays would cause them problems. When HMLR accepts a request to fast-track an application, it aims to process that application within 10 working days after any outstanding applications or requests for information (requisitions) that take priority have been completed.

The steady rise in interest rates since February 2022 has meant that registration delays can have a much greater effect than before on people who need to remortgage. The following examples illustrate approaches that I have taken when considering complaints about delays.

Mr and Mrs A inherited a house from an aunt who had taken out an equity-release mortgage on it. That mortgage became due to be repaid as soon as the aunt died. The interest charged on the mortgage was over £10 a day. Mr and Mrs A needed to take out their own mortgage to pay off the equity-release mortgage, but they could not do that until the house was registered in their names.

On 9 February 2022, Mr and Mrs A's solicitors asked HMLR to expedite the application. HMLR said that the application was already being processed and, once the solicitors had dealt with some outstanding points, it would be dealt with as a priority. HMLR staff confirmed that the evidence the solicitors had provided was sufficient for the expedite request to be approved. HMLR finally completed the application on 1 June 2022.

I found that HMLR had unnecessarily delayed the registration by 56 days. In my draft report I asked HMLR to confirm whether it agreed that there was a causal link between its failure to expedite the application and Mr and Mrs A's losses arising from the 56 days of interest they would not otherwise have needed to pay.

To my surprise, HMLR did not answer my question and instead said it had no comment to make on my draft report.

In my final report I recommended that HMLR should apologise and, in light of the seriousness of the failures, it should make a consolatory payment of £800.

HMLR agreed that its communication with my office had been poor and assured us that the Chief Land Registrar's office and Customer Policy Team would have much closer involvement in considering my draft reports in the future, rather than the

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matter being left to the member of staff who had prepared HMLR's final response at the end of its two-stage complaints process.

Between May 2022 and February 2023, Ms B's mortgage repayments increased by nearly £500 a month. She could not remortgage to get a better deal because of a restriction in the register that had been put in place after a divorce settlement. Ms B complained that unnecessary delays by HMLR had caused her considerable distress.

My investigation found that:

- it had not been HMLR's responsibility to automatically remove the restriction;
- Ms B's solicitors knew about the restriction six months before they applied to remove it;
- when Ms B's solicitors applied to have the restriction removed, they filled in the wrong type of application form;
- Ms B's solicitors had enquired about progress several times but had never asked for the application to be expedited; and
- when Ms B did ask for the application to be expedited, HMLR processed it two days later.

I did not uphold Ms B's complaint and said that it had not been failures by HMLR which had caused her distress.

Ms C bought a property in June 2021, and her solicitors applied to HMLR to register the purchase three weeks afterwards. After 18 months, Ms C was looking at options for when the two-year fixed-rate period of her mortgage came to an end, and she discovered that HMLR had still not completed the registration. On 22 December 2022, Ms C's solicitors asked HMLR to expedite their application, and HMLR agreed. However, HMLR still failed to process the application, even after Ms C had made a complaint in writing. HMLR did not begin to process the application until 8 February 2023 – 31 working days after it had agreed to expedite the case.

I agreed with Ms C that she had received extremely poor service from HMLR.

As HMLR's response to Ms C's written complaint had acknowledged its service failures, I decided that carrying out a full investigation would add little value. However, I was critical that, other than apologies, HMLR had made no effort to offer any redress for its poor service. In my final report I recommended a consolatory payment of £300 would be fair and appropriate to settle the complaint. Both parties agreed to this, and Ms C acknowledged that the amount covered the registration fee she had originally had to pay.

My final report also recommended that HMLR reminds its staff that anyone responding to a complaint should consider whether it is appropriate to offer compensation in the complaint response.

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Mr and Mrs D had bought a new-build home in October 2020, but their solicitors failed to register their purchase until March 2022. The two-year fixed-rate period of their mortgage was due to end in October 2022. They had negotiated a remortgage, but that offer was due to expire in December 2022. Mr and Mrs D's solicitors applied to expedite the registration application in September 2022. HMLR agreed but said there were previous applications affecting the registration and they had to be looked at first. HMLR was still saying the same thing in November 2022, so Mr D complained and also contacted my office.

My staff liaised with HMLR staff to make sure the complaint from Mr and Mrs D (which, along with subsequent correspondence, seemed to have been overlooked) was dealt with swiftly. I was pleased to learn that HMLR decided that Mr and Mrs D's application could be completed before the previous applications, and Mr and Mrs D were able to remortgage before the offer expired.

When a home is no longer a castle

The risk of losing all or part of their home is one of the most serious problems that people can face. Here are three very different examples which illustrate the limits of HMLR's role and the approach that my office and I took.

Ms E realised that she had been the victim of fraud when HMLR sent her a letter confirming that her application had been completed and her property had been registered in the name of someone else. She contacted HMLR straightaway and, after HMLR had made the necessary checks, the register was corrected and the property put back in her name. Ms E lived in the property throughout this process.

Ms E complained to me that HMLR had been grossly negligent, and that the experience had caused her considerable trauma for which HMLR had provided inadequate redress. My investigation found that HMLR had carried out its usual safeguards against fraud but, sadly, those safeguards had been insufficient. For example, it had sent notice of the application to Ms E but she had never received it as her post was being intercepted.

I found that HMLR had acted appropriately and that its responses to Ms E had been sympathetic and sensitive. I noted that HMLR had accepted Ms E's claim for compensation for the time that she had spent on the matter and had offered a goodwill payment of £1,000 in recognition that its anti-fraud processes had not prevented the property being briefly registered in the wrong name. For these reasons, I did not recommend any further redress.

Mr and Mrs F were about to sell their house, and their solicitors realised that a small piece of land on the southern boundary of their property did not fall within the red outline on the HMLR title plan. The solicitors applied to HMLR to change the title plan. HMLR agreed and told the solicitors that it had found another mistake relating to the northern boundary. HMLR invited Mr and Mrs F's solicitors to apply to change the title to the property on the northern boundary, which was currently held by Mr G.

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After the solicitors amended their application, HMLR wrote to Mr G and said it proposed to remove land from his title because it had been included by mistake. Mr G promptly wrote back and objected, saying there was no mistake, the land in question was his laundry room and it was separated from Mr and Mrs F's house by a very old wall. He asked why the claim had been made as he had never had any dispute with Mr and Mrs F.

HMLR told Mr G that his objection was 'groundless' but he might be able to challenge the decision in court. It suggested he should see a solicitor and gave him time to make another objection. Mr G went to solicitors and they lodged an objection on his behalf. At the same time, Mr and Mrs F's solicitors contacted HMLR and said there was no dispute with Mr G and asked why he had been contacted. They told HMLR that its actions had jeopardised their clients' sale. HMLR then cancelled the application affecting Mr G's title.

Following my investigation, I was very critical of how HMLR had dealt with the matter. No one had looked at the original files for the two properties, which gave a full explanation for what had happened and confirmed that the laundry room had always been part of Mr G's property.

HMLR told me that it had not been 'inherently unreasonable' to invite Mr and Mrs F's solicitors to make an application because when HMLR plans are computerised 'sometimes errors are made and land shown on the vectorised version is incorrect'.

I found that HMLR had made several procedural failures, had not properly investigated what it had done, and had failed to see its actions from Mr G's perspective. I recommended that HMLR should apologise and make a payment of £1,500 to Mr G to cover his solicitors' bill and to recognise the distress and inconvenience HMLR had caused. I acknowledged that Mr and Mrs F's solicitors should bear some responsibility for what had happened, but found that HMLR's insistence that the solicitors were totally to blame was wrong.

HMLR told me that it disagreed with my conclusion that its failures had led to Mr G's problems, but it agreed to accept my recommendations. There was then a delay of over a month before HMLR contacted Mr G. This caused Mr G further frustration. HMLR told me that the delay was caused by other senior staff taking the time to read my report before arriving at a general acceptance that HMLR had not handled matters appropriately and that its earlier responses had been too defensive. This case resulted in several frank discussions between my office and HMLR, which I am confident will be valuable in improving the way HMLR handles complaints in the future.

Ms H had rent arrears of £18,000 and her landlord had a court order requiring her to give up her flat. Ms H made several applications to HMLR in the hope of demonstrating she had acquired rights over the flat, which she could use in her attempt to appeal against the court order. For example, she had made an application claiming that she had acquired a title based on 'adverse possession' (sometimes

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known as squatters' rights). HMLR correctly spotted that the application was flawed. Ms H was more successful in claiming to HMLR's Land Charges department that she had the benefit of an 'estate contract' (a legal agreement from the owner to sell her the flat). However, because Ms H did not include details of the agreement (which did not in fact exist), HMLR's Land Charges department should have rejected Ms H's claim.

I did not uphold Ms H's complaint but concluded that if HMLR had carried out its standard checks properly, it would have avoided being drawn into a lengthy landlord and tenant dispute (which was none of its concern).

A restriction cancelled by mistake

In 2006 Mrs I had bought an 'affordable home' with a 40% discount off the market value. At the time, she agreed to a restriction in the register to reflect an agreement with the local council that the house will continue to be sold at a 40% discount. Later, Mrs I wanted to sell the house at its full market value and asked HMLR to cancel the restriction because it was no longer required. HMLR cancelled the restriction.

The local council found out what HMLR had done and asked it to reinstate the restriction, saying Mrs I was well aware that the restriction should stay to protect the 'affordable home' status. HMLR reinstated the restriction and apologised to the council. It also apologised to Mrs I for cancelling the restriction without making proper checks. HMLR paid Mrs I £1,000 to reflect the inconvenience it had caused her.

Mrs I complained to me that HMLR's compensation was inadequate and did not reflect her loss because she had had to sell her house at the 40% discount.

I did not uphold Mrs I's complaint and explained why I would not recommend that HMLR increased its compensation. I said that if HMLR had not offered a payment, I would have considered whether any payment was appropriate and would have taken into account that Mrs I's inconvenience had been caused by her own application to remove the restriction, which contained incomplete information.

Accuracy of HMLR's published information

While reviewing a complaint from Mr J, I saw that HMLR said on its website that it had to publish information annually to meet the 'Public Sector Equality Duty', but the most recent information on the website had been published nearly three years before. I checked an earlier report in which I recommended that HMLR has procedures in place to make sure the information on its website is regularly reviewed and updated. Unfortunately, I have recently had to make that recommendation again – this time in connection with an automated email response which referred to a fraud-reporting form that had not existed for seven years.

Facts and figures 2022/2023

The small number of complaints referred to me shows that HMLR settles most complaints through its complaints procedure.

The table below gives an overview of the work of my office in 2022/2023 compared with the previous financial year. Of the complaints we received this year, 24 proceeded to a formal investigation.

Complaints about HMLR 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 |
|-----------|---------------------|--|---|---------------------------------|
| 2022/2023 | 139 | 11 | 13 | 17 |
| 2021/2022 | 130 | 11 | 24 | 9 |

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 formal investigation, and only a few of those result in a finding of maladministration (a failure of a government body 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 (negotiating an agreement directly between the complainant and HMLR).

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 (personal redress); and
- help HMLR to improve its systems and procedures, to reduce the risk of similar complaints in the future.

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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 10 consolatory payments, for amounts ranging from £100 to £1,500.

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:

- provides or improves public explanations for processes or decisions;
- considers changing procedures; or
- provides 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 | Other specific recommendations for redress | Wider recommendations |
|-----------|---------------------------------------|-----------------------------|---|------------------------------|
| 2022/2023 | 10 | 10 | 0 | 14 |

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 2022/2023.

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 that we agree to look into the complaint. This year, we met that timescale for all but one complaint. It took an average of 14 weeks to complete investigations.

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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 | 2020/2021 | 2021/2022 | 2022/2023 |
|---|------------------|------------------|------------------|
| Staff costs | £210,080 | £242,139 | £239,151 |
| Administration (including the cost of office accommodation) | £16,725 | £28,510 | £30,835 |
| Total | £226,805 | £270,649 | £269,986 |

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.

'May I thank you and your team for a most thorough, incisive and fair report on my complaint to HMLR.'

'I think you have considered all aspects of the complaint in a manner which was fair to both sides but with clinical attention to detail particularly the rules and standards by which HMLR should comply and which I as a layman have no knowledge.'

'The ICR philosophy of fairness, independence, proportionality and transparency is adequately demonstrated in this report and we the public are grateful to have such a body as ICR that we can turn to when our own efforts to right an injustice seem in vain.'

'May I also say thank you to your team members [redacted] and [redacted] for their efforts and the very personable manner with which they respond to potential clients.'

'[HMLR staff name redacted] has emailed me the Completion of Registration Document. For me, this is excellent progress, which would not have happened without your contact with HMLR. For this, I am extremely grateful for your help.'

'Thank you for your email, [ICR staff name redacted] did an amazing job and so grateful. He's a credit to your team. It's now all sorted.'

'My complaint only went as far as [an initial contact] as HMLR offered financial compensation. My telephone call and email experience with the ICR was excellent, the staff were friendly, clear and helpful.'

'Your kindness and help is so much appreciated.'

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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. A person whose complaint I considered in 2021 has asked the Ombudsman to recommend higher compensation, and I look forward to hearing the Ombudsman's decision.



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