



HM Land Registry

Customer Care Review Committee

Final Report

2025

Contents

1. Introduction	2
2. Executive Summary	4
3. Background	6
4. Detailed Findings	8
5. Conclusions and Recommendations	25

1. INTRODUCTION

- 1.1 In March 2024, the Board of HM Land Registry ("HMLR Board") commissioned a Customer Care Review Committee ("the Committee") to undertake an independent review on the HMLR Board's behalf into customer handling procedures and customer experience at HM Land Registry ("HMLR").
- 1.2 As part of that review, the Committee commissioned external legal advisors, Eversheds Sutherland (International) LLP ("ESI") to review 13 historical customer complaint cases in accordance with the terms of the framework document attached at **Appendix A** ("the Review").
- 1.3 When reviewing the 13 cases, ESI were tasked with considering if:
 - 1.3.1 The legal decision made was correct;
 - 1.3.2 The customer complaints policy was correctly applied; and
 - 1.3.3 The contact closure policy (formerly the disengagement policy) was correctly applied.
- 1.4 The Review was also intended to identify whether the customer impact and perspective were fully and properly considered during the complaints decision-making process, and whether an industry best practice approach was adopted to ensure a proportionate and appropriate outcome for the customers involved.
- 1.5 The Committee was also interested in ESI's recommendations to assist HMLR in improving, in line with industry best practice, its customer handling processes (particularly as part of its statutory duties and decision making).
- 1.6 ESI's client for the purpose of this Review is the HMLR Board and the Committee and the members thereof.
- 1.7 The main purpose of the Review was to provide legal advice in relation to the decisions made on the 13 cases. This report (the "Report") is prepared specifically for the client as detailed in the framework document at **Appendix A** to this Report, and should not be shared with anybody else, unless consent from the client is received.
- 1.8 The 13 cases considered as part of the Review fall into three separate categories of complaint:
 - 1.8.1 Independent Complaints Reviewer ("ICR") cases;
 - 1.8.2 Maladministration; and
 - 1.8.3 Customer contact closure.
- 1.9 Some cases fall across all three categories. Nine of the 13 cases were selected at random, with the final four being recommended by the Committee for review. The full selection methodology was outlined in the Customer Care Review Committee paper dated 19 July 2024 (embedded within the framework document at **Appendix A**).
- 1.10 After completing its review of the 13 cases and determining the findings (as set out in this Report), in February 2025 ESI was asked to review a further case. This case consisted of new complaints that had been received from one of the complainants of the 13 cases already considered, although unconnected to the subject of any of those 13 complaints. The complaints in the new case file do not fall into one of the categories at paragraph 1.8 above and the complaints are ongoing, therefore the findings from the review of that case

file does not form part of this Report. The Committee however wanted the case to be reviewed to consider if any further learning could be gained. The findings have been kept separate in **Appendix G** to this Report. As part of the review, ESI considered the same three points as set out in paragraph 1.3 above. This is known as "Case 14".

- 1.11 HMLR provided ESI with electronic copies of the files relating to the 14 cases and, in respect of three of the longest running cases, hard copy documents were provided and digitised for electronic review. ESI has not had access to HMLR systems as part of the Review, and has relied on the HMLR legal team to provide the relevant documentation for each case.
- 1.12 All documents were reviewed on ESI's document review platform, CaseReady, and individual case reports have been created for each case. Copies of each of these individual case reports can be found at **Appendix F**.
- 1.13 This Report has been broken down into the following sections:
 - 1.13.1 Executive Summary;
 - 1.13.2 Background;
 - 1.13.3 Detailed findings;
 - 1.13.4 Conclusions and recommendations;
 - 1.13.5 Appendices
 - 1.13.5.1 Appendix A – Framework document;
 - 1.13.5.2 Appendix B – Complaint handling policies 2007 to date;
 - 1.13.5.3 Appendix C – Contact closure policy;
 - 1.13.5.4 Appendix D – Matrix of findings;
 - 1.13.5.5 Appendix E - Table of recommendations;
 - 1.13.5.6 Appendix F - Individual case reports;
 - 1.13.5.7 Appendix G – Findings from review of Case 14.

2. EXECUTIVE SUMMARY

- 2.1 ESI was instructed by the Committee to undertake an independent review into HMLR's customer handling procedures and customer experience. The approach and methodology are set out in detail in the framework document at **Appendix A**, with the findings set out in this Report. ESI was asked to review a small sample of historic case files.
- 2.2 Through reviewing **13 complaint files**, ESI was asked to consider whether:
- 2.2.1 The legal decisions made were correct;
 - 2.2.2 The customer complaints policy was correctly applied; and
 - 2.2.3 The contact closure policy (formerly the disengagement policy) was correctly applied.
- 2.3 The Review was also intended to identify whether the customer impact and perspective were fully and properly considered during the complaints decision-making process, and whether an industry best practice approach was adopted to ensure a proportionate and appropriate outcome for the customers involved.
- 2.4 The cases we have reviewed **do not indicate any fundamental issues that cause us significant concern**. There is however learning to be derived from the Review, and we recommend action should be taken. This includes findings concerning the accuracy of some legal decisions. These **were however minor discrepancies not significant failures, that did not significantly impact customers, and we address these findings** further below.
- 2.5 Of the 13 files, we identified **three where the initial legal decisions made were incorrect and three where the initial legal decisions were partially correct**. Of the three with incorrect legal decisions, these were minor discrepancies that were capable of simple rectification. In the first, it was acknowledged by HMLR that they had incorrectly registered part of the customer's land, however there remains an error on the title register. In the second and third, it was maintained that the decision of the Land Registrar is final and cannot be altered, when we do not believe this to be the case.
- 2.6 In respect of the three partially correct legal decisions: one relates to a neighbour not being informed of an application made in respect of adjoining land; one relates to incorrectly registering a charge; and the final one relates to what is considered to be, a too narrow interpretation of the application of restrictive covenants.
- 2.7 In 12 of the 13 cases reviewed, save for extending the duration of the complaints, and potentially the stress associated with pursuing a complaint, **these incorrect or partially incorrect decisions had no significant impact on the outcome of the complaint and were easily resolved** (albeit it took a while to resolve two of the complaints).
- 2.8 In addition to the above, we have concluded that there were some **considerable delays** in responding to complaints correspondence, which only served to extend the duration of contact from customers. There was also evidence of **potential conflict of interest with HMLR staff**, who were involved in the initial reason for the complaint and then became involved in investigating the complaint. This is one example of the complaints policy not being complied with.
- 2.9 The **tone and clarity of correspondence** has also been identified as an area of potential concern. There were examples of HMLR sending letters full of legal jargon to customers assuming knowledge on the part of the customer. In addition, there were also examples of caseworkers failing to remove themselves from the emotion of the complaint. In some situations the caseworker could have handled the situation more professionally.

- 2.10 At times, the caseworkers have also **been dogmatic in their approach** to complaints and have been unable to consider the wider picture in respect of what the core issues are and whether there were relatively straight forward ways of seeking to resolve the complaint. There is an inherent imbalance of power that exists between the customer and HMLR, with HMLR's decision being final and there being no recourse for a customer other than legal challenge. As a sole public service provider, HMLR needs to be mindful of this imbalance of power. Its objective when dealing with complaints should be resolution – how best that can be achieved, if indeed it can – and not about who is right or wrong.
- 2.11 Having said that, during the course of the Review, we have also identified examples of **positive behaviours** which have resulted in more expeditious settlement of complaints.
- 2.12 As with any customer facing role, HMLR is not immune to coming into contact with vulnerable customers at some stage. It is important that these vulnerabilities are identified early and that the approach to, and language used, is adapted accordingly, as well as any concerns being appropriately escalated. In the 13 cases reviewed, there are examples of **vulnerable customers contacting HMLR with varying degrees of appropriate and empathetic responses**.
- 2.13 There were a number of gaps in the correspondence, or ICR reports were referred to, but we could not find copies on the file. This made it very difficult to follow the trail of events. In the same way, any case-file handler or member of HMLR staff dealing with the file will have experienced the same difficulties in understanding the status of events at any particular time. This may have contributed to delay and potentially failing to address key concerns of the customer, as the case handler sought to work out what had happened and how best to respond. Having a **clear and complete complaints file** is essential to ensure good handling of a complaint.
- 2.14 Ensuring, where possible, that the **same caseworker deals with the complaint for its duration** would also be beneficial. While we accept that this may not always be possible, the number of different staff involved (save for if a conflict arises) should be kept to a minimum.
- 2.15 The detailed findings of the Review are set out in Section 4 of this Report.
- 2.16 In order to address the issues identified during the Review we have made a number of recommendations, which are set out in full in Section 5 of this Report, and in the table at **Appendix E**. In summary, we recommend:
- 2.16.1 The implementation of a customer charter;
 - 2.16.2 A review and update of the current complaints process to include, amongst other things, the introduction of a standard complaints form;
 - 2.16.3 The creation of a central repository for all complaints correspondence;
 - 2.16.4 The development/enhancement of complaints-handling training for HMLR staff and the creation of template documents;
 - 2.16.5 The introduction of a regular review of complaint files;
 - 2.16.6 The development of a vulnerable customer policy;
 - 2.16.7 The introduction of a peer review for legal decisions;
 - 2.16.8 The establishment of a mediation scheme.

3. BACKGROUND

3.1 As detailed above, the HMLR Board commissioned the Committee in March 2024 to look at the customer handling procedures and the customer experience at HMLR. ESI were instructed as independent legal advisers to undertake an aspect of that work, namely the Review.

3.2 ESI were tasked with reviewing 13 cases; 12 of which had been dealt with under HMLR's complaints procedures. HMLR had been engaged in protracted correspondence in the final case, but it had not been considered a complaint. ESI were asked to review that case as the customer contact closure policy had been invoked and to consider whether the matter should have been considered a complaint.

3.3 The 13 files can be broken down into the following categories:

ICR case upheld	4
ICR case partially upheld	2
ICR case not upheld	1
Maladministration	3
Contact closure	3

3.4 Some cases however straddle these categories. For example, there were some cases where the matter had been referred to the ICR, a maladministration payment had been made and the contact closure policy had been invoked. Therefore, our categorisation is based on the most significant element of the case.

3.5 As mentioned above, the complaints selected for review were from a pool of historic complaints. Some of the cases have been very long running, with the longest running for 24 years. The average time of engagement on the 13 files reviewed was 7.8 years. We address the length of some of these cases in our findings below.

3.6 In order to carry out the review, ESI was provided with copies of the case files. In three of the cases, this included hard copy files, which were digitised for the purposes of the review. ESI was also provided with copies of the following:

- 3.6.1 Relevant complaints policies and contact closure policy;
- 3.6.2 Full end to end complaints process flow document;
- 3.6.3 HMLR's indemnity review in respect of **Customer 9**, one of the customer's whose file was subject to the Review;
- 3.6.4 'Putting Things Right' document from 2007;
- 3.6.5 A slide extract of planned improvements to the customer journey; and
- 3.6.6 The Law Commission report "Updating the Land Registration Act 2002".

3.7 ESI did not have direct access to the HMLR systems, however, when ESI identified potentially missing documents, these were sought from HMLR and specific searches were carried out for these documents. In some instances the documents were located by HMLR, in others they were not.

- 3.8 Record keeping and the benefits of a central repository for all complaints correspondence is discussed later in this Report.
- 3.9 HMLR also provided a case summary of each case to ESI to assist with the Review. Whilst this was used to gain a general understanding of the matter, the findings of the Review were based on ESI's own assessment of the documentation received.
- 3.10 ESI reviewed all documents provided by HMLR and a detailed chronology of events was prepared for each case. Each individual case report contains the following information:
- 3.10.1 A summary of findings;
 - 3.10.2 Assessment of legal decision made;
 - 3.10.3 Assessment of compliance with contact closure policy;
 - 3.10.4 Assessment of compliance with complaints policy;
 - 3.10.5 General observations;
 - 3.10.6 Appendices, including:
 - 3.10.6.1 Copy of Case Summary provided by HMLR;
 - 3.10.6.2 Full chronology of engagement;
 - 3.10.6.3 Complaints checklist; and
 - 3.10.6.4 Contact closure checklist.
- 3.11 As part of the Review, ESI has created a matrix of findings, which provides a snapshot of the findings and general observations made across the 13 files in order to identify any recurring themes. A copy of this matrix can be found at **Appendix D** and the findings are discussed in Section 4 below.
- 3.12 ESI held weekly calls with members of the Committee to report on progress and attended the Committee meeting on 27 September 2024 to present its findings. It also attended HMLR Board meetings on 7 October 2024 and 27 January 2025.

4. DETAILED FINDINGS

- 4.1 In the following section we set out the detailed findings arising out of the Review.
- 4.2 A matrix of ESI's findings can be found at **Appendix D**. For each individual case, the matrix details the following:
- 4.2.1 The category of the complaint;
 - 4.2.2 The type of dispute;
 - 4.2.3 The length of engagement with the customer;
 - 4.2.4 Whether the legal decision was correct;
 - 4.2.5 Whether the complaints policy and the customer closure policy was correctly applied; and
 - 4.2.6 Themes arising across the files subject to the review.
- 4.3 These overarching findings are then set out below in detail.
- 4.4 As part of the Review we have also been asked to consider whether our findings indicate any wider, fundamental issues with the way HMLR has been dealing with its customers, which raise significant concern that needs to be addressed with some urgency. The cases we have reviewed **do not indicate any fundamental issues that cause us significant concern**. There is however learning to be derived from the Review, and we recommend action should be taken. This includes findings concerning the accuracy of some legal decisions. These **were however minor discrepancies not significant failures, that did not significantly impact customers, and we address these findings** further below. The main findings of the Review are as follows:

Categories of case:

ICR case upheld	4
ICR case partially upheld	2
ICR case not upheld	1
Maladministration	3
Contact closure	3

Type of dispute:

Boundary	7
Double registration	1
First registration	1
Multiple	1
Registration of charge	1

Restrictive covenants	1
N/A*	1

*There is one case without an identifiable complaint.

Length of engagement with the customer:

Zero to one year	3
One to two years	1
Three to ten	5
10 to 20 years	2
20 years plus	2

4.5 **Some of the cases have been very long running, with the longest running for 24 years. Conversely there is also an example of a complaint being dealt with within a month. The average time of engagement on the 13 files reviewed was 7.8 years. This is clearly a significant length of time and the HMLR resource expended on managing these would have been significant too.**

4.6 In respect of the cases open for the longest period of time, whilst we have some sympathy with HMLR given the nature of the complaints, the approach of the customers and HMLR's clear attempts to curtail the correspondence, more could have been done to settle the disputes sooner. None of the cases settled as a result of a change in policy or procedures; they were all as a result of HMLR ultimately deciding that they could either offer the customers what they wanted, in whole or in part, or the customer accepted that there was no further potential remedy.

Legal decision correct?

Yes	6
Partially	3
No	3
N/A	1

4.7 In respect of the three cases where an incorrect legal decision was reached, these decisions were minor discrepancies as opposed to significant failures, which resulted in errors requiring rectification; two of which have been resolved. The first was the case of **Customer 1**, where HMLR acknowledged that they had incorrectly registered part of their title. The second and third were the cases of **Customer 4** and **Customer 9**, where it was maintained that the decision of the Land Registrar is final and cannot be altered. See paragraphs 5.52 to 5.55 below for further information. However, these decisions caused the complaints to continue unnecessarily. These complaints lasted nine, 20 and 24 years respectively.

4.8 Of the three files with a partially correct legal decision, one relates to a neighbour not being informed of an application made in respect of adjoining land, one relates to incorrectly registering a charge and the final one relates to too narrow an interpretation of the application of restrictive covenants. Two of these complaints lasted three years and one

lasted six years. These partially correct decisions had no significant impact save for extending the duration of the complaint.

- 4.9 The duration of the cases where the legal decision is deemed to have been incorrect or partially correct exceeds those where the decisions were correct. The duration of the cases where there was a correct legal decision varied from one month to 11 years (one month, four months, one year, one and a half years, three years and 11 years).
- 4.10 **Therefore, based on the sample of cases reviewed - which we accept is a small sample - there seems to be a direct correlation between the accuracy of the decisions made by HMLR and how long the complaints took to resolve. While the majority of these cases were eventually resolved and the inaccurate decisions were minor discrepancies, it represents 46% of the total cases reviewed where a legal decision was incorrect or partially incorrect.**

Compliant with complaints policy?

Yes	3
Partially	4
No	6

- 4.11 For the six files where the complaints policy was not correctly applied the reasons for this varied from: failing to identify correspondence as a complaint; not responding within the timeframes stipulated by policy; and the incorrect process being followed, for example, referring a matter to the ICR before the stage 2 review.
- 4.12 For the files where the complaints policy was partially complied with, these all consisted of multiple complaints where the delineation between the complaints was unclear and therefore the acknowledgments or responses were not compliant with the policies in place at the relevant time. In some instances, the approach to certain complaints were compliant but others were not.
- 4.13 **Again, while the sample size was small, only 23% of the files fully complied with HMLR's complaints policy.**

Compliant with customer closure policy?

Yes	6
No	3
N/A	4

- 4.14 ESI has found that the contact closure policy was correctly applied in six cases, not applied correctly in three cases and not applicable in four.¹ In cases where the policy was not applied correctly, the reasons for this vary:
- 4.14.1 In one instance, the customer was told that a response was final, but they were not told that HMLR would not respond to any further correspondence on the matter;

¹ This relates to cases where the policy has not been engaged, generally as a result of the complaint coming to a natural conclusion, and ESI has marked the policy as not applicable as contact closure was not required.

- 4.14.2 In another, the customer was not told that contact would cease, but a note was placed on HMLR's system to this effect. Some months later, the customer became aware of the situation and further complained. HMLR explained the process to the customer at that stage, but correspondence continued for many years; and
 - 4.14.3 In the final instance, it appears that HMLR attempted to engage the policy but the correspondence with the customer was not sufficiently clear and HMLR continued to correspond. Eventually the customer saw a note on HMLR's PAS system stating that they were 'disengaged', which led to further protracted complaints, to include complaining to their MP and the ICR.
- 4.15 **We found the engagement of the contact closure policy did sometimes trigger further complaints to be made, with customers feeling like they were not being listened to, and the language used when they were being 'disengaged' did serve to inflame some of the situations. Again, while the sample size was small, of the cases where the contact closure policy was engaged, 66% fully complied with the terms of the policy.**

Complaints Handling Themes

- 4.16 As part of the Review, ESI was tasked with looking at whether the customer impact and perspective were fully and properly considered during the complaints decision-making process, and whether an industry best practice approach was adopted to ensure a proportionate and appropriate outcome for the customers involved. As part of considering these issues, ESI has identified some recurring themes and/or concerns where improvements could be made. Some of these themes appear across multiple files, whereas others across only one or two. We have broken these themes down by the following topics:
- 4.16.1 Delay;
 - 4.16.2 Conflict;
 - 4.16.3 Clarity of responses/language used;
 - 4.16.4 Tone of correspondence/attitude;
 - 4.16.5 Vulnerable customers;
 - 4.16.6 Continuity of caseworkers and lack of clear/complete file; and
 - 4.16.7 Culture of complaints handling.
- 4.17 Following this, we have then considered two particular legal points that have arisen during the Review related to (i) general boundary disputes, and (ii) the extent to which the Land Registrar's decision is final.

Delay

- 4.18 When considering the files, six of the 13 showed evidence of delays in responding to and dealing with correspondence, despite complaints policies providing guidance in respect of timeframes within which to respond. When engaging with customers on emotive subjects like complaints, it is important that the customer feels heard and that they are being treated fairly, in a timely fashion and with respect.
- 4.19 The evidence of delay varies across the files from a few days to a few months; with the latter often requiring a single, or in some instances multiple chasers (see **Customer 9** case review) before receiving a response. In some instances, the delay has resulted in the length of time it has taken to resolve the complaint increasing as referenced at paragraph 4.5 above.

- 4.20 There are various reasons given for these delays having taken place, however, certain delays were avoidable.
- 4.21 In the case of **Customer 9**, the customer was informed that there would be a delay in responding to a query in the absence of the case handler on holiday. When the case handler returned from holiday, she stated that she had received Customer 9's letter but that she needed to review it with a more senior member of staff. That more senior member of staff was the individual that had sent the holding response to the customer. It is unclear, and no explanation was provided, as to why the more senior member of staff could not deal with the query in the case handler's absence.
- 4.22 In the case of **Customer 2**, there were significant delays throughout the matter. In some instances HMLR did communicate that there would be delays² and did provide reasons for the delays (high case load or Christmas period). However, the fact of and reason for the delay of nearly eight months in referring the request for compensation and indemnity costs was not communicated, and it is unclear why this had to go through a senior caseworker to then be referred to a departmental lawyer. These actions caused significant and unfair delay on the customer, who was left out of pocket for a significant period of time.
- 4.23 In the case of **Customer 7**, there is evidence of repeated delays on the file (some of them significant), particularly around March to August 2020 when the standard of service appears to have been impacted by the changes in working practice resulting from the restrictions imposed during the pandemic. It appears that no progress was made on Customer 7's application from February 2020 to August 2020, and only then because the customer repeatedly contacted HMLR requesting an update. Customer 7 also chased for further updates on a number of occasions and many of these emails were either not responded to or the customer was informed that it was not possible to provide a timeframe for reviewing the application. This approach was taken despite Customer 7 informing HMLR that the matter was causing them severe financial hardship. During this period when Customer 7 was regularly contacting HMLR for an update, it appears that they had several channels of communication with different representatives of HMLR, making the process complex and confusing for the customer.
- 4.24 The case of **Customer 4** is one on the longer running complaints with HMLR having been in correspondence with the customer for a period of 20 years. The ICR made reference to delay in their report dated 27 April 2005. Whilst it was found to be of no consequence at that stage, Customer 4 [REDACTED], clearly felt that the delays on the part of HMLR were very serious. In one example, a letter from 6 December 2007 went unanswered by HMLR until 20 June 2008, with the response then including an apology for the delay. The ICR again criticised HMLR for delay in its report of 6 May 2010 and, as a result, HMLR apologised to Customer 4 on 12 May 2010.
- 4.25 The case of **Customer 9** provides further examples of delay. The ICR criticised HMLR for delays in corresponding with the customer and also for protracting the correspondence with them. Examples of delay include:
- 4.25.1 Customer 9's letter to HMLR on 21 June 2000 where they stated "*My understanding was that the Land Registry should normally expect to reply within 6 working days but I have now heard nothing from Lincoln's Inn Fields since the beginning of April 2000. Could you please let me know why such a lengthy delay has occurred...*".
- 4.25.2 On 28 February 2001, Customer 9 chased a response to their letter dated 15 January 2001. This was eventually responded to by HMLR on 5 April 2001.
- 4.25.3 On 5 July 2001, Customer 9 chased a response to their letter of 25 April 2001, which had initially been acknowledged by HMLR on 14 May 2001. A full response was provided by HMLR on 20 July 2001.

² See letters 7 October 2015, 17 December 2015 and 6 January 2016

- 4.25.4 On 3 October 2001 HMLR wrote to Customer 9 thanking them for their letters of 25 July, 24 August and 25 September and responded to the queries raised therein.
- 4.26 Without doubt the various delays throughout the duration of Customer 9's case contributed to it being open for 24 years. At various stages there have been delays – some of them significant – on behalf of HMLR, either in responding or in taking promised action. Given Customer 9 was already dissatisfied with HMLR in a number of ways, regular delays will only have served to increase this dissatisfaction and fuel the complaints made.
- 4.27 The other aspect of delay identified has been a delay to recognise that a complaint exists. There have been three examples of cases where HMLR has been slow to categorise an expression of dissatisfaction as a complaint:
- 4.27.1 In the case of **Customer 1**, the customer had been in correspondence with HMLR for eight years (between 2015 and 2023) before any of their correspondence was considered to be, or dealt with as, a complaint. There had been various exchanges between Customer 1 and HMLR in that intervening period which would constitute a complaint.³ Customer 1 had repeatedly expressed their dissatisfaction with HMLR and the way in which it was dealing with their concerns, but at no stage were these considered to be a complaint. Interestingly, in Customer 1's opinion,⁴ they first complained in September 2018, albeit they had already been in correspondence with the HMLR for three years by that point. Even once the complaint was recognised in 2023, there was still a delay providing an acknowledgement (this should have happened within 24 hours) and Stage 1 response which took six weeks (rather than the required 20 working days).
- 4.27.2 In the case of **Customer 3**, HMLR failed to identify their expression of dissatisfaction as a complaint. Customer 3 was clearly disappointed with the response they received in March 2012 following the initial assessment of their application to remove a deed of release from the register, which concluded that the application should be cancelled. Customer 3 said the decision was "disappointing" and "misses the most important points". It was not dealt with as a complaint until March 2014.
- 4.27.3 The case of **Customer 10** is slightly different in that the correspondence was never considered to be a complaint. However, following ESI's review, it was felt that some of the correspondence received from Customer 10 could have been considered a complaint and been dealt with under the complaints policy. Customer 10 corresponded with HMLR for 12 years without any of the correspondence being considered a 'complaint'. Had the complaints policy been invoked, it is anticipated that the correspondence would have ceased sooner.
- 4.28 **As identified above, in almost half of the files reviewed there was evidence of delay on the part of HMLR when dealing with the complaint. That not only served to prolong the complaint, but increased frustration on the part of the customer concerned, in some cases leading to additional complaints. This delay unnecessarily escalated matters and reduced the prospect of swift resolution.**
- 4.29 **In at least three cases, there was also a delay in recognising the customer's expression of dissatisfaction as a complaint. In the case of Customer 1, there was a delay of eight years. This meant that the complaints policy was not invoked and the correct steps were not taken to treat the matter as a complaint. Again, this will have increased the frustration of the customer.**

³ See for example letter dated 20 December 2015 from Customer 1 to HMLR

⁴ According to an e-mail dated 16 March 2023

Conflict

- 5.1 During the course of the review, ESI has identified three cases where there was a conflict of interest between the complaint being made and the way HMLR dealt with the complaint.
- 5.2 In the case of **Customer 1**, the customer had made it clear in correspondence that they felt a senior officer at HMLR ("HMLR 1") had made an error when registering the title. Initially, Customer 1 was pleased that HMLR 1 was involved in the complaint as they felt that they would be able to acknowledge the error, as Customer 1 saw it, and rectify it. However, once it became apparent that HMLR 1 did not feel that they had erred, Customer 1 was keen that the complaint be dealt with by another senior officer ("HMLR 2"). The matter was referred to HMLR 2, however, HMLR 2 sought input from HMLR 1 in their response. When Customer 1 became aware of this they expressed their dissatisfaction and asked that somebody else review the matter. This did not happen until after HMLR 1 retired. Customer 1 decided not to pursue their complaint pending HMLR 1's retirement. HMLR 1's ongoing involvement was contrary to HMLR's complaints process to escalate the matter to a Land Registrar, Operations Manager, relevant line manager or some other senior officer.
- 5.3 In a similar vein, in the case of **Customer 7**, the same HMLR lawyer who dealt with the customer's substantive matter, also reviewed their stage 1 complaint despite Customer 7 having raised concerns that the lawyer had not properly understood the matter. Customer 7 had also requested that another lawyer be involved in the review.⁵ To ensure a level of independence and to manage the concerns raised by Customer 7, it would have been appropriate for another lawyer to have reviewed the matter at this stage.
- 5.4 Similar to the case of Customer 1 referred to above, **Customer 3** expressed concern regarding the individual dealing with their complaint who had previously been involved in the decision about which Customer 3 was complaining. An HMLR lawyer was actively and heavily involved in this complaint despite having undertaken the initial assessment of Customer 3's application to remove a deed of release from the register, concluding that the application should be cancelled. Customer 3 was unhappy with this response noting it was "*disappointing*" and "*misses the most important points*". Despite this, the same HMLR lawyer continued to deal with Customer 3's further correspondence. Customer 3 was clearly dissatisfied with the HMLR lawyer, saying to the Land Registrar that they had "*lied*", and yet a separate complaint relating to a request for information in June 2014 was still referred to the same HMLR lawyer. Customer 3 stated in correspondence to the HMLR lawyer on 20 June 2014, "*Might have known you would get in on this*" (i.e. the new complaint) further demonstrating their dissatisfaction with the individual. The HMLR lawyer continued dealing with the matter despite allegations that they were "*clearly withholding evidence*".
- 5.5 **To ensure robust and independent complaints-handling, when dealing with a complaint, or when a complaint is escalated, it is accepted good practice that those involved in the subject matter of the complaint should not be involved in any decision-making relating to the complaint thereafter. To do so creates a perception that HMLR will be unable to deal with the matter objectively. In these three cases, a clear and obvious conflict arose and the complaint should have been passed to someone else. The failure to do so likely caused the complaint to escalate.**

Clarity of responses/language used

- 5.6 **There is evidence across all 13 files of customers being confused by correspondence received from HMLR and the sometimes overly technical responses provided. Ultimately, the customers are rarely experts in land law and therefore the correspondence drafted by HMLR should be easily digestible and the customer should be able to simply understand the content. Companies or public bodies who engage with customers should do so in a clear, transparent and accessible way in plain English. ESI has seen evidence across the cases where overly complicated letters have been sent to customers. Generally, this leads to**

⁵ See emails of 22 April 2021 at 13:21 and 15:53 and letter of 2 July 2021.

further complaints, frustration and dissatisfaction on the part of the customers and ultimately lengthens the engagement process.

- 5.7 In the case of **Customer 1**, the responses to the customer rarely addressed the issues raised by them and failed to acknowledge all questions raised in their correspondence. The responses often included a couple of paragraphs dealing with certain elements of the correspondence, without acknowledging others. This led to further frustration on Customer 1's part and exacerbated the situation, likely leading to an increase in further correspondence from them.
- 5.8 In the case of **Customer 5**, early letters from HMLR refer to Section 60 of the Land Registry Act 2002 and the Practice Guides and Public Guide, but without setting out the relevance or application to their complaint.⁶ It almost reads as though HMLR is trying not to say anything definitive and comes across as unhelpful. In contrast, the later letter from the Land Registrar, dated 28 October 2014, is an empathetic and considered response. The letter details the contents of Customer 5's letters, thereby acknowledging that they have been read and considered, and the author appears to have a greater understanding of the matter and issues raised by Customer 5 than previous case handlers. This letter also uses less jargon and generally gives the impressions that the Land Registrar has time for Customer 5's queries. This letter also states at page 2 "*I can confirm that Land Registry has not changed the extent of your property or the one next door*" whereas previous letters confusingly state "*there is no inference that Land Registry has made a mistake in the mapping of your title*".⁷ Had the initial responses to Customer 5's letters been clearer, more helpful and more detailed, this may have prevented Customer 5 from escalating their complaint and may have meant that the time spent handling the matter could have been reduced.
- 5.9 The case of **Customer 10** is slightly different to all others within the Review as there was never a complaint identified within the extensive correspondence. However, despite the duration of the engagement with Customer 10 (12 years), within the file we have only found one example of HMLR speaking with them via telephone. It was clear from the ongoing written correspondence that there was some confusion/misunderstanding, therefore it would have been prudent for someone at HMLR to speak to Customer 10 over the telephone on more than one occasion, or to arrange an in-person meeting with them, in an attempt to better understand their concerns and circumvent the confusion.
- 5.10 When correspondence is unclear it can also result in a customer being unaware of key facts. For example, in the case of **Customer 4**, HMLR believed that the contact closure policy had been invoked whereas Customer 4 was oblivious to this decision for some time until they saw the word 'disengaged' on the HMLR system when they attended a Land Registry office. This led to further correspondence and added to the frustrations felt by the customer.
- 5.11 A further example of technical language that is difficult to decipher can be found in the case of **Customer 9**. On 22 February 2000, HMLR wrote to Customer 9 stating "*I have already demonstrated title of [your property] goes beyond the dotted line on the 1975 OS map – see paragraph 5. Its inclusion in the registered title does not prevent 27 and 29 from continuing to exercise rights of access over it. The title is subject to such overriding interests as affect it under Section 70(i)(a) of the Land Registration Act 1925, including rights of way, unless the contrary is expressed on the register. There is nothing on the registers of title numbers [GM*****] and [GM*****] to indicate that the part of the private road included in the title is not subject to rights of way. You will be aware of the effect of Section 62 of the Law of Property Act 1925 in unregistered conveyancing. Similarly, as proprietor of a registered title, [REDACTED] enjoys the benefit of Rule 251 of the Land Registration rules 1925...*". This response is not only confusing to follow for anyone reading it, but it also assumes that the customer has some understanding of the Law of Property Act 1925 and does not confirm, simply, what the position is.
- 5.12 A further confusing element of the files reviewed is the lack of differentiation between complaints on files. In many instances there were multiple complaints within the files but

⁶ See letters dated 19 February 2014, 4 March 2014 and 22 April 2014.

⁷ See letters dated 4 March 2014 and 28 March 2014.

all correspondence was merged and it proved difficult to ascertain to which complaint the correspondence related.

- 5.13 In the case of **Customer 9** there was prolonged contact with the customer and various complaints with no clear delineation between the complaints, albeit ultimately the same issue was at the heart of all the correspondence, it was just expressed differently over the years.
- 5.14 The case of **Customer 3** was very complex with a significant number of complaints and expressions of dissatisfaction being raised by Customer 3 over several years. A number of these complaints overlap each other, both in terms of the time period and content, are often difficult to distinguish from each other, and often the response from HMLR resulted in further complaints. This was not helped by the fact that HMLR did not always respond clearly to each separate issue. Customer 3 was also not always given guidance around process/escalation in relation to each separate complaint or expression of dissatisfaction. We also could not identify on the file any document that clearly set out the date, nature and status of each individual complaint, meaning that it would have been very difficult for a case handler to follow and respond in a clear way. It is likely that the lack of separation will have resulted in prolonging the resolution of individual complaints.
- 5.15 Similarly, in the case of **Customer 11**, the complexity of the file was significantly increased due to numerous complaints being lodged by Customer 11 within the same time-frame, resulting in overlapping issues that required simultaneous attention. This was compounded by the communication channels – HMLR wrote letters to Customer 11, however in response Customer 11 used a mixture of letters, emails and phone calls, making the chronology of events extremely difficult to follow for anyone looking at the file. We could not identify on the file any document that set out a summary of the individual complaints, how they overlapped and the key issues arising.
- 5.16 If there was a mechanism for separating complaints, and ensuring that HMLR's responses to complaints were clearly delineated, this would undoubtedly result in efficiencies for the caseworkers. Having a clear log/file notes of all complaints in one central location on the file would also assist with other inevitable issues such as continuity of responses, for example if a caseworker was unwell or on leave. This could also, in turn, reduce delays in responding to correspondence.

Tone of correspondence/attitude

- 5.17 **During the Review, ESI has seen examples of caseworkers failing to remove themselves from the emotion of the complaint and responding, at times, unprofessionally. Making and dealing with complaints can inevitably be a very emotional process. The customer making the complaint will inevitably be doing so as they feel aggrieved by an event. The person receiving the complaint will often also take a complaint personally where they feel that the complaint is aimed at them. When dealing with such complaints, caseworkers must remain objective and attempt to place emotions to one side. Caseworkers must deal with complaints professionally and even if they feel the customer is being rude and unfair, they should not mirror those behaviours.**
- 5.18 We outline below a table of examples of inappropriate responses being sent to customers.

Customer 4	Letter to [REDACTED] on Customer 4's [REDACTED] dated 1 October 2008: <i>"I am sorry that my absence from the office and consequent inability to respond to your emails has caused you frustration and disappointment. I must also apologise for the fact that I was completely unaware that you were awaiting a response from me to an email that you sent in June in response to my email dated 20 June 2008."</i>
Customer 4	Letter from HMLR to Customer 4 dated 7 September 2011: <i>"That completes Land Registry's consideration of your claim for indemnity. It is not a matter capable of further internal review. If you do not accept the</i>

	<i>conclusion reached it is open to you to take court proceedings against us. Any such action would be most strenuously defended".</i>
Customer 4	Internal e-mail exchange on 2 October 2009 with the subject " <i>The continuing saga of [REDACTED] [Customer 4]!</i> ".
Customer 4	Handwritten note on the file [REDACTED] referring to the matter as " <i>a neighbours from hell case</i> ".
Customer 9	Letter dated 30 January 2009 from HMLR to Customer 9: " <i>I have to say that it is also regrettable that you have accused Land Registry of attempting to deliberately withhold the 1999 minutes. That is simply not the case; the Minutes have remained in the relevant 1999 file throughout and have not been removed or tampered with in any way. Although I appreciate that you are unhappy at Land Registry's position in this matter, your accusations were inappropriate and unfounded and I would make the point that Land Registry and its staff are, of course, entitled to the same level of courtesy and respect from customers as it endeavours to provide to them.</i> "
Customer 9	<p>Letter dated 12 July 2010 from HMLR to Customer 9: "<i>Your suggestion that any member of staff would deliberately destroy title deeds to 'cover their tracks' is an extremely defamatory comment made gratuitously without any justification whatsoever. Land Registry have nothing to 'hide' and I have nothing to add to what I have said in response to your query regarding the title deeds to your property. [Title Number] has always been registered with an absolute title. I am not willing to correspond about it further</i>".</p> <p>The letter concludes with "<i>As to [HMLR staff's] 'refusal to explain herself'. She really has nothing to explain. There was no reason why a lawyer would be involved in accepting or processing either a request for official copies of a SIM and for this reason she was not asked to come to see you. Your insulting and offensive comments relating to [HMLR staff] are not in anyway reflective of the truth of the incident or her involvement in it. The very fact you consider a lawyer needed to be involved indicates that your claim that you had attended simply to obtain official copies of the register (which application can be made online at half the cost of making paper or personal applications) is entirely disingenuous. I have therefore concluded that your complaint is entirely without foundation</i>".</p>
Customer 9	Letter 20 July 2010 from HMLR to Customer 9: " <i>I acknowledged receipt of your email dated 16 July 2010. Head office staff have already explained to you the circumstances and rationale for disengagement. I refer you to your email exchange with [HMLR staff] in 2008. Your suggestion that Land registry staff have 'illegally tampered with the registered title of [Title Number] is incorrect. I remain entirely baffled as to why you make such allegations, which are completely devoid of any foundation. Finally whilst I accept that the ICR's website includes the statement that you quote, it is incorrect. My consideration of your complaint completes Land Registries [sic] internal complaints procedure and there is no option of further internal review</i> ".
Customer 9	On 11 March 2013, after offering a meeting with Customer 9, HMLR wrote to them stating, " <i>I feel I must re-iterate the only issues that I am prepared to discuss are the amendments that I have offered to make to [REDACTED] your title [REDACTED]. It seems that you are intent on trying to reengage issues about which we have disengaged. Given the tone and content of your correspondence I do not feel that anything constructive will be achieved from a meeting. In the circumstances, regretfully, I must decline your request for an appointment.</i> "

Customer 9	Letter 13 March 2013 HMLR to Customer 9: <i>"I refer to your last email. The comments you have made regarding my honesty, integrity and professional conduct are completely unacceptable. My professional reputation is something I take very seriously and I shall go to great lengths to protect. Should you repeat such comments I shall have no option but to consider my legal position. It is clear from your correspondence that you still wish to raise issues about which we have disengaged. I shall not be available for a meeting with you next Tuesday."</i>
Customer 9	Letter HMLR to Customer 9 dated 22 July 2013: <i>"Your email of 20 July 2013 is gratuitously offensive and merits no further response. Any further correspondence that raises no new issue will simply be filed and no response will be issued."</i>

5.19 Throughout the correspondence between Customer 4 and HMLR [REDACTED], there is palpable frustration on both sides. Whilst the correspondence from the customers was incessant and repetitive, there were occasions when HMLR's correspondence bordered on unprofessional and confrontational.

5.20 The cases of Customer 4 and Customer 9 were particularly long (20 and 24 years respectively). When considering both complaints, fundamentally the core complaint arose in respect of their boundaries [REDACTED]. The circumstances surrounding the boundaries did not change during the course of the complaints, nor was there any new evidence that led to the ultimate change in position by HMLR. Both these cases demonstrate the dogmatic approach HMLR sometimes take when responding to complaints or being prepared to consider alternatives. This is a point we address further below.

5.21 In the interests of balance, the tone of correspondence received from Customer 9 [REDACTED], was also frequently rude and impolite. For example:

Customer 9	Referred to staff at [REDACTED] as 'clowns' and stated <i>"This is not striving to achieve the highest levels of customer service – this is persistent failure and malicious incompetence at best and at worst deliberate targeting to punish me [REDACTED] by [REDACTED] reneging on previous commitments and producing plans far worse than any ever before"</i> (see letter 8 January 2009).
Customer 9	<i>"...You do not appear to have read anything. It has taken you years even to spell my name and address correctly. I cannot work with you: you have been grossly negligent, rude, lazy and incompetent. You have also been fraudulent. I am truly disgusted by your conduct. Your gross negligence has caused several of your colleagues to engage in activities which are unlawful trying to defend your lies while you sit back and refuse to even read the correspondence or provide any transparency whatsoever... It is surely no surprise to you at all that I complain about your dishonesty when you are probably the most profoundly dishonest and incompetent person I have ever had the misfortune to encounter in any organisation in my life. I cannot work with you on fixing the boundary because your track record means that I know you will not be either fair or transparent and I want my case referred to someone else who treats me with transparency and fairness and the respect of at least bothering to read the correspondence and replying to it substantively, unlike you. I want somebody who adheres to the Registry Protocol on Engagement and you do not, never have done. Your fraud makes the Chief Land Registrar liable for fraud. Please also respond to the question I raised previously about the police."</i> Letter from Customer 9 to HMLR staff dated 8 June 2011.
Customer 9	<i>"It would be almost impossible to convey in words the distress that has been caused to my family and [REDACTED] as we have been engulfed by a</i>

	<i>tidal wave of distasteful and unprofessional conduct on the part of your staff. It is no exaggeration to say we have been treated like scum and with total contempt by certain of your staff. I have never in my professional or personal life been subjected to anything remotely like the ordeal and dishonesty to which [REDACTED] I been subjected by the Registry. They are rude and discourteous and some of them lack any integrity whatsoever, acting with behaviour that can be best described as feral."</i> Letter dated 3 July 2012 from Customer 9 to HMLR (Chief Land Registrar).
Customer 9	Letter dated 1 November 2005 from Customer 9: <i>"Your arrogance in refusing to reply to me or provide me with an accurate plan is breathtaking. In circumstances where your staff were shown by the Independent Complaints Reviewer to have deliberately lied in order to prevent my parents' application proceeding, do you not have a shred of integrity that makes you feel ashamed?"</i>
Customer 9	E-mail 7 March 2013 from Customer 9: <i>"Your letter seems t [sic] indicate however that you are recording a personal willingness to lie on oath in court and say that the [REDACTED] boundary has been used when you know perfectly well that it has not. As you and I have discussed on the phone, this would involve you in perjury."</i> Later in the same e-mail when Customer 9 requested a plan in a certain scale she stated <i>"I am of course fully aware that I did not draw the plan at 1:625 myself and that I enlarged it for ease of reference. I did not pretend to do otherwise and I respectfully find your comment here is frankly absurd, rude, unhelpful and highly inappropriate".</i>

- 5.22 As is clear from the above examples, tensions were high. However, rather than continuing to exacerbate the situation, HMLR could have considered how best to de-escalate it, rather than repeating points already made. Regardless of the approach of a customer, HMLR should remain professional, impartial and polite.
- 5.23 A further example of similar behaviours from a customer can be seen in the case of **Customer 11**. Customer 11 exhibited increasingly threatening behaviour, which included aggressive language and threats to individual HMLR staff members' jobs (e.g. accusing them of crimes including corruption, perverting the course of justice and treason). HMLR appear to have documented each threat well, sharing communications with appropriate people and agreeing suitable plans of response, where required. HMLR also did not adopt a similar tone in responding to Customer 11, as they had on the files of Customer 4 and Customer 9.
- 5.24 The Review has also seen positive examples of the approach taken when handling complaints. In the case of **Customer 7**, correspondence from HMLR was professional and polite and the letter from the Land Registrar on 14 July 2022 following the final review was particularly empathetic and clear when explaining the two stage complaints process, the legal position and the Land Registrar's assessment, and the next steps available to Customer 7.
- 5.25 Likewise in the case of **Customer 12**, throughout their two complaints Customer 12 appears to have been dealt with quickly and fairly by HMLR. Despite Customer 12's sometimes excessive correspondence, the records suggest that HMLR engaged with them at all opportunities and attempted to assist them as much as possible, reminding them of the processes that needed to be followed, responding to each query they raised and providing information regarding next steps.
- 5.26 Similarly, **Customer 13's** complaint was dealt with professionally and satisfactorily by HMLR.

Vulnerable customers and empathy

- 5.27 **In any customer facing role it is likely that caseworkers will come into contact with vulnerable customers at some stage. It is important that these vulnerabilities are identified early and that the approach to, and language used, is adapted accordingly, as well as any concerns being appropriately escalated. In the 13 cases reviewed, there are examples of vulnerable customers contacting HMLR with varying degrees of appropriate and empathetic responses.**
- 5.28 In the case of **Customer 2**, HMLR's letters appear to be unempathetic. They appear to lack any understanding of the core issues and the impact of these issues on the customer. Customer 2 informed HMLR on 14 December 2016 that, as a result of HMLR incorrectly registering some of their land to their neighbour, they returned from work one evening to find that their neighbour had removed 8 metres of their 6ft fence, only to erect their own fence in accordance with the new boundary. The letter was not responded to until 10 January 2017 and only contained a short paragraph acknowledging the above by saying "Please again accept my sincere apologies for the inconvenience and upset that has been caused". The only letter that does appear to show that HMLR has fully read and considered the customer's complaint is the letter dated 11 October 2018 from the departmental lawyer. The previous letters on the other hand appear to be defensive and fail to take any responsibility for the issues caused and the impact that it had.
- 5.29 Likewise the tone of communications from HMLR to **Customer 8** could have been more empathetic. Once the ICR made their recommendations and HMLR contacted Customer 8 to seek evidence regarding the losses they had suffered, the tone of HMLR's communication felt quite cold. For example, in a letter dated 3 April 2017 (sent by email), the Land Registrar says "Further to the ICR's report dated 22 March 2022 and in accordance with her recommendations, please could you provide me with evidence of the losses you say you have suffered as a result of HMLR's actions and also of the link between those actions and any financial loss you have suffered so that I may consider the matter further" (ESI's emphasis). Within this letter, there is no acknowledgment that the ICR has upheld Customer 8's complaint, nor any form of apology regarding the effect on them. Of note, the ICR report was dated 22 March 2017 however HMLR did not contact Customer 8 until 3 April 2017. Whilst this was not a considerable delay, in the circumstances, it would have been better to provide a more timely response.
- 5.30 There was also a clear lack of empathy in the approach to **Customer 1**. At a basic level, the lack of acknowledgment of correspondence could be perceived as dismissive and when responses were sent they rarely acknowledged the content of the correspondence from Customer 1. Importantly, in their correspondence Customer 1 referred to the impact the complaint was having on their physical and mental health but this did not result in any additional considerations or further attempts to seek to resolve the matter by HMLR nor any effort to assess the impact or implement measures to alleviate the distress.
- 5.31 In the case of **Customer 6**, HMLR had erred when processing an application for adverse possession. When the error was brought to their attention, rather than acknowledging it, HMLR's initial response was they could not explain how the error had occurred. It would have been more open and transparent for HMLR to have reviewed the file to gain an understanding of how the error had occurred and then have explained this to the customer. As per the ICR Report, had HMLR taken greater care in reviewing the application for adverse possession HMLR would have identified that the land was registered. This was not communicated to the customer by HMLR and therefore it could give the impression that HMLR were seeking to avoid responsibility and/or did not consider the error, and the impact of the error, to be severe enough. Given the current spotlight on public bodies' duty of candour, HMLR need to ensure that any mistakes or errors are quickly identified, transparently and clearly communicated to those affected, and steps taken to rectify the issue in a way that causes the least inconvenience to the customer.
- 5.32 In terms of expressions of vulnerability by customers and the way in which HMLR responded to these, the cases of Customer 11, Customer 4 and Customer 9 are relevant.
- 5.33 In the case of **Customer 11**, they raised issues of discrimination and harassment throughout all of their complaints. It was noted in Customer 11's first complaint that they

were registered disabled. It was later confirmed that they [REDACTED]. The file indicated that, where discrimination allegations were made, HMLR did not acknowledge or respond to the allegations. For example, in an email to HMLR dated 1 March 2013, Customer 11 stated that *'I am Registered disabled [REDACTED] and I was denied the assistance of my helper, purposely. This is a Disability Hate Crime.'* In the response dated 6 March 2013, HMLR thanked them for their email of 1 March 2013, but did not address the allegations. There is no evidence of HMLR staff acknowledging Customer 11's disabilities or making adjustments when attempting to communicate with them, other than HMLR asking Customer 11 to only correspond in writing. However, the ICR report from 2012 addresses this, noting that the ICR could find 'no evidence' of discrimination because of Customer 11's disability. Notwithstanding this, failing to acknowledge the allegations made and addressing them in correspondence displays a lack of empathy and care in approach.

- 5.34 Emails from Customer 11 in 2024 are also very concerning. Customer 11's communications made reference to serious criminal allegations relating to her second complaint which she alleges 'Land Registry has covered-up for all these years'. The emails are difficult to follow and make sense of, but they contain concerning content. We cannot however identify from the file any criminal allegations related to a specified individual or basis for the allegations. It is however clear that Customer 11 is a vulnerable individual. We have seen no record of internal discussions taking place to consider how best to respond to Customer 11, nor have we seen any consideration of their welfare and considering whether HMLR should be taking steps to ensure they have support available. Whilst investigating these allegations (due to the nature of them) or providing support would fall outside of HMLR's remit, as a customer-facing public body, when presented with a very vulnerable customer, steps should have been taken to signpost them to relevant support services, and/or ensure a welfare check was undertaken. There should be an internal escalation process for considering such allegations and handling vulnerable customers. Further action should have been taken in respect of this correspondence when it was received.
- 5.35 In other protracted matters, such as Customer 4 and Customer 9, throughout the correspondence their vulnerabilities are explained by way of the impact that the dispute was having on both them and their families.
- 5.36 In the first letter from **Customer 9** dated 20 January 2000 it said, *"My parents are completely at a loss to understand why this matter, which is having an adverse effect on their health, has been thrust upon them in this way after many years of [REDACTED]"*.
- 5.37 On 21 July 2003, Customer 9 wrote in a letter to HMLR that *"The conduct of the Registry has been a source of acute distress to us, particularly my mother who is elderly and ill and whose health has been adversely affected by how we have been treated."* This was acknowledged in HMLR's response dated 7 August 2003 where it was stated *"I am sorry that the Registry's conduct has caused distress. This was not intentional, but I can understand your concerns. I accept and apologise for the fact that there have been delays, and that a fundamental point, relating to the effect of the general boundaries rule, has only been raised at a late stage."*
- 5.38 **Customer 4** wrote to HMLR on 11 October 2019 stating, *"I am in very poor health and am not able to use a computer so I rely on [REDACTED] to help with communication. [They have] my official permission to carry out any requirements needed. [REDACTED] and compensation for myself for the trauma of 25 years of stress, police involvement and disengagement. Please help. I have struggled writing this letter and I expect a response as soon as possible."* There is a handwritten note at the foot of this letter stating *"[ILLG Lawyer] has considered this and confirmed that no reply is required since no new points have been raised"*.
- 5.39 Whilst Customer 9's determination to resolve the position to their satisfaction was clearly a point of frustration for them and staff at HMLR, the fact that they referred to their parents as 'elderly' and in 'ill health' should have been taken into consideration; an issue related to their home, and ownership of their land, would undoubtedly have been worrying. Likewise, any reference to Customer 9's and Customer 4's distress, or struggles in dealing with the complaint, should also have been taken into consideration.

- 5.40 From the consideration of the files and the vulnerabilities expressed, it is clear that a policy is needed for dealing with vulnerable customers. We have proposed a recommendation in respect of this at the conclusion of this Report.

Continuity of caseworkers and lack of clear/complete file

- 5.41 **One of the challenges with this Review has been the lack of clear or complete files.** It is our understanding that the customer contact comes into one location but the complaints are then directed elsewhere and there are three potential repositories for correspondence that may be relevant to a complaint. When a complaint is made, we understand that relevant documents from these repositories are copied across, but that a complete transfer is not always successful and is reliant on case workers deciding what documents may be relevant, leading to possible errors. This would be an area of vulnerability with relevant documents not making it across to the complaints file. When caseworkers need to review a complaints file, confidence in it being a complete record of all correspondence will therefore be low. In order to avoid this there should be one central repository for all complaints correspondence.
- 5.42 A number of the cases reviewed were very document heavy (for example, Customer 9, Customer 4, Customer 1 and Customer 11). **There were a number of gaps in the correspondence, or ICR reports were referred to, but we could not find copies on the file. This made it very difficult to follow the trail of events. In the same way, any case-file handler or member of HMLR staff dealing with the file will have experienced the same difficulties in understanding the status of events at any particular time. This may have contributed to delay and potentially failing to address key concerns of the customer, as the case handler sought to work out what had happened and how best to respond. Having a clear and complete complaints file is essential to ensure good handling of a complaint.**
- 5.43 **Ensuring, where possible, that the same caseworker deals with the complaint for its duration would also be beneficial. While we accept that this may not always be possible, the number of different staff involved (save for if a conflict arises) should be kept to a minimum.** During the course of **Customer 5's** correspondence with HMLR from 5 February 2014 to 11 November 2014, a different case-handler responds to their letters every time (save for when they are directly corresponding with the Land Registrar having made the complaint directly to the ICR). This is likely to have created issues in gaps of knowledge of the matter and the issues raised by Customer 5, as well as a lack of responsibility and accountability for the file. This could be a factor that contributed to the blanket, non-committal responses provided by HMLR. Customer 5 had provided three plans on which he sought guidance, but HMLR did not review or comment on these and instead made general statements about the purpose of title plans.

Culture of complaints handling

- 5.44 As part of the Review we have also considered HMLR's culture of responding to complaints and the general approach taken.
- 5.45 Across the 13 files reviewed, as mentioned above, a number went on for many years. One example of that is **Customer 9**, which continued for 24 years. A partial resolution came when the matter was reviewed by a different caseworker following the retirement of the main contact at HMLR. Likewise, the approach in the case of **Customer 1** changed following the retirement of the caseworker who had predominantly had conduct of Customer 1's complaint (N.B. this was a different caseworker to that in the case of Customer 9).
- 5.46 There are also several examples of HMLR continuing to use the same modus operandi with a customer, even though the customer's dissatisfaction (and persistence) continues without a resolution in sight. There are very few examples of HMLR attempting to try a different approach when faced with a persistent customer. For example: offering face to face meetings, telephone calls or video calls; having the file peer reviewed by a colleague to see if they would approach it differently; seeking to set out a summary of the complaint/options for resolution for the customer in a different way; and offering for the customer to speak to a manager, which itself would be seen as a form of escalation for the customer, and

would make them feel as if they are being taken seriously. Instead, often it is the same phrases and explanations parroted back to the customer, with no progress being made for many years.

- 5.47 **The Review has identified that when responding to complaints HMLR often take a dogmatic approach – to adopt a position and stick to it, without question, seemingly being unprepared to consider alternative outcomes or compromises (of course, within their powers). There is an inherent imbalance of power that exists between the customer and HMLR, with HMLR’s decision being final and there being no recourse for a customer other than legal challenge. As a sole public service provider, HMLR needs to be mindful of this imbalance of power. Its objective when dealing with complaints should be resolution – how best that be achieved, if indeed it can be achieved – and not about who is right or wrong.**

Other Issues Arising

- 5.48 During the course of the Review, three particular points arose across a number of the files related to the following:
- 5.48.1 The role of the ICR;
 - 5.48.2 The general boundaries rule and the frequency with which this was the cause of complaints and relied on by HMLR to maintain its position with regard to a customer’s complaint; and
 - 5.48.3 The extent to which the Land Registrar’s decision is final, which was an issue that arose on a number of the files, and caused the complaints to escalate because there was no further recourse for the customer.
- 5.49 While we have not been asked as part of the Review to examine the legal position of these three issues, which would require a more detailed analysis, we have provided below some general commentary on the position.

The role of the ICR

- 5.50 In certain circumstances the independence of the ICR was queried by customers when it was identified that the ICR reviewers were employees of HMLR. Consideration should be given as to whether this role should be completely removed from HMLR or linked with a potential mediation process.

Boundary disputes

- 5.51 The courts have intentionally refrained from placing any firm tolerances on what falls within the general boundaries rule and what doesn’t, saying that each instance needs to be considered on its own facts and that there are ‘no certain indications the presence or absence of which is by itself conclusive.’⁸
- 5.52 The test essentially is whether the change is ‘appreciable’ and the courts have said that is a question which must depend on all the circumstances of the matter. In some instances quite large areas of land have been considered as falling within the general boundaries rule. The case law suggests that in particular the following factors are likely to be material considerations in suggesting that the general boundaries rule is not applicable:
- 5.52.1 Whether the physical area of the land is significant relative to the land which is accepted as falling within the registered title; and

⁸ Simmons v Pizzey (1979). Subsequent boundary cases such as Drake v Fripp CA (2011) have indicated that application of the general boundaries rule is a matter of fact and degree.

5.52.2 Whether the land is somehow physically distinguishable from the other land in the title and of particular importance to the registered proprietor.

5.53 Whilst the courts wish for flexibility in how the general boundaries rule is applied is understandable, the lack of clear guidance does create uncertainty. We have seen a lot about general boundaries in the correspondence. In some of the files it is more clearly applied than in others. The one case where it potentially should not have been relied on so heavily was the case of Customer 1, where the boundary had been drawn across their porch which, in practical terms, would have meant that half of their porch was contained within their neighbour's property.

The decision of the Land Registrar is final

5.54 In most of the cases subject to ESI's Review, there has been reference to the decision of the Land Registrar being final and it can only be challenged in court via judicial review (as per the current published complaints policy).

5.55 It is accepted that the general proposition that the decision of a Land Registrar can only be challenged by judicial process is correct. However, the two aspects that we aren't entirely convinced on were firstly the indication that 'under the Land Registration Act 2002 a decision of a Land Registrar is final...' and secondly, the inference that the Land Registrar has no discretion to reconsider their decision.

5.56 As concluded in the legal reviews of Customer 4 and Customer 9, we have found no evidence or explicit indication in the Land Registration Act 2002 to the effect that a Land Registrar decision is final. It may be that the customer has no further recourse, aside from judicial review, but it would seem unlikely that a Land Registrar does not have sufficient discretion to be able to review and reconsider their own decisions if considered reasonable to do so, particularly where the Land Registrar recognises that they have made an error.

5.57 Whilst making the decision of a Land Registrar final has the benefit of certainty (and as we have seen from the matters we have reviewed, some customers can be very persistent), it would seem somewhat odd if it is right that the Land Registrar is prevented from being able to reconsider their position, particularly in circumstances where, say, it is evident that in reaching their decision they have misunderstood a factual matter, or have neglected to take into consideration a material factor.

6. CONCLUSIONS / RECOMMENDATIONS

Conclusions

- 6.1 As a result of the evidence and findings set out above, our overall conclusions on the issues investigated are outlined below.

Duration of complaints and delay

- 6.2 Some of the cases have been very long running, with the longest running for 24 years. Conversely there is also an example of a complaint being dealt with within a month. The average time of engagement on the 13 files reviewed was 7.8 years. This is clearly a significant length of time and the HMLR resource expended on managing these would have been significant too.
- 6.3 As identified above, in almost half of the files reviewed there was evidence of delay on the part of HMLR when dealing with the complaint. That not only served to prolong the complaint, but increased frustration on the part of the customer concerned, in some cases leading to additional complaints. This delay unnecessarily escalated matters and reduced the prospect of swift resolution.
- 6.4 In at least three cases, there was also a delay in recognising the customer's expression of dissatisfaction as a complaint. This meant that the complaints policy was not invoked for some time, or at all, and the correct steps were not taken to treat the matter as a complaint. Again, this will have increased the frustration of the customers.

Legal decision

- 6.5 Based on the sample of cases reviewed - which we accept is a small sample - there seems to be a direct correlation between the accuracy of the decisions made by HMLR and how long the complaints took to resolve. While the majority of these cases were eventually resolved and the inaccurate decisions were minor discrepancies, it represents 46% of the total cases reviewed where a legal decision was incorrect or partially incorrect.

Compliance with HMLR policies and conflicts

- 6.6 Only 23% of the files reviewed fully complied with HMLR's complaints policy.
- 6.7 We found the engagement of the contact closure policy did sometimes trigger further complaints to be made, with customers feeling like they were not being listened to, and the language used when they were being 'disengaged' did serve to enflame some of the situations. Again, while the sample size was small, of the cases where the contact closure policy was engaged, 66% fully complied with the terms of the policy.
- 6.8 To ensure robust and independent complaints-handling, when dealing with a complaint, or when a complaint is escalated, it is accepted good practice that those involved in the subject matter of the complaint should not be involved in any decision-making relating to the complaint thereafter. At the very least, to do so creates a perception that HMLR will be unable to deal with the matter objectively. In three cases, a clear and obvious conflict arose and the complaint should have been passed to someone else, in accordance with the current policy for a Stage 2 complaint review. The failure to do so likely caused the complaint to escalate.

Clarity and tone of correspondence

- 6.9 There is evidence across all 13 files of customers being confused by correspondence received from HMLR and the sometimes overly technical responses provided. Ultimately,

the customers are rarely experts in land law therefore the correspondence drafted by HMLR should be easily digestible and the customer should be able to simply understand the content. Companies or public bodies who engage with customers should do so in a clear, transparent and accessible way in plain English. ESI has seen evidence across the cases where overly complicated letters have been sent to customers. Generally, this leads to further complaints, frustration and dissatisfaction on the part of the customers, and ultimately lengthens the engagement process.

- 6.10 During the Review, ESI has seen examples of caseworkers failing to remove themselves from the emotion of the complaint and responding, at times, unprofessionally. Making and dealing with complaints can inevitably be a very emotional process. The customer making the complaint will inevitably be doing so as they feel aggrieved by an event. The person receiving the complaint will often also take a complaint personally where they feel that the complaint is aimed at them. When dealing with such complaints caseworkers must remain objective and attempt to place emotions to one side. Caseworkers must deal with complaints professionally and even if they feel the customer is being rude and unfair, they should not mirror those behaviours.

Culture

- 6.11 The Review has identified that when responding to complaints HMLR often take a dogmatic approach – to adopt a position and stick to it, without question, seemingly being unprepared to consider alternative outcomes or compromises (of course, within their powers). There is an inherent imbalance of power that exists between the customer and HMLR, with HMLR's decision being final and there being no recourse for a customer other than legal challenge. As a sole public service provider, HMLR needs to be mindful of this imbalance of power. Its objective when dealing with complaints should be resolution – how best that be achieved, if indeed it can be achieved – and not about who is right or wrong.

Vulnerable customers

- 6.12 In any customer facing role it is likely that caseworkers will come into contact with vulnerable customers at some stage. It is important that these vulnerabilities are identified early and that the approach to, and language used, is adapted accordingly, as well as any concerns being appropriately escalated. In the 13 cases reviewed, there are examples of vulnerable customers contacting HMLR with varying degrees of appropriate and empathetic responses.

Continuity and access to relevant documentation

- 6.13 There were a number of gaps in the correspondence, or ICR reports were referred to, but we could not find copies on the file. This made it very difficult to follow the trail of events. In the same way, any case-file handler or member of HMLR staff dealing with the file will have experienced the same difficulties in understanding the status of events at any particular time. This may have contributed to delay and potentially failing to address key concerns of the customer, as the case handler sought to work out what had happened and how best to respond. Having a clear and complete complaints file is essential to ensure good handling of a complaint. There needs to be clear policies regarding the storing of documents and also a robust complaints system to act as a central repository for all complaints correspondence.
- 6.14 Ensuring, where possible, that the same caseworker deals with the complaint for its duration would also be beneficial. While we accept that this may not always be possible, the number of different staff involved (save for if a conflict arises) should be kept to a minimum.

Recommendations

Recommendation 1 – Culture and customer charter

- 6.15 The organisation needs to ensure its culture is customer-focussed. One step to achieving this would be to introduce a customer charter (e.g. the Department of Work and Pensions' Charter can be found [here](#) or HM Revenue and Customs' charter can be found [here](#)). The customer charter should be embedded into every interaction with customers. To address some of the findings from this Review, the customer charter should include, but not be limited to, a commitment to the following:
- 6.15.1 Using plain English and simple language when communicating with customers. Any technical terms should be clearly and simply explained.
 - 6.15.2 Being responsive, answering a customer's questions as quickly as possible, and setting out clearly what will happen next and when the customer can next expect a response.
 - 6.15.3 At the outset of any complaint, asking customers what their desired outcome is and this would be recorded as a clear file note for any caseworker dealing with the file.
 - 6.15.4 Treating customers fairly, in a timely manner and keeping customers informed of progress with their complaint.
 - 6.15.5 The public body duty of candour and ensuring that any mistakes or errors are quickly identified, transparently and clearly communicated to those affected, and steps taken to rectify the issue in a way that causes the least inconvenience to the customer.
 - 6.15.6 Taking account of the customer's personal situation and being mindful of this throughout interactions.
- 6.16 Recognising that HMLR has had to deal with some challenging complaints, the customer charter can include provisions around mutual respect from customers.
- 6.17 HMLR should consider introducing customer satisfaction surveys for managing complaints, and these could be tied into the recommended customer charter and the extent of compliance with the charter. We would recommend that compliance with the charter is something that is regularly monitored by an appropriate committee or sub-committee, with an annual report assessing performance.
- 6.18 Consideration should also be given to assessing the performance of caseworkers against the customer charter and the satisfaction surveys, to encourage a customer-focussed culture.

Recommendation 2 - Clear complaints process

- 6.19 In order to ensure that all complaints are dealt with consistently, transparently and fairly, there should be a clear complaints process accessible to all (both internally and externally). We are aware that currently there are 52 entry points for making a complaint. We have not been asked to look at this as part of the Review, but this seems to be an extraordinary high volume of potential entry points and we would advise that this is examined. The simplest and most effective complaints policies have one route in, with the complaint then being triaged on receipt to ensure it reaches the correct place.
- 6.20 HMLR should introduce a standardised complaints form to be completed by all customers who are seeking to complain. The form would enable the customer to provide details of the complaint and their desired outcome. The complaints form should also provide space for the customer to detail their preferred method/s of communication, the impact the current issue about which they are complaining is having on them, and any vulnerabilities. This template form should be publicly available on the HMLR website or on request from HMLR.

- 6.21 The complaints process should be reviewed and updated to:
- 6.21.1 Consider if the timescales currently specified are appropriate and achievable;
 - 6.21.2 Provide a clear definition of what a complaint is and when the complaints policy will be invoked – with the definition being ‘any expression of dissatisfaction’;
 - 6.21.3 Include a provision that ensures, where possible, the same caseworker, or small group of caseworkers, deals with the complaint for its duration to ensure continuity;
 - 6.21.4 Introduce an escalation process to allow for a customer to ask for a complaint to be considered by a more senior member of HMLR staff before it reaches a conclusion. Complaints could also be escalated if the caseworker feels there is no further action they can take;
 - 6.21.5 Introduce clear guidelines on conflicts of interest and how these should be dealt with. We would recommend that individuals dealing with a complaint should be entirely independent of the subject matter of the complaint, unless the customer agrees that they should remain involved for continuity purposes; and
 - 6.21.6 Include an annual review of the policy to check it remains relevant and to ensure that it remains appropriate.
- 6.22 On every interaction with a customer they should be provided with the following:
- 6.22.1 Details about how to make a complaint, including links to the standardised complaints form (see recommendation above) and the complaints policy;
 - 6.22.2 A clear indication of timescales for responses, and if there is going to be a delay, a reason for that delay; and
 - 6.22.3 Details of the escalation process in the event that the complaint is not dealt with to the customer’s satisfaction.
- 6.23 The customer contact closure policy should be revoked with a similar element being included within the complaints policy. This would provide clarity to customers from the outset that once HMLR believe that ongoing correspondence serves no valuable purpose that they can cease contact. Ceasing contact could be either as a result of the customer’s actions (e.g. customer’s unreasonable behaviour) and/or exhausting all potential avenues of reconciliation. Before ceasing contact with a customer, a checklist should be completed ensuring that the complaints policy has been complied with and ceasing contact is the only available option. This checklist should be reviewed by a more senior member of staff to approve the action.
- 6.24 Once the decision has been made to cease contact with a customer, the customer should be informed categorically of this in plain and simple terms. Ongoing correspondence with the customer should be avoided as far as possible to avoid any confusion on the part of the customer. The language around terminating contact will need to be carefully considered and the use of terms such as ‘disengaged’ should be avoided.

Recommendation 3 - Central repository for all complaint correspondence

- 6.25 To deal with customer complaints efficiently and effectively, it is imperative that all correspondence with a customer is held in one central repository. Ideally this would be a complaints management system with additional functionality to provide for the storage of all communications; diary prompts for when acknowledgements and responses are due (to assist with compliance with the complaints policy in force at the time); and to record supervision output/relevant file notes. HMLR should also be able to pull management information from the complaints management system to include, as a minimum:
- 6.25.1 The number of active complaints (on an individual and HMLR wide basis);

- 6.25.2 The relevant stage of the complaint;
 - 6.25.3 The total number of complaints on an individual file (clear separation of different complaints from one customer); and
 - 6.25.4 Whether any key dates have been missed.
- 6.26 The complaints correspondence should be stored separately from general communications with customers. However, there should be a way of identifying in the general file that there is an ongoing complaint to ensure that all who interact with the customer are aware of the situation.

Recommendation 4 – Training and Template documents

- 6.27 HMLR staff should be provided with complaints handling and complaints resolution training at first induction and on an ongoing refresher basis which would include, at a minimum, the following:
- 6.27.1 How to identify and define a complaint (particularly if it does not come through the online complaints form referred to at 6.20 above);
 - 6.27.2 How to correspond with vulnerable customers – including how to identify if a customer is vulnerable, what reasonable adjustments to consider, how to engage with them, and who to speak to if concerns arise as to their welfare;
 - 6.27.3 When dealing with customers, how to de-escalate situations where customers appear frustrated with their complaint and the situation, e.g. a telephone or video call or meeting could be suggested to discuss the concern as an attempt to explain the situation differently and constructively;
 - 6.27.4 Use of simple, plain English language in their responses;
 - 6.27.5 How to ensure a professional and polite approach is taken at all times; and
 - 6.27.6 Use of language and terms to avoid – words such as ‘disengagement’ have very negative connotations and their use should be avoided.
- 6.28 There should be regular team meetings of the complaints team to share feedback of recurring themes and complaints. There should be an element of continuous learning for all team members.
- 6.29 In order to improve efficiencies and to ensure consistency, certain template documents should be created. For example, a template acknowledgement letter and a standard template for Stage 1 and Stage 2 complaint responses. Template letters for providing information to the ICR could also be created to ensure that all relevant documents are transferred to the ICR. The template documents should be used as standard practice, but with the flexibility to deviate from their use where appropriate in a particular case.

Recommendation 5 – Regular complaint file review

- 6.30 All complaints files should be reviewed on a six monthly basis by a more senior team member. This review should be conducted by somebody independent of the file and of sufficient seniority. The review should consider, amongst other things, what the customer’s desired outcome is and what steps could be taken to achieve that, or what alternative outcome may be satisfactory. The review will also consider whether the complaint should be escalated at that stage (see above the recommendation concerning an escalation process).

Recommendation 6 - Vulnerable customers

- 6.31 A vulnerable customer policy should be introduced to ensure that any concerns regarding vulnerabilities are dealt with fairly and appropriately. There should be two or three

dedicated complaints handlers who are trained and experienced to deal with the most vulnerable customers with complaints.

Recommendation 7 - Peer review of legal decisions

- 6.32 Inaccuracies with some legal decisions have been identified during the review. Although this involved minor discrepancies, and not significant failures that significantly impacted customers, there seems to be a direct correlation between the accuracy of the decisions made by HMLR and how long the complaints took to resolve. While the size of the sample of cases reviewed was small, the percentage of incorrect or partially correct legal decisions was high (at 46%).
- 6.33 This could be as a result of the nature of the sample selected, but HMLR should consider a further small selection of case reviews just on the legal decision aspect. Alternatively, HMLR could introduce a two stage decision-making process, so that all legal decisions taken on complaints files are subject to peer review.

Recommendation 8 – Mediation

- 6.34 The option to mediate a complaint could be built into the complaints policy. As things currently stand there is a significant leap between the decision of a Land Registrar being final and the only potential further recourse or consideration being through the courts. Proceeding through the courts is very daunting for most customers and the associated costs will also preclude many from pursuing this avenue. A HMLR mediation scheme could be established to allow for the referral of certain categories of complaints. Again, HMLR would need to specify clearly when and in what circumstances complaints would be referred to mediation as part of its complaints policy.



Contacts

**Isabelle Mitchell**

Partner

T: +44 121 232 1264

M: +44 782 798 7829

isabellemitchell@
eversheds-sutherland.com

**Angharad Hurle**

Legal Director

T: +44 29 2047 8180

M: +44 771 765 2922

angharadhurle@
eversheds-sutherland.com