

# Putting things right: complaints and learning from DWP

# Putting things right: complaints and learning from DWP

## Second report

Session 2008-2009

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## Foreword

In 2007-08 the Parliamentary Ombudsman received 7,341 complaints about government departments and a range of other public bodies. Of these, 2,574 were about the Department for Work and Pensions (DWP).

It is not surprising that the largest number of complaints to my Office concern DWP given the size and nature of DWP's business, serving as they do over 20 million customers at any one time. It is understandable that mistakes will happen. In fact, it is inevitable.

What is important is how DWP dealt with the complaints arising from mistakes. Many, but by no means all, of the complaints I received could have been resolved much sooner and by DWP themselves, if the complaint handling had been more customer focused and this should have happened. I hope that DWP, and other public bodies, will find my recent publication, *Principles of Good Complaint Handling*, helpful when they reflect on the lessons that might be drawn from the cases that follow.

The cases included in this digest have been selected because they illustrate the wide variety of complaints and complainants, and the often serious results, when DWP get things wrong. I have identified five themes flowing from these cases:

- poor information provision;
- delay;
- poor record keeping;
- falling between the gaps; and
- poor complaint handling.

Poor information provision can have serious consequences. Jobcentre Plus's efforts to inform widowed fathers that they could claim bereavement benefits were inadequate. As a result, when Mr Q's wife died and he became responsible for bringing up his son alone (page 26), Mr Q remained unaware that he was eligible for widowed parent's allowance and did not claim that benefit for over four years. In response to the Ombudsman's investigation and recommendations DWP, amongst other things, apologised and paid Mr Q £28,130, equivalent to the benefit he had lost, plus interest of £5,899.

Delay by The Pension Service caused Mr C (page 36) to incur avoidable legal costs after the death of his aunt. The delay in updating his aunt's records meant that they were not able to make a timely and accurate decision about whether she had been overpaid, leading to Mr C incurring legal costs as he tried to resolve matters. In response to the Ombudsman's investigation and recommendations he received an apology, compensation of £250, and £1,160 towards the legal costs he incurred, plus interest.

In Mr D's case (page 45) the Child Support Agency's poor record keeping had a far-reaching impact. Although they realised relatively quickly that he was not the man they were looking for, they continued to pursue him and caused him a great deal of distress for a long time because they had not removed him from their computer system. The Agency agreed to pay Mr D a further £1,225 in compensation, making a total of £1,500, and to reimburse his legal costs and reasonable travel expenses. They also arranged for a senior officer to apologise and be a personal point of contact, should anything go wrong in future.

DWP is an enormous organisation and it is challenging for large departments to avoid

communications failings between them. It is not just things that fall between the gaps, however, but people themselves. In Mrs M's case (page 57) problems arose after the death of her husband because Jobcentre Plus had not ensured that Coroners' Offices provided the correct information about bereavement benefit. Consequently, Mrs M fell through a gap in the system and missed the opportunity to claim over a thousand pounds to which she would have been entitled. As a result of our recommendations she received an apology, an amount equivalent to the bereavement allowance lost plus interest, and £100 compensation.

I continue to see a number of cases where a complaint to my Office could have been avoided had DWP recognised their mistake, apologised and put it right sooner. In Mr T's case (page 79) the Child Support Agency's handling of his complaint was atrocious. They failed to reply to some correspondence, the answers they did give were not always complete, and they provided a very poor service over the telephone. What had started as a relatively simple problem became much more complicated because they failed to 'put it right' at the earliest opportunity. Mr T has now received an apology and compensation of £450 as a result of our investigation and recommendations.

As the above cases suggest, local resolution should be the most efficient way to secure an appropriate outcome. It also provides DWP with opportunities to find out and learn from what, if anything, they have done wrong, and to put things right. I consider that DWP themselves or their Independent Case Examiner (ICE) should in most instances be given an opportunity to respond first. Therefore, after a preliminary assessment, I continue to refer the majority of complaints I receive about DWP back to them or to ICE so they have a chance to respond.

My Office is the final stage of the complaints process for government departments and a range of other public bodies. Complaints can only be referred to me by a Member of the House of Commons, and my investigations are carried out in private.

I publish anonymised digests of selected cases such as this from time to time to give all public bodies in my jurisdiction the opportunity to learn and improve their services.

This is the first to focus solely on one department. I have focused on DWP primarily because of their importance and the impact of their work.

I have chosen to publish this digest now, in part because it is two years since I published my *Principles of Good Administration*, which codified certain Principles developed by this Office since its inception in 1967; and also because I consider this is an opportune time to reflect on the way a particular government department, DWP, have embedded those Principles.

I hope that this digest will encourage DWP to continue to engage positively with my Office in seeking ways to improve the service they provide to citizens. I welcome the positive response that I have had from DWP and have summarised the key points of their response in *Learning for the future* (page 93).

Finally, I hope that this digest will give the interested reader an insight into the types of issues I investigate and how I go about my investigative work.



Ann Abraham  
**Parliamentary and Health Service Ombudsman**  
March 2009

# Changes within the Department for Work and Pensions

DWP agencies and sections featured in this publication are:

- Jobcentre Plus
- Child Support Agency
- The Pension Service
- Disability and Carers Service
- Debt Management
- Child Benefit Branch

In April 2003 responsibility for the administration of child benefit transferred from DWP to the Inland Revenue (now HM Revenue & Customs).

In July 2007 the remit of the Independent Case Examiner was extended to cover all of DWP's customer facing businesses. The Ombudsman welcomed and supported this development.

In April 2008 The Pension Service and the Disability and Carers Service became the Pension, Disability and Carers Service, a new executive agency of DWP.

In November 2008 the Child Support Agency became part of the Child Maintenance and Enforcement Commission, a new non-departmental public body.







## Information provision

People dealing with DWP, in common with all citizens dealing with public services, have a right to expect that the information they receive is full and accurate in all its forms; to expect that the body they are dealing with will 'get it right'. Given the inherent complexities of the social security system, the need for clear information is often of particular significance for DWP's customers.

DWP should provide their customers with information and advice that is clear, accurate, complete, relevant and timely. The failure to get that right and subsequently to 'put things right' is a common theme in complaints made to our Office against DWP, as well as other bodies. The results of such failures, as we will now see, can be far-reaching.

*'I was shocked and distressed at the figures quoted'*

Miss G complained about The Pension Service (page 16)





# Mr W's complaint about Jobcentre Plus

*In Mr W's case, Jobcentre Plus failed to provide a significant piece of information when he enquired about his benefit entitlement, giving him the impression that he would receive more help with his mortgage interest payments than he was actually entitled to receive.*

## Background to the complaint

Following Mr W's divorce, he gained custody of his two children. In June 2005 he went to his local Jobcentre Plus office to ask which benefits he would be entitled to if he gave up work to look after his children. He also asked what help he would receive with his mortgage. He said he was told that he would be entitled to income support and child tax credit, and that his mortgage interest would be paid after a qualifying period of 39 weeks. Mr W was surprised that his interest payments would be paid in full, and he returned on two further occasions to check that what he had been told was correct. He said he was given exactly the same information, which he then took to be correct. On the basis of the advice he was given, Mr W gave up work and claimed income support from August.

Approximately four weeks before Mr W expected his first mortgage interest payment, he telephoned Jobcentre Plus. During this conversation, Jobcentre Plus told Mr W that there is a statutory limit (the cap) of £100,000 on the amount of eligible loans on which interest payments are met by income support. The cap meant that not all of Mr W's mortgage interest payments were covered each month (the monthly shortfall was £269). Mr W subsequently contacted his mortgage lender to try to resolve the situation. He described this as being a 'nightmare'; his doctor prescribed medication for stress after his mortgage lender told him that his house might be repossessed if he did not meet his payments in full. Mr W subsequently made an arrangement with the mortgage lender,

whereby they met the shortfall and added it to his mortgage balance. (This increased Mr W's mortgage by approximately £10,000 and increased his interest liability.)

## What we investigated

We received Mr W's complaint in March 2007 and investigated whether Jobcentre Plus had misadvised him that his mortgage interest payments would be paid in full. Mr W said that he had suffered significant financial loss and emotional distress as a result of Jobcentre Plus's actions.

In the course of our investigation we interviewed Mr W.

## What our investigation found

Jobcentre Plus did not dispute Mr W's contention that he was not told about the cap. In their view, the rules surrounding the cap made it too complicated to fall within the remit of general advice. According to Jobcentre Plus, the correct general advice to give potential claimants of income support who had a mortgage, such as Mr W, would be to merely inform them that they may receive assistance with housing costs after 39 weeks. We considered that that advice gave potential claimants only some of the information they need to know: it did not include any information about the rate of interest payable or, crucially, that there is a limit on the assistance available. We also noted DWP's internal guidance

which stated that officials should ensure they give customers full and accurate information.

We concluded that Mr W should have been given full and comprehensive information. This should have included the fact that there was likely to be a limit on the financial assistance available. This was a key piece of information which Mr W needed to know. We found that Jobcentre Plus's failure to give him full and comprehensive information amounted to maladministration.

We did not find, however, on the balance of probabilities that Jobcentre Plus's maladministration led to the financial injustice which Mr W claimed. He was, though, caused significant distress, anxiety and inconvenience and deprived of the opportunity to make a properly informed decision about how to best plan his financial situation.

We upheld Mr W's complaint and concluded our investigation in February 2008.

## Outcome

As result of our investigation, Jobcentre Plus agreed to:

- apologise to Mr W for the inconvenience, distress and anxiety they had caused him; and
- pay him compensation of £500.

Jobcentre Plus said they would feature Mr W's complaint in their internal staff bulletin as a reminder to staff that they should ensure that customers are made aware of the upper capital limit when dealing with queries from customers about housing costs.



## Mr S's complaint about Jobcentre Plus

*In Mr S's case, Jobcentre Plus failed to give him complete information, which led to him receiving less help than he was entitled to.*

### Background to the complaint

In February 2004 Jobcentre Plus assessed Mr S's income support claim and noted that he would be better off claiming child tax credit. (Child tax credit was introduced in the 2003-04 tax year. New income support claims made after 6 April 2004 no longer included an element for dependent children as claimants were expected to claim child tax credit instead. Existing claimants could continue to have a dependent children's element paid as part of their income support until a planned transfer to child tax credit.) Jobcentre Plus asked Mr S's local office to interview him to discuss the matter. Mr S said he was not invited for an interview and Jobcentre Plus's records from 2004 have not been retained.

On 9 February 2005 Jobcentre Plus sent a letter to Mr S about increases in benefits from April. The letter said that *'From October 2004, Child Tax Credit began to replace the amount of Income Support paid to you for your children. Please see the enclosed information for more details about when this change will affect you'*. It is likely that the *'information'* referred to was an undated document that Mr S received which said that the transfer to child tax credit *'will happen automatically and there is no need for you to fill in a claim form'*. Jobcentre Plus say they would have enclosed leaflet *INF2 Other help you may be entitled to* with the 9 February letter.

In March 2005 Jobcentre Plus noted that as Mr S was receiving the middle rate care component of disability living allowance, his partner was

eligible to claim carer's allowance. In a letter dated 21 March, Jobcentre Plus told Mr S that his partner was *'required'* to make a claim, and that he should be better off as a result as he might receive carer's premium. Mr S's partner duly claimed carer's allowance, but their combined income was then too high for them to continue to receive income support. On 24 May Jobcentre Plus wrote to tell Mr S that he was not entitled to income support from 26 May (he no longer received any benefit for his dependent children). The letter said an information sheet was enclosed (Jobcentre Plus say this was leaflet *INF2*).

Mr S's disability living allowance was reviewed in November 2005. He was awarded the care component at only the lower rate, which ended his partner's eligibility for carer's allowance. Mr S reclaimed income support. The income of Mr S and his partner was still too high, and his claim was disallowed on 22 November.

Mr S said he enquired a number of times after his income support ended if he was receiving his full entitlement but said he *'came up against a brick wall every time'*. A friend of Mr S told us that Mr S went to his local Jobcentre Plus office to question his entitlement but was told he was receiving what he was allowed. He said Mr S had then telephoned Jobcentre Plus with the same query but the telephonist hung up on him. (Jobcentre Plus told us that the only record they have of Mr S attending the office dated from February 1996 and that they had no evidence of his telephone calls to them.)

In January 2006 Mr S's MP wrote to ask Jobcentre Plus if Mr S was receiving his correct entitlement to benefits. On 10 February Mr S applied for child tax credit after being advised to do so by a friend. He was awarded child tax credit backdated to 10 November 2005 (it can only be backdated for three months). Jobcentre Plus replied to the MP on 7 March confirming that Mr S was receiving his full entitlement to benefit, including child tax credit. In April the Ombudsman received Mr S's complaint.

## What we investigated

Our investigation focused on whether Jobcentre Plus had misdirected Mr S about claiming child tax credit, and whether their staff had been rude and unhelpful when he asked them if he was receiving all the benefits he was entitled to.

Mr S said that as a result of Jobcentre Plus's actions, he had not received child tax credit from 25 May to 10 November 2005, and although his claim for child tax credit had subsequently been backdated, his income at the time had been lower than it should have been, causing stress and making budgeting difficult.

## What our investigation found

Jobcentre Plus told Mr S that he would be better off as a result of his partner claiming carer's allowance, but their letter was incomplete in that it did not say what impact carer's allowance would (and did) have on his income support. The letter failed to meet the standards set out in DWP's *Public Information Policy Statement*. Jobcentre Plus were not appropriately customer focused in ensuring Mr S was clear about his

entitlements and responsibilities. That was maladministration.

Was Mr S misdirected about claiming child tax credit? Jobcentre Plus said they first advised him to apply in February 2004, but they could not assure us that Mr S had been invited for an interview. We considered it reasonable to accept that he was not offered an interview. Jobcentre Plus said they would next have sent leaflet *INF2* to Mr S in January and September 2004, and 9 February and 24 May 2005. The first three instances either pre-date or coincide with the information Jobcentre Plus sent Mr S on 9 February about the automatic transfer to child tax credit. The fourth leaflet was supposedly sent after they had told Mr S about the transfer, but Mr S said he did not receive it. As he had a good record of trying to ensure he received all the benefits he was entitled to, we concluded it was likely that he had not received the fourth leaflet – if he had, he would have applied for child tax credit then. Also, given that Jobcentre Plus knew that Mr S would not receive the dependent child element of income support from 26 May, having written to him only a few months earlier about the automatic move to child tax credit, it was unreasonable for them not to have told him to apply for child tax credit himself. It was also unreasonable to expect Mr S to deduce from a leaflet (which he may not have received) that Jobcentre Plus's previous assurance no longer held. We concluded that Jobcentre Plus failed to advise Mr S explicitly to apply for child tax credit. That was maladministration.

We were satisfied that Mr S probably had asked if he was receiving his full benefit entitlement once his eligibility for income support had ended. In line with DWP's *Public Information Policy Statement*, when Jobcentre Plus are asked whether a person is receiving their full benefit, they should either provide information about benefits (such as child

tax credit) other than those they administer, or make it clear that their advice does not cover such benefits. We found that Mr S was not properly advised when making his enquiries as he would otherwise have applied for child tax credit earlier.

Finally, Mr S was unable to offer any further evidence that Jobcentre Plus staff were rude or unhelpful, so we made no finding on that part of his complaint.

We concluded our investigation in June 2007 and partly upheld the complaint.

### Outcome

As a result of our recommendations Jobcentre Plus:

- paid £1,800 to Mr S, equal to six months' lost child tax credit, plus interest of £150; and
- paid him £100 for gross inconvenience, and sent him an apology.





# Miss G's complaint about The Pension Service

*Miss G's case illustrates how far-reaching the effects of misleading information can be. As a result of a computer problem, The Pension Service misled Miss G about her future pension entitlement. They then gave her misleading information about what they would do to put it right, compounding their original error. In the end, it was not possible for them to 'turn back the clock' for Miss G.*

## Background to the complaint

In June 2002 Miss G received a state pension forecast which said she had earned a pension of £131.73 a week up to April 2001 (including £75.50 basic state pension and £52.18 additional pension). On the basis of those figures Miss G calculated that she could live on a redundancy payment and a small pension from her current employer until retirement age, and would have sufficient income to live on after that from the further income due to her from her previous employer's pension and the state pension. Miss G took voluntary redundancy at the end of June. In October 2004 Miss G obtained a state pension forecast which said that she had earned a pension of £143.73 a week up to April 2003 (including £79.60 basic state pension and £59.89 additional pension).

In March 2006 Miss G obtained a further pension forecast which said that she had earned a pension of £130.47 a week up to April 2005 (consisting of £82.05 basic state pension and £44.05 additional pension). Miss G said that she was *'shocked and distressed at the huge decrease in the figures quoted'* and telephoned The Pension Service, in early April, to query this. After a number of calls Miss G spoke to Officer E, to whom she wrote subsequently to confirm the details of the call. Miss G's letter explained that The Pension Service's records showed her incorrectly as having been contracted-out of the additional state pension on three occasions, when it should have been two occasions.

In May 2006 Miss G telephoned The Pension Service to follow up her earlier letter, and spoke to Officer F. Miss G said that she had regular contact with Officer F who advised her that the 2002 and 2004 forecasts were accurate but that, even if they were not, The Pension Service would pay the 2004 forecast amounts with increases to date. The Pension Service's records contain only one record of contact between Miss G and Officer F (in July 2006) which makes no reference to honouring earlier forecasts. Officer F did, however, seek advice from a specialist team.

In July 2006 The Pension Service sent Miss G a pension forecast of £133.01 a week (including £84.25 basic state pension and £44.27 additional pension). Miss G wrote to Officer H (the manager of the Future Pension Centre) and said that Officer F had told her to ignore the forecast she had just received because it was incorrect, and repeated Officer F's previous assurances about honouring the earlier forecast. Later in July Officer F telephoned Miss G and said that the forecast sent to her (with the £44.27 additional pension) was correct. Officer F later said he could not recall the details of his conversations with Miss G but was sure he would not have indicated that an incorrect forecast would be honoured.

Also in July 2006 The Pension Service found Miss G's (unanswered) letter of April 2006 and asked her for information so that they could consider financial redress. Officer J (a customer services officer) then telephoned Miss G, who referred to the earlier assurances she said that Officer F had given her. Officer J said that the

matter would be fully looked into, but it might take some time. Miss G then sent The Pension Service a copy of her letter to Officer H (which had not been replied to) and the following day provided details to enable them to consider financial redress. She said she would not have stopped working in 2002 had she received a correct forecast and asked for Officer F's assurances to be honoured.

In late July 2006 Miss G wrote to tell The Pension Service that she was concerned their records showed her incorrectly as not contracted-out from 1999-2002 and asked if contributions from the early 1990s had been omitted from her 2006 forecast. In August 2006 Officer J told Miss G that being contracted-out did not affect her additional pension and apologised for giving the impression that their records did not show she was contracted-out in 1999-2002. Miss G raised again the assurances given by Officer F. Officer J told Miss G that neither senior staff nor Officer F had authority to honour the earlier forecasts.

Miss G sent a letter of complaint to The Pension Service. Later in August 2006, an officer from The Pension Service visited Miss G to take a statement about her complaint. During that meeting Miss G disagreed with The Pension Service's account of events (including that Officer F had told her that the July 2006 forecast was correct). Miss G then put her complaint to her MP. She said that Officer J had confirmed that Officer F had acknowledged that she would receive a pension in line with the 2004 forecast. Officer J later said that she did not recall telling Miss G that Officer F had confirmed that version of events to her. The MP then wrote to the Chief Executive of The Pension Service.

In September 2006 The Pension Service completed their investigation of Miss G's pension forecasts, and awarded her compensation of £100 by way of apology for the inconvenience their errors had

caused her, and £10 towards her communication costs. The awards were made on the basis that the 2002 and 2004 forecasts had applied information incorrectly (the wrong category of National Insurance contributions had been used to calculate additional state pension), with the result that the additional state pension figure was too high. The Pension Service also apologised to Miss G, but said they could not pay redress for financial disappointment (her claim that she would not have accepted voluntary redundancy was considered to be a hypothetical loss rather than evidenced financial loss).

In October 2006 The Pension Service's Chief Executive wrote to the MP apologising for the mistake and offering an explanation. She said that they were investigating whether other customers' records were affected by the error, and that they could not pay Miss G's pension at a higher rate, and (apparently unaware of the September 2006 decision) that they would consider compensation. Miss G remained unhappy, and declined to cash the cheque for the compensation payment (lest this imply that she accepted the lower pension entitlement), and the MP then wrote to the Minister for Pensions Reform. That letter was passed to The Pension Service's Chief Executive, who replied in November, offering further apologies and explanations. She also said that pension forecasts were only an estimate and should not be taken as a formal decision of entitlement. She also said that they could not confirm the content of the calls between Miss G and Officer F, but the information he was alleged to have given was incorrect. In January 2007 Miss G complained to the Ombudsman.

## What we investigated

We investigated Miss G's complaint that The Pension Service had twice sent her incorrect pension forecasts, and that they had given her confusing and contradictory information.

Miss G said that, if she had known her true position, she would not have taken voluntary redundancy in 2002; or had the matter been put right in 2004 she would have taken a job again then; and she would have made additional savings intended either to increase her retirement income or to increase the capital she had saved when she did retire.

## What our investigation found

We found that the 2002 and 2004 pension forecasts misdirected Miss G about her likely entitlement to state pension and that amounted to maladministration. There was no evidence that The Pension Service had rigorously looked into the matter to identify, in a methodical way, the extent of the problem, and what they could do to help others who might have been similarly misled. In the light of the Chief Executive's undertaking to the MP in October 2006 and with particular reference to two of the *Principles of Good Administration* ('Getting it right' and 'Putting things right') we found that this lack of action amounted to maladministration.

We found that The Pension Service took almost four months to give Miss G an adequate initial response to her enquiries about her pension forecasts. Officer F set out to deal with her helpfully but failed to keep adequate records of his conversations with her, and took too long to recognise her query as a complaint. The Pension Service failed to apply their complaints procedures

and timescales, were confused about how they might respond and, when they did provide a full response, failed to marry up the Chief Executive's letter with the compensation decision. Taken together, these errors and omissions amounted to maladministration: Miss G was justified in saying that she had received confusing and contradictory information.

As a result of maladministration, Miss G was understandably outraged by the fact that she had received two incorrect forecasts, and was shocked and disappointed to discover that her entitlement was less than she had been led to believe. Trying to work out how to accommodate this change of circumstances caused Miss G great worry, and she was robbed of the opportunity to plan properly for her retirement. By the time the errors emerged, she was not in a position to make good that lost opportunity. Miss G also suffered stress and inconvenience through The Pension Service's failure to keep to their timescales and guidance when handling her complaint and their failure to co-ordinate their final response.

We concluded our investigation in August 2008 and upheld Miss G's complaint.

## Outcome

As a result of our recommendations, The Pension Service agreed to:

- apologise to Miss G for sending her inaccurate pension forecasts, and for their poor complaint handling;
- pay her £5,000 to recognise the loss of opportunity to plan properly for her future and for the inconvenience and stress caused by their poor complaint handling; and
- establish who else might have been affected by the same error and, as far as is possible, put that right by:
  - writing to these people warning them about the inaccuracy of past forecasts;
  - providing them with updated and correct forecasts; and
  - considering an appropriate remedy for anyone who has suffered in a similar way to Miss G.

**State Pension Forecast**

**Application for a State Pension**

**Part 1 About you**  
Please tell us about yourself. Use BLOCK CAPITALS.

National Insurance (NI) number

Surname  Mr/Ms

Other names

All other surnames you have been known by or are using now.

Address

Correspondence address if different

Date of birth

**Part 2 Marital status**  
Please tick the description that applies to you. If you are married or in a civil partnership we will ask you to provide details.

Single

Married  Date of marriage

Partner  Date of partnership

Civil partnership dissolved  Date of dissolution

Living civil partner

## Mr K's complaint about Jobcentre Plus

*Jobcentre Plus gave Mr K misleading advice about how the money he had received on redundancy would be treated for benefit purposes, causing him not to claim the benefit to which he was entitled. The failure to get things right at the outset was exacerbated by Jobcentre Plus's subsequent poor handling of Mr K's complaint, which meant they then delayed putting right their mistake.*

### Background to the complaint

Mr K was made redundant in July 2002, and received a redundancy payment of about £16,000 and three months' salary in lieu of notice. On 16 July Mr K attended an interview at his local job centre to claim income-based jobseeker's allowance. After he had signed a jobseeker's agreement, he said he would put the redundancy money into an offset account (that is, a flexible current account). According to Mr K, the officer sought advice about the implications of that. She then advised him that the deposit against his mortgage counted as savings and, because his capital would be above a threshold, he would not be entitled to income-based jobseeker's allowance, and did not need to sign on as he would automatically receive National Insurance credits. Mr K decided not to claim contribution-based jobseeker's allowance instead because it was taxable and normally paid for only six months. He also expected to start a new job soon.

In March 2004 Mr K's capital fell below the threshold, and he contacted Jobcentre Plus about claiming income-based jobseeker's allowance. He said an adviser told him that he had been given wrong advice in 2002, as money in an offset account did not count as savings. On 5 March 2004 Mr K claimed income-based jobseeker's allowance. While Jobcentre Plus were considering his claim, they obtained technical advice that Mr K had no capital that could be taken into consideration. Mr K attended a new claim appointment on 27 March and asked for his claim to be backdated for the period 15 July 2002 to 4 March 2004 on the

basis that he had been misadvised in July 2002. Jobcentre Plus told Mr K that jobseeker's allowance could only be backdated three months; he would need to request a compensation payment instead.

On 24 May 2004 Mr K complained to Jobcentre Plus and asked for compensation for the jobseeker's allowance, help with mortgage costs, and the National Insurance credits he had lost. In August the job centre asked Mr K for information about his redundancy, and sent his compensation claim to the special payments team. In January 2005 the special payments team asked the job centre why they thought they had given Mr K incorrect information. The job centre manager said it was thought likely that Mr K had been misadvised because staff had had no knowledge of the rules about offset accounts. The special payments team then asked the job centre if they had similarly misdirected other customers. The job centre replied saying that there were no records of that happening. Jobcentre Plus refused Mr K's request for compensation as they did not accept that an error had been made.

After Mr K asked for the decision to be reconsidered, the special payments officer asked for further information from the job centre and for further technical advice. On 16 November 2005 the special payments officer asked the job centre whether, given the jobseeker's agreement, Mr K had made a valid claim. On 22 November the job centre said Mr K made a valid claim but had chosen not to pursue it. The same day the special payments officer said a formal decision was needed on

whether Mr K had made a claim. On 28 November the job centre said there was no doubt he had.

On 17 January 2006 the special payments officer sought advice from DWP. They suggested that a decision-maker be asked to determine whether Mr K had made a valid claim. On 28 March a decision-maker in the Technical Section said that Mr K had made a valid claim, and that the money deposited into his offset account should not have been treated as capital. He said that it was likely that Mr K had been given the wrong information: there had been much confusion about offset accounts and he knew of a similar case. On 26 April the special payments officer asked DWP's Adjudication and Constitutional Issues Division whether that view was reasonable. They replied saying that Mr K's redundancy payment should not have been treated as capital once he had paid it into his account. In July the special payments officer refused Mr K's request for compensation, on the grounds that there was no clear and unequivocal evidence of error, and he considered, on balance, that it was more likely Mr K had misunderstood the July 2002 advice. He acknowledged that Mr K had made a claim for benefit, which should then have been formally determined.

In August 2006 Mr K complained to the Ombudsman. In October we referred his complaint to Jobcentre Plus's Chief Executive. A Director responded on 22 November saying that he was unable to confirm or deny Mr K's account of what he had been told in July 2002. However, he should have been advised to claim income-based jobseeker's allowance so that they could formally decide his entitlement. He said there were special rules about how to treat payments into accounts such as Mr K's. The Director said the special payments officer had considered that, on the basis

of the information he had, there was not enough evidence that maladministration had occurred.

## What we investigated

We investigated whether Jobcentre Plus had misled Mr K about his entitlement to, and failed to consider his application for, jobseeker's allowance. We also looked at their handling of his complaint about that. By way of remedy, Mr K sought financial redress for the jobseeker's allowance, council tax benefit and mortgage interest he had lost. He also wanted compensation for the inconvenience and distress caused.

## What our investigation found

Jobcentre Plus told us initially it was unlikely they had misadvised Mr K as standard practice was to refer complex enquiries to a specialist team. After we asked Jobcentre Plus to reconsider that view (given the Technical Section's advice and the Director's letter of 22 November 2006), they conceded that they probably had given Mr K poor advice, which had prevented him from making a fully informed choice about pursuing a claim for jobseeker's allowance. We found that the most likely reason for Mr K not pursuing his claim is that Jobcentre Plus told him that he had no entitlement. If Jobcentre Plus had told Mr K that he was not initially entitled because he was covered by pay in lieu of notice, but after that had expired he might be entitled, he would probably have acted differently. We were satisfied that Jobcentre Plus misdirected Mr K and had given him information that was not sufficiently clear, accurate and complete. Had they formally determined his benefit entitlement, as required by law, they might have spotted the error sooner. Under the *Principles of Good Administration* ('Being open

and accountable') the Ombudsman expects public bodies to be open and clear about policies and procedures and to ensure that information and any advice provided is clear, accurate and complete.

Turning to Jobcentre Plus's handling of Mr K's complaint, we saw no evidence which justified them taking around seventeen months to refuse his compensation claim in the first instance, and a further eight months to refuse his claim for a second time. While officers needed technical advice, there were periods of inactivity which led to excessive delays in reaching a decision. Jobcentre Plus missed a further chance to put things right when we referred Mr K's complaint to the Chief Executive. Taken in the round, Jobcentre Plus failed to put their mistakes right quickly and effectively, and their complaints procedure was not effective. That was not in line with 'Putting things right', another of the *Principles of Good Administration*.

We concluded that Jobcentre Plus's handling of Mr K's jobseeker's allowance claim and his subsequent complaint was maladministrative. As a result he did not receive jobseeker's allowance until March 2004, when he should have done so from October 2002 (after his three months' pay in lieu of notice had expired), and suffered inconvenience, frustration and distress.

We upheld Mr K's complaint and concluded our investigation in July 2008.

## Outcome

At our recommendation Jobcentre Plus:

- apologised to Mr K;
- paid him £9,023.38 (plus £1,682.13 interest) to compensate him for his lost benefits;
- credited Mr K with the National Insurance credits he would have received; and
- paid him £600 compensation for the worry, distress and inconvenience caused.

## Mrs U's complaint about Jobcentre Plus

*Our investigation of Mrs U's case illustrates how our work on an individual's complaint can uncover underlying problems. Mrs U was misled about whether she could claim jobseeker's allowance because the officer she spoke to, and others in Jobcentre Plus, did not properly understand how to apply the rules about how benefit claims are 'linked'.*

### Background to the complaint

In August 2005 Mrs U was made redundant. She claimed contribution-based jobseeker's allowance and her entitlement ended on 4 March 2006, having claimed for the maximum of 182 days in one jobseeking period. Mrs U said that, when she signed off, a Jobcentre Plus officer told her of the possibility of claiming again in just over 12 weeks' time if she remained unemployed. (A jobseeking period may be 'linked' with an earlier one if separated by any period of no more than 12 weeks. The earlier jobseeking period is treated as continuing, so that the question of whether a person satisfies the National Insurance contribution conditions for benefit is decided by looking at the situation at the start of the first jobseeking period.)

Mrs U claimed incapacity benefit from 12 to 18 March 2006. On 5 June she again claimed contribution-based jobseeker's allowance, in the belief that more than 12 weeks had passed since her incapacity benefit claim had ended. On 5 July, after establishing that her claim would not succeed (as it 'linked' to her incapacity benefit claim), Mrs U went to her local Jobcentre Plus office to close her claim from 21 June. She asked Officer A on what date she could make a successful claim in future. They both had calendars with them, and Mrs U asked if 14 September was the correct date. She said Officer A confirmed that it was. (In fact, the correct date was 15 September. Officer A later told us that he probably had confirmed that the break between jobseeking periods should be 12 weeks, and so 14 September had seemed right. He noted from his account of the events of 5 July – written

on 21 August 2006 – that he had twice referred to a 12-week break between claims, and felt this showed he had probably wrongly advised Mrs U, because the break should actually be 12 weeks and 1 day.)

Also on 5 July 2006 Mrs U complained to Jobcentre Plus that it was unfair that the onus was on the claimant to claim on the correct date, when there was no reference to the linking rules in their literature. She asked to revise the date of her claim to 11 June, a date she thought would not link to her incapacity benefit claim. Jobcentre Plus replied on 3 August saying that the onus was on the claimant to obtain the necessary information. Mrs U responded that Jobcentre Plus had not addressed her question about obtaining the information necessary to understand the linking rules. In their reply, Jobcentre Plus referred Mrs U to leaflet QCJSAA5JPW for general information on linking rules and explained that it was difficult to produce generic advice for every scenario as the rules were complex. They referred Mrs U to DWP's website for information on the linking rules, and to the *Decision Makers Guide*. (Mrs U found no reference to the linking rules on the website and was unaware that the *Decision Makers Guide* was accessible on the internet to non-Jobcentre Plus staff.)

On 14 September 2006 Mrs U telephoned Jobcentre Plus to claim contribution-based jobseeker's allowance again (in line with what she had been told on 5 July). She was interviewed by Officer B on 21 September and told that her claim did not link with the one which had ended on 21 June 2006. (At interview, Officer B showed us how he had worked out that Mrs U's new



claim did not link with the previous one. But after consulting the *Decision Makers Guide* and obtaining clarification during the interview, he realised he should have disregarded the ‘first day of the second period’, which was 14 September 2006. He acknowledged he had been unaware of that method of calculation, and said he would have suggested that Mrs U amend her claim if he had realised that her new claim linked to her previous one.) Jobcentre Plus disallowed Mrs U’s claim because her entitlement was based on National Insurance contributions that had run out. Her appeal about this decision was unsuccessful.

In March 2007 Mrs U asked Jobcentre Plus for compensation for having been misdirected. They refused a payment, on the grounds that they probably had not misdirected her. In June Mrs U complained to the Ombudsman. We referred the matter to Jobcentre Plus’s Chief Executive. A Jobcentre Plus Director responded saying that he found no evidence that Mrs U had been misdirected in July 2006. He made no reference to the allegation of misdirection in September 2006, despite Officer B’s submission to the investigation confirming that he discussed ‘linking’ with Mrs U and ‘*at her request checked to see if it was more than 12 weeks since her previous ... claim*’. Officer A told us he was not asked to respond to Mrs U’s complaint.

## What we investigated

We investigated whether Jobcentre Plus had misdirected Mrs U about when she could claim contribution-based jobseeker’s allowance, and how they had handled her complaint about that. As part of our investigation we interviewed Mrs U, and Officers A and B.

## What our investigation found

We found that Officer A was unaware of the correct way to calculate the linking period and so probably had confirmed the wrong date to Mrs U. Officer B demonstrated at interview how he (incorrectly) calculated what he thought to be the correct date for her claim, and confirmed that, based on this calculation, he had wrongly told Mrs U that her claim would not link to her previous claim. Although this advice was given in good faith, these errors amount to maladministration.

One of the *Principles of Good Administration* is ‘*Putting things right*’. Although Mrs U identified to whom she had spoken and when, Jobcentre Plus did not properly investigate her claims. Their compensation decision did not refer to Officer B’s misdirection, and he was not asked about Mrs U’s complaint before that decision was made. Furthermore, Jobcentre Plus considered Officer A’s account of events, which was provided in relation to Mrs U’s July 2006 complaint, which was not about misdirection. The poor quality of Jobcentre Plus’s investigation led them to conclude there was no evidence of misdirection. Given that both Officers promptly admitted the probability of misdirection when we put Mrs U’s allegations to them, Jobcentre Plus’s failure to thoroughly investigate her complaint was maladministration.

If Mrs U had not been misdirected, she would have claimed from 15 September 2006, and received contribution-based jobseeker’s allowance for 182 days. Instead, she submitted her claim from the wrong date and it was refused. Jobcentre Plus’s failure to properly address Mrs U’s complaint meant that it took 18 months to resolve, resulting in inconvenience and further frustration for her.

We upheld Mrs U’s complaint and concluded our investigation in September 2008.

## Outcome

As a result of our investigation Jobcentre Plus agreed to:

- pay Mrs U £1,493.70 (the amount of jobseeker's allowance she would have been entitled to), plus interest;
- send her a written apology and pay her compensation of £200 for the inconvenience and frustration caused; and
- review their guidance to staff and report back on the steps taken to ensure staff understand properly how to apply the linking rules.

One of the Ombudsman's *Principles for Remedy* is 'Seeking continuous improvement'. This means using the lessons learnt from complaints to ensure that maladministration or poor service is not repeated. With this in mind, Jobcentre Plus agreed to review Mrs U's case from a complaint handling point of view. Their processes in future will be subject to '*stringent management checks at various stages of every investigation*'. They agreed to report back to us on lessons learnt and the changes they will make to ensure complaints of this kind are fully investigated and addressed.



## Mr Q's complaint about Jobcentre Plus and the Child Benefit Office

*In the case of Mr Q, Jobcentre Plus's efforts to inform widowed fathers that they could claim bereavement benefits, following a change in the law, were inadequate. As a result, Mr Q remained unaware that he was eligible for widowed parent's allowance and so did not make a claim for over four years.*

### Background to the complaint

Before 9 April 2001, bereavement benefits were only available to married women whose husbands had died. Following a change in the law, widowed mother's allowance was replaced by the new widowed parent's allowance from 9 April 2001, which was payable to widows and widowers alike. One of the eligibility criteria was that applicants had to be entitled to child benefit for at least one qualifying child. Claims could only be backdated three months at most.

In general, unless asked, there is no onus on Jobcentre Plus to inform people that they may be eligible to claim a particular benefit. This is not the case, however, when a change in statutory provisions gives rise to new entitlements. In such cases, departments should act reasonably in taking such steps as may be practicable to identify those with an entitlement and either pay them that entitlement or invite them to claim. This is set out in a 1979 report by the then Civil Service Department, *Legal Entitlements and Administrative Practices*. In the lead-up to the April 2001 changes, Jobcentre Plus considered how to tell existing widowers about the changes. Most of the papers relating to this work have been destroyed but it is clear that Jobcentre Plus decided first that they would conduct a 'scan' of the child benefit database to try to identify existing widowers whom they would then write to, and secondly that they would run a publicity campaign.

### Informing widowers of the April 2001 changes - Jobcentre Plus's publicity campaign

Jobcentre Plus considered a variety of options, including coverage in national, women's and regional press; advertorials and advertisements in local and regional press; national press advertising; and a dedicated leaflet distributed in the wider community. Although they thought about how best to target men, we saw no evidence that they gave any consideration to the question of how best to target publicity to bereaved men. The extent of the final publicity campaign was unclear, but Jobcentre Plus were able to provide us with only 21 press cuttings for the 8 months following the change in the law that mentioned it, and of those several were reports of a charity's statement warning that there had been insufficient publicity. In March 2001 another charity, which offers help to bereaved people, wrote to the Secretary of State about the '*minimal publicity for the new benefits*', and expressed concern that without publicity some potential claimants were unlikely to claim the benefits, particularly men with dependent children who had been widowed for some time. There is no record of any reply.

### Informing widowers of the April 2001 changes – the Child Benefit Office scan

The child benefit database was not designed to identify widowers and so the scan was not a straightforward exercise. A first scan looked for claims with a sole male payee with a cross-reference to another child benefit number (the original claim would usually have been made

by the children's mother). A second scan then checked those cross-referenced accounts for notes indicating that the person concerned had died (by searching for a special note or the words 'died', 'death' or 'deceased'). A third scan again looked for claims with sole male payees, and this time checked those claims for the same indications that a person had died. The results were checked and then letters inviting the men to claim were sent out. The Child Benefit Office told us that they identified at an early stage the risk that some bereaved fathers might be missed, and said that Jobcentre Plus had accepted that risk. They could not provide any further details as the relevant papers had been destroyed.

#### Mr Q's claim for widowed parent's allowance

Mr Q's wife died in February 1998. He then took responsibility for bringing up their son, for whom Mrs Q had claimed child benefit. He was given leaflets from various sources (including the Child Benefit Office), but he could see that he was not entitled to widowed mother's allowance and so did not make a claim. Subsequently, Mr Q was not sent the letter about widowed parent's allowance. Although his child benefit computer record should have been cross-referenced to Mrs Q's account (and so picked up by the scan), it later transpired that the scan had not recognised his record as being that of a widower because the cross-reference had been noted in a wrong section of his record.

In November 2005 Mr Q saw a television programme which mentioned the possibility of widowers claiming widowed parent's allowance. He claimed the same day and was awarded the allowance backdated for three months. Mr Q appealed against the backdating decision, partly on the grounds that he had not been made aware of the fact that widowers could claim the allowance. Jobcentre Plus reconsidered, but did not change,

their decision. However, the decision-maker asked if it would be appropriate to make Mr Q an ex gratia payment on the grounds that he had not been invited to claim when the law changed. Mr Q's subsequent appeal was disallowed in March 2006.

#### Jobcentre Plus's consideration of an ex gratia payment for Mr Q

In response to enquiries from Jobcentre Plus, the Child Benefit Office said that they could not confirm if they had sent Mr Q a widowed parent's allowance claim form because no clerical records of the scan results or the letters sent had been kept. They also said that none of the criteria which might have identified him as a widower was shown on Mr Q's child benefit account and so he would not have been identified by the scan. In October 2006 Jobcentre Plus refused Mr Q an ex gratia payment, saying that it was the Child Benefit Office's view that *'the onus remained with the individual customer to make a claim to benefit; the basis being that the change in provision was widely advertised and information about [sic] was freely available to the general public. I surmise therefore that there was no mandatory obligation to invite and consequently no departmental error. It follows that a special payment cannot be made'*.

#### What we investigated

Mr Q complained to the Ombudsman, in November 2006, that the Child Benefit Office's scan had failed to identify him as eligible to claim widowed parent's allowance, and that Jobcentre Plus had not fully considered all the circumstances of his case when deciding his request for an ex gratia payment. He said he had missed out on about £27,000.

In investigating Mr Q's complaint, we took account of the *Legal Entitlements and Administrative Practices* report, the Public Record Office's *Records Management Standards* published in January 1998 and our *Principles of Good Administration*. We considered whether Jobcentre Plus's actions were in line with the standards they establish.

### What our investigation found

Although the child benefit scan was fairly successful (in that it used a database, which was not intended for the purpose, to identify some 11,688 widowers to whom information was sent about changes to bereavement benefits), there were several classes of widowers whom the scan could never have identified, of which cases such as that of Mr Q, where the Child Benefit Office had misfiled the cross-reference to his wife's previous record, was just one. We found that Jobcentre Plus should reasonably have known there was every chance that potentially significant numbers of eligible widowers would not be identified by the scan.

It is fair to say that bereaved fathers make up a group which would be particularly difficult to reach through a publicity campaign, and this should have been reflected in Jobcentre Plus's publicity plans. We could not see that there was a reasonable prospect that the campaign, as undertaken, would have sufficiently publicised the new entitlement so that those affected were aware of the benefit changes. The actions that Jobcentre Plus and the Child Benefit Office undertook between them did not meet the requirement to '*... act reasonably in taking such steps as may be practicable to identify those with an entitlement*'; and fell short of the need as set out in the Ombudsman's *Principles of Good Administration* to act with regard for the rights of those concerned, taking

account of established good practice. In this case, Jobcentre Plus should have been particularly aware of the importance of letting widowers know of their new entitlement because the law had been changed partly in response to a ruling by the Court of Human Rights that the previous discriminatory system violated widowers' human rights.

In summary, we found that both the scan was inadequate and the publicity campaign insufficient to remedy the scan's defects, and that Jobcentre Plus's reliance on them to tell existing widowers about their new entitlements was maladministration.

Jobcentre Plus's response to Mr Q's request for an ex gratia payment was inadequate. Given that he would be deprived of his entitlement unless he made a claim, that he was in a vulnerable group whose human rights had been violated and that he would have no reason to make a claim unless informed about the changes to the law, the onus was squarely on Jobcentre Plus to try to inform him (and others like him) of his new eligibility. Part of '*Getting it right*' (another of the *Principles of Good Administration*) is that proper decision-making should give due weight to all relevant considerations, ignore irrelevant ones and balance the evidence appropriately. Jobcentre Plus failed to do this, and so their decision to refuse Mr Q's request was taken with maladministration.

Neither Jobcentre Plus nor the Child Benefit Office created and maintained reliable and usable records as evidence of their activities. Disappointingly, neither body could provide us with comprehensive records relating to the matters investigated, as we would have expected in line with the *Principles of Good Administration*. This impacted considerably on our investigation of Mr Q's complaint. This failure to keep sufficiently adequate records

to ensure public accountability was further maladministration.

What has been the injustice to Mr Q? But for Jobcentre Plus's maladministration, he would very probably have been told about the new widowed parent's allowance in April 2001 and promptly made a claim, as he did when he found out about his entitlement in 2005. Thus, Mr Q lost out on widowed parent's allowance between 9 April 2001 and 8 August 2005. He also suffered unnecessary delays in receiving a reply to his complaint because of the lack of adequate records.

We fully upheld Mr Q's complaint and concluded our investigation in January 2009.

## Outcome

To remedy the personal injustice to Mr Q, Jobcentre Plus paid him £28,130.92 (equivalent to the benefit he had lost), plus £5,899.01 interest; £500 for gross inconvenience; £250 for severe distress; and £75 costs. They also agreed to apologise to him. The Child Benefit Office agreed to make Mr Q a payment of £500 to recognise the impact of their mistake.

We also made the following recommendations, which were all accepted:

- Jobcentre Plus agreed to put in place arrangements to ensure that if other bereaved men complain they were not informed of the benefit changes in the lead-up to April 2001, the matters rehearsed in our investigation are taken into account when addressing those complaints and deciding whether to make an ex gratia payment.
- Jobcentre Plus agreed to consider what steps they can reasonably take to identify any other men in a position similar to that of Mr Q and to remedy any injustice they may have suffered as a result of the matters we investigated.
- Jobcentre Plus and the Child Benefit Office further agreed to consider whether any changes are appropriate to their record management policies or the way those policies are observed and adhered to, in order to ensure that their records can provide the basis for public accountability, such as through an investigation by the Ombudsman.



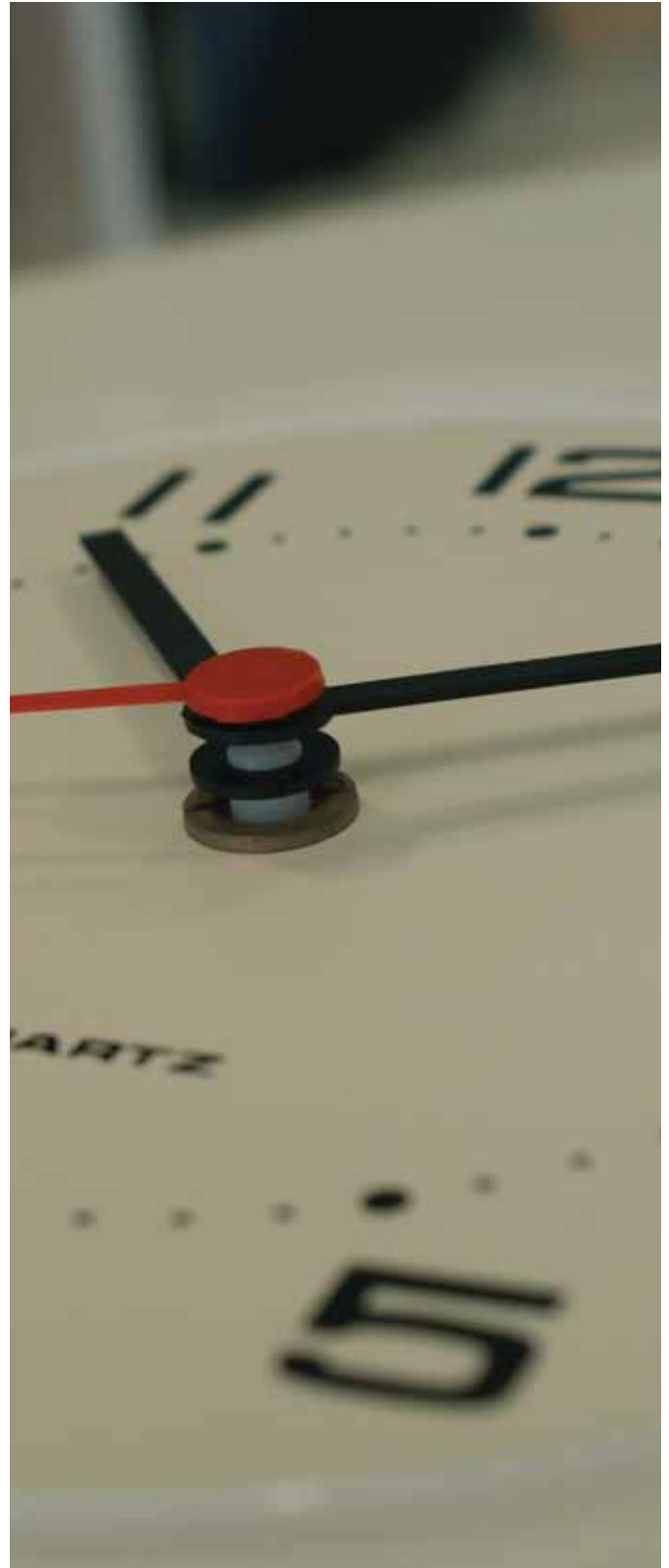
## Delay

Another common theme we see in complaints about DWP is delay. DWP's dealings with their customers can be complex, and in some cases, matters will, through no fault of DWP's, take longer than the customer would like; not all delay is maladministration. Nevertheless, we expect public bodies to deal with people promptly, within reasonable timescales and within published time frames. A lack of 'customer focus' – one of the *Principles of Good Administration* – is often the cause of unnecessary or avoidable delays.

The following three cases serve to highlight some of the effects of maladministrative delays.

*'At times I did feel that the system was much larger than myself'*

Mrs P complained about The Pension Service (page 82)







# Mr N's complaint about the Child Support Agency

*Some delays in receiving child support maintenance payments may be unavoidable. However, in Mr N's case, the Child Support Agency unnecessarily delayed consideration of an advance payment, which was itself the product of their earlier maladministration.*

## Background to the complaint

### Advance payment

Following Mr N's previous complaint to the Ombudsman (which we upheld and reported on in March 2006), the Child Support Agency (the Agency) agreed to consider making him an advance payment of maintenance for the period April to December 2004. Our report also referred to a telephone call between Mr N and the Agency on 19 May 2005, which the Agency's notes said had been terminated because of what they felt was his abusive manner. In June 2006 the Agency told Mr N that they were considering the advance payment; he should hear from them in the next six to eight weeks. In April 2007 the Agency awarded Mr N an advance payment of £940, with interest.

### Ongoing maintenance payments and telephone contact

In May 2006 Mr N wrote to the Agency to complain that the maintenance payments he was receiving from the parent with care, via the Agency, had become erratic. The Agency replied on 19 July saying that they had tried to telephone him to explain, but had been unsuccessful. They said that they had, by mistake, sent Mr N's payments to him by girocheque rather than direct payment, which would explain the erratic payments. They said they would consider paying him compensation. Mr N wrote back to complain about the delay in responding to his letter, and that the Agency had previously agreed not to contact him by telephone. (In a subsequent letter to his MP, Mr N said that

the Agency had not in fact tried to telephone him, as they had claimed, because he had a log of all incoming calls. The Agency have no record of an attempted telephone call.) The Agency refused further compensation: they considered that compensation payments they had previously made to Mr N between May 2001 and September 2005 (totalling £740) adequately remedied their errors and delays. In July and August 2007 the Agency failed to make payments to Mr N that they had received from the non-resident parent. They held the payments on their clerical log because the previous schedule of payments had run its course, and a new one had not yet been calculated. The Agency calculated a new schedule in September which enabled them to pass on the payments to Mr N.

### Response to Mr N's complaint that the Agency's records showed he had been abusive

Following the Ombudsman's March 2006 report, Mr N complained to the Agency that their records showed that they considered him to have been abusive during a telephone conversation on 19 May 2005. The Agency sent Mr N the contemporaneous manuscript note of the call in which the officer had noted that Mr N had '*sarcastically bleated goodbye*' a number of times, and had shouted and been abusive. The Agency apologised to Mr N and invited him to identify which remarks he wanted deleted from the record, which he did.

In August 2006 the Agency told Mr N that the officer's senior manager had been informed, and

the matter would be dealt with internally; the record of the telephone conversation had been destroyed and replaced with a non-subjective record; and they would consider paying compensation. Mr N asked the Agency for more information about what disciplinary action would be taken. The Agency declined to disclose that information, citing the Data Protection Act, and refused to make Mr N a compensation payment for gross embarrassment because the comments had not been released outside the Agency.

### Request for arrears

In August 2007 the Agency noted that three payments from Mr N's account (as the non-resident parent) had not been allocated, and in September the Agency told him that he owed arrears of £1,058.76. Mr N telephoned the Agency, and they acknowledged that he had paid the maintenance and did not owe the arrears.

### What we investigated

In February 2007 we received Mr N's complaint. The concerns we investigated were that the Agency:

- took too long to decide whether to award him an advance payment of maintenance, and failed to update him on progress;
- delayed forwarding maintenance payments to him from the non-resident parent;
- tried to contact him by telephone, having agreed not to do so; and
- failed to respond properly to his complaint that officers had wrongly alleged that he had been abusive to them.

Mr N later asked us to investigate two further issues, that he:

- had not received maintenance for July and August 2007; and
- had been told he had not paid maintenance between June and September 2007.

The Ombudsman has no remit to investigate actions relating to appointments or removals, pay, discipline, superannuation or other personnel matters. Therefore we could not investigate Mr N's complaint about the Agency's refusal to tell him what action they took in response to his concerns about unfounded allegations of abusive behaviour.

Mr N complained that the Agency's actions had exasperated, frustrated and offended him, and caused him to suffer financially.

### What our investigation found

#### Advance payment

The Agency told Mr N in June 2006 that he should hear from them within six to eight weeks about an advance payment, but they did not make the decision until April 2007. The delay occurred because of maladministration by the Agency, and we found no evidence that they had kept Mr N informed of their progress. That maladministration meant Mr N had to wait a further ten months before they put things right, causing frustration and inconvenience. We upheld the complaint.

### Ongoing maintenance payments and request for arrears

Maintenance payments to Mr N were twice disrupted because of errors by the Agency: they mistakenly paid him by girocheque, and failed to set up a new payment schedule in time. The reason for refusing compensation for the first disruption was unjustified: although Mr N had already received compensation payments totalling £740, he had raised a new issue, and it was unreasonable for the Agency to take the view that payments for past errors absolved them in respect of future mistakes. It was careless and insensitive of the Agency to ask Mr N to pay arrears he had already paid. As an isolated incident, it was not significant enough to be called maladministration; however, when considered together with the other instances of mishandling, they amount to maladministration. We upheld the complaint.

### Telephone contact

Although the Agency had agreed not to telephone Mr N, they told him they had tried to do so, albeit unsuccessfully. Mr N disputes whether the Agency did actually telephone him. Whether it was an unsuccessful attempt which went against a previous undertaking, or a carelessly drafted letter, the Agency's error did not cause Mr N an injustice. We did not uphold the complaint.

### Response to Mr N's concerns that their records showed he had been abusive

The Agency acknowledged that the term '*sarcastically bleated goodbye*' should not have been included in the note of the telephone call. Their apology and prompt remedial action was an appropriate response to Mr N's complaint, and their decision not to disclose further information about disciplinary action did not appear unreasonable. We did not uphold the complaint.

Overall, we partly upheld Mr N's complaint and concluded our investigation in April 2008.

### Outcome

In response to our recommendations, the Agency:

- sent Mr N a written apology from a senior officer;
- paid him compensation of £100; and
- gave him the name of a senior officer who would take responsibility for overseeing his cases.

## Mr C's complaint about The Pension Service and Debt Management

*In Mr C's case, The Pension Service's delay in updating his aunt's records, and delays by Debt Management, led to problems after her death. It meant that they were not able to make a timely and accurate decision about whether she had been overpaid and caused Mr C to incur avoidable legal costs.*

### Background to the complaint

In October 1999 Miss E's income support claim started. Her nephew, Mr C, regularly sent copies of her bank statements to the then Benefits Agency to show the changes in Miss E's capital. In August 2002 Miss E's file was sent to a storage centre. In December 2003 the file was requested by an office of The Pension Service, but it was not returned subsequently to storage. The Pension Service were later unable to identify who had requested the file and where it had been sent.

Miss E died in October 2004, and in July 2005 the solicitors looking after her estate told Mr C that they expected to be able to distribute the estate soon. Debt Management then wrote to the solicitors advising them not to distribute the estate as there might have been a benefit overpayment. In August and September Mr C contacted Debt Management and provided further information. In October Debt Management requested information from the solicitors about Miss E's bank accounts and shares.

In March 2006 Debt Management and the solicitors agreed that, as not all the information requested could be obtained, they would use the amounts in Miss E's accounts at the date of her death. Debt Management then issued a decision calculating the overpaid benefit at £2,918.30. In April Mr C wrote to Debt Management and asked to appeal (his letter was filed in error and not dealt with). Between May and July Mr C chased progress by telephone and letter. In July Debt Management replied, noted that Mr C wished to appeal, said that recovery of the

overpayment would be suspended until the issues were resolved, provided some further information in response to Mr C's earlier letter and apologised for the lack of an earlier reply. Between July and September Debt Management and Mr C exchanged further correspondence. Mr C believed, despite the March 2006 agreement, that the exact figures should be used and offered to provide relevant information.

In October 2006 Debt Management wrote to the solicitors requesting payment of £2,918.30 (this letter was attributed to a computer error). Later that month Debt Management wrote to Mr C with a revised overpayment calculation of £518.80 and asked for his comments before a formal decision was made. Mr C discussed the matter by telephone with Debt Management and the decision was then sent to Mr C (despite a request that it go to the solicitors) without the supporting calculations and schedule of assets. In November Debt Management apologised for the earlier omission, and provided the missing information. The solicitors subsequently made the repayment of £518.80.

In June 2007 an appeal tribunal decided that there was no recoverable overpayment due, as DWP had not produced any evidence to establish that Mr C had failed to make the disclosure (about Miss E's assets) that they required.

## What we investigated

In November 2007 Mr C asked for his complaint to be referred to the Ombudsman. He complained that The Pension Service had failed to maintain proper records. He also complained that Debt Management:

- had taken too long to tell Miss E's estate that there might be an overpayment and throughout that time omitted to explain that they did not have her file;
- failed to reply to correspondence; and
- provided inaccurate calculations once they had reviewed the case.

We did not investigate Mr C's complaint that Debt Management's final overpayment calculation was unlikely to be correct (he had sought a refund of the £518.80), as he had a right of appeal against the overpayment decision. That appeal was successful, and Mr C was refunded the £518.80, and paid interest for loss of use.

Mr C said that he had suffered an injustice because the errors and delay caused the estate to incur an unnecessary £1,445.25 in legal fees and caused him unnecessary trouble.

## What our investigation found

Although Mr C had provided information about Miss E's savings throughout the period of her claim, The Pension Service acted maladministratively by not updating Miss E's electronic records (with the result that the information was not available to Debt Management after Miss E's death). We also found that maladministration by The Pension Service caused the absence of Miss E's clerical

file and the record of its movements. This meant that Debt Management did not have access to information that would have allowed them to make a timely and accurate decision in 2005 about any overpayment.

We found that Debt Management's failure to tell Mr C that the case papers were missing was, in this case, maladministrative. This delayed Debt Management's work and caused injustice to Mr C, who engaged in unnecessary correspondence and incurred avoidable legal costs (only a small proportion of the legal fees incurred related to work required regardless of any maladministration).

We found that Debt Management acted maladministratively by failing to reply to Mr C's correspondence in April 2006 (and to his follow-up contacts) until his July 2006 letter was identified as a possible complaint.

We did not uphold the complaint that Debt Management had provided inaccurate calculations when they reviewed the case. The officer dealing with Mr C at that time had exemplified two of the *Principles of Good Administration*: '*Being customer focused*' and (as soon as Mr C provided his records) '*Putting things right*'. Two further minor errors (issuing a payment request for the wrong amount and omitting enclosures) were put right promptly and apologised for. Our report also highlighted the importance of a third Principle ('*Being open and accountable*'); particularly the disproportionate effect on individuals of missing files and the cost to individuals and to public bodies of failing to be clear about the reasons for their decisions.

The investigation concluded in December 2007 and overall we partly upheld Mr C's complaint.

## Outcome

As a result of our recommendations The Pension Service and Debt Management:

- apologised to Mr C for the errors and omissions that our report had identified;
- awarded compensation of £250; and
- paid £1,160 towards the legal costs he incurred, plus interest of £58.83.

Debt Management also explained that improvements had been made to their file-handling and storage procedures including: wider access to more accurate information about file location; the ability to identify earlier if case papers cannot be found; and the setting up of a single storage facility which would eventually hold all Debt Management files. Debt Management also said that, in instances where case papers are not available, they would make general enquiries of executors who were in contact with them, to seek documents which might help them rebuild details of claims.



## Mrs H's complaint about Jobcentre Plus

*In Mrs H's case, Jobcentre Plus compounded their original delay in processing her claim for jobseeker's allowance by taking too long to deal with her complaint about that matter.*

### Background to the complaint

On 22 May 2006 Mrs H claimed jobseeker's allowance at Ilford Jobcentre Plus (Ilford). Her claim was sent for processing on 26 May, and on 12 June it was passed to the Specialist Decision Makers Team for consideration because of Mrs H's previous self-employment. On 13 June Mrs H asked about the progress of her claim, and was told to ring Ilford. When she did so, they took three hours to answer her call, only to tell her to ring the Processing Centre. She tried ringing the Processing Centre for several hours the next day without her calls being answered. Mrs H finally got through and was told her claim had been sent to a Specialist Decision Maker.

On 27 June 2006 Mrs H was interviewed for a position as a chauffeur. The company wanted to offer her the position, but offered it to someone else as they understood Mrs H was not in a financial position to apply for her private hire licence. Mrs H arranged a medical examination for 10 July to obtain a certificate of her fitness to hold a licence, but cancelled it as she could not afford the £30 fee. On 11 July Mrs H asked again about her claim, and was advised to ring the Processing Centre. They told her to call the Specialist Decision Maker; when she did so she was told to call the Processing Centre. During July Mrs H called the Processing Centre three times to enquire about her claim. Twice she was promised call-backs she never received and the third time she was told her claim would be processed that day, although it was not. Also in July Mrs H's local authority served a Notice on her seeking possession of her tenancy

for rent arrears, and declined her housing benefit claim. A second medical examination was cancelled as Mrs H could not afford the fee. On 21 July it was decided to allow Mrs H's claim for jobseeker's allowance. It was approved on 2 August and the arrears paid. Mrs H complained to Jobcentre Plus on 7 August saying that her claim had taken ten weeks to process, leading to difficulties with her local authority and her medical appointment. Jobcentre Plus replied saying that *'the delays were as a result of a specialist decision maker being required'* and concluded that their service was below standard. They suggested that Mrs H ask for compensation.

Mrs H's medical examination finally took place on 21 August 2006 and on 8 September she bought postal orders worth £298 to pay for her licence. (Mrs H said that 21 August was the earliest available appointment after her benefit arrears were paid, and that she had had to wait for a further benefit payment before she could afford the postal orders). Mrs H started work as a chauffeur on 2 October. (Mrs H told us that if her claim had been approved earlier, she would have had the confidence of regular benefit payments and borrowed any money she needed to apply for her licence, probably from her father. She would then have been able to start work earlier.) On 13 October Mrs H wrote to request compensation, and she regularly chased progress. In January 2007 Jobcentre Plus told Mrs H that they had mislaid her file and invited her to resubmit her request, which she did. In April the Ombudsman received Mrs H's complaint, and we began our investigation in May.



Jobcentre Plus's special payment submission said Mrs H's jobseeker's allowance claim had been delayed because of a backlog at the Specialist Decision Makers Team, and that she had been treated badly when she contacted them.

Mrs H's request for compensation was refused. The decision letter of 8 May 2007 said that compensation for delay in paying benefit was payable only if four conditions were satisfied, one of them being that *'the mistake meant that you were not paid within the maximum period for dealing with your claim. In the case of Jobseekers Allowance ... the maximum period for dealing with a claim is three months'*. The letter explained that no compensation would be paid to Mrs H because her benefit had been paid within three months. Mrs H wrote back, saying that her compensation request had also related to the delay in obtaining a licence and therefore a job as a chauffeur, the impact on her health, the effect on her housing benefit and the threat of repossession, and the expenses she had incurred. She also mentioned the delay in considering her request.

Jobcentre Plus reviewed their compensation decision in September 2007. They accepted that Mrs H's claim could have been paid by 3 July 2006; that they had not kept her informed of progress; that she had experienced telephony difficulties; and that they had delayed considering her compensation request. They proposed a payment of £100 for inconvenience and £20 for costs. Also, interest on the benefit arrears was calculated from the date that Jobcentre Plus accepted they should have been paid to the actual date of payment, but in line with their normal practice they made no payment as the sum was less than £10. Jobcentre Plus invited Mrs H to provide objective evidence that her health issues had resulted from their maladministration, and said they would consider a further award.

## What we investigated

We investigated Mrs H's complaint that Jobcentre Plus had:

- delayed processing her jobseeker's allowance claim and had not kept her informed of progress or responded to her enquiries; and
- delayed considering her compensation request, and made an unreasonable decision.

Mrs H complained that the delays meant that she could not afford the medical examination and the licence, which delayed her starting work. She said the delay had caused stress and exacerbated existing medical conditions, and meant she was unable to claim housing benefit which led to difficulty paying her rent, and the threat of repossession. She said she also suffered expenses in chasing the progress of her claim.

## What our investigation found

Mrs H's claim was not progressed in the two weeks before it was passed to the Specialist Decision Makers Team. Although she repeatedly chased progress, no attention was paid to the claim until nearly six weeks later. Mrs H had to spend hours telephoning Jobcentre Plus to chase up her claim and compensation request. Given that she was told to make her enquiries by telephone, it was unacceptable that Jobcentre Plus did not have a telephone system in place to enable them to deal with enquiries. On four occasions Jobcentre Plus told Mrs H to ring other offices, which then could not help her. They should also have called Mrs H back as they promised her.

One of the *Principles of Good Administration* is *'Being customer focused'*. This includes behaving

helpfully, dealing with people promptly within reasonable timescales and telling people if things take longer than they can reasonably expect. A failure to meet one or more Principles does not necessarily indicate maladministration. However in this case, taken together, the failure to process Mrs H's claim promptly, the lack of an appropriate system for customers to contact Jobcentre Plus and the failures to deal appropriately with Mrs H's enquiries are so significant as to be maladministration.

Mrs H's claim required input from a Specialist Decision Maker, but it was not otherwise complicated and should have been dealt with promptly. Once work started on her claim, it was approved in less than two weeks. Mrs H's claim should have been able to be processed within or close to the average actual clearance time for jobseeker's allowance at the time of her claim (15 to 19 days). In their first special payment decision, Jobcentre Plus applied the guidelines on financial redress as a rigid set of rules, rather than consider Mrs H's case on its merits. Their approach on review was more appropriate, but they took no account of the first two weeks' delay.

One of the *Principles for Remedy* is 'Acting fairly and proportionately'. Public bodies' complaints procedures should offer a fair and appropriate remedy when a complaint is valid. In this case, Jobcentre Plus should have calculated interest based on the average actual clearance time of around 15 to 19 days, unless there was a reason to do otherwise. Their failure to do so, even at review, is further maladministration. 'Getting it right', another of the *Principles for Remedy*, includes quickly acknowledging and putting right cases of maladministration that have led to injustice. Jobcentre Plus should have considered a compensation payment for Mrs H as soon as they paid her arrears, and certainly once she

had complained about the delay. Instead, Mrs H had to request compensation, chase this up and resubmit her evidence. She waited nine months for a decision, and the review took a further four months. This too was maladministration.

As for the injustice to Mrs H, we could not be certain that she would have been able to apply for her licence earlier (and started work earlier) had Jobcentre Plus paid her benefit sooner. Although she would have received a lump sum sooner, it would have been for a lesser amount (being for fewer weeks' arrears). In fact, Mrs H needed the arrears and an additional benefit payment before she could apply for her licence. As she would have had about the same expenses as she actually did have, we did not see that she could have afforded the licence any earlier than she did. Nor were we persuaded that the delay prevented Mrs H borrowing money to pay for her licence. However, she did suffer outrage, stress and inconvenience, and the worry of the local authority's possession Notice.

We fully upheld Mrs H's complaint and concluded our investigation in March 2008.

### Outcome

To fully remedy the injustice to Mrs H, we recommended that Jobcentre Plus:

- pay her compensation of £300; and
- consider if interest was due on the benefit arrears, on the basis that the claim could and should have been dealt with within 15 to 19 days.

Jobcentre Plus agreed to our recommendations.

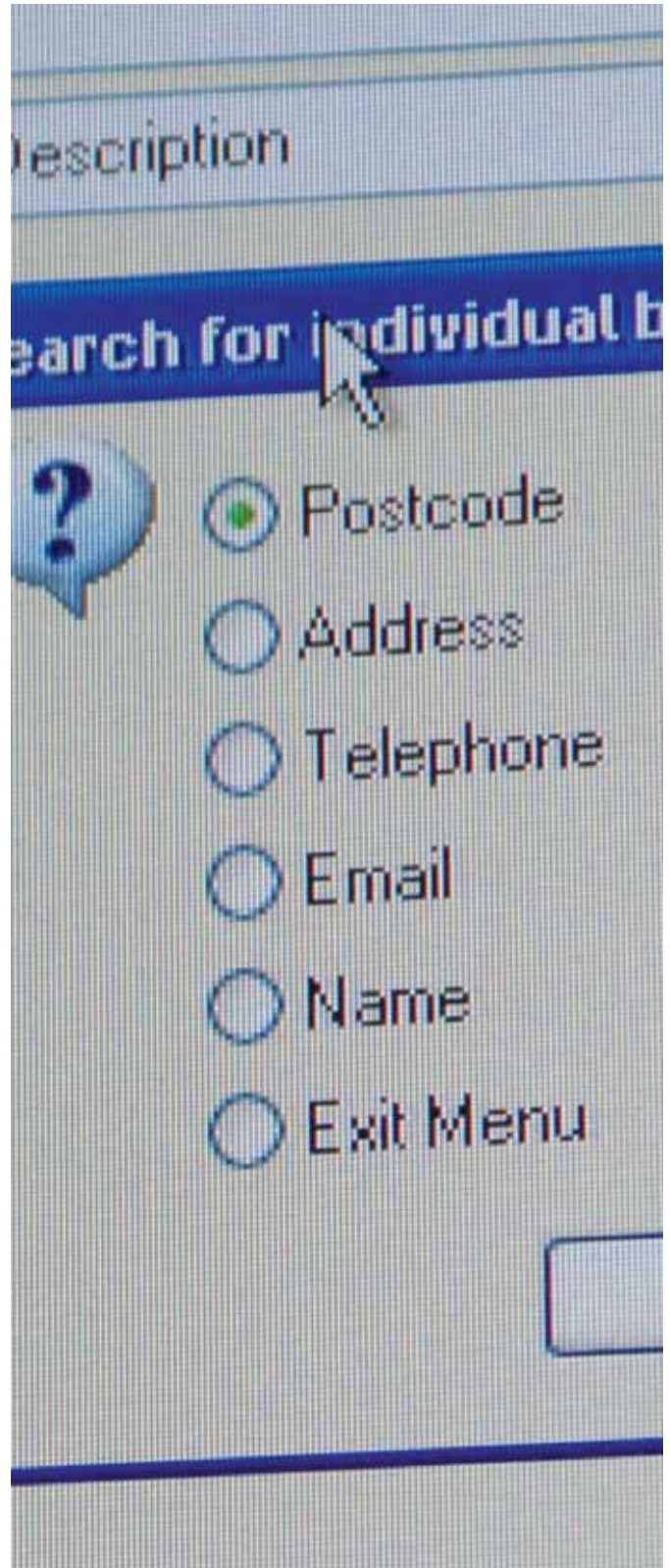


## Record keeping

Public bodies need reliable and usable records as evidence of what they have done. Good record keeping can help ensure that they are able to respond fully and helpfully to enquiries and complaints from their customers; to learn lessons from experience, supporting continuous improvement across the organisation; and to enable them to be properly 'open and accountable' to the public, which includes being accountable to our Office. The following examples show why this is an area of some concern in our work on complaints about DWP.

*'An unnecessary and upsetting intrusion into your life'*

Mr D complained about the Child Support Agency (page 45)





# Mr D's complaint about the Child Support Agency

*In Mr D's case, the Child Support Agency's poor record keeping had a far-reaching impact. Although they recognised, relatively quickly, that he was not the man they were looking for, they continued to pursue him and to cause him a great deal of distress for a long time because they had not removed his details from their computer system.*

## Background to the complaint

In March 2004 the Child Support Agency (the Agency) incorrectly identified Mr D as a non-resident parent, after inputting the wrong National Insurance number into their computer system. They sent Mr D a maintenance enquiry form, which he returned marked 'return to sender'. He received a further form and telephoned the Agency several times to try and resolve things. The Agency traced Mr D's employer (he was in the armed forces), obtained his income details and calculated his liability for child support maintenance. Mr D telephoned the Agency on 11 May to say that he was not the non-resident parent. The Agency made enquiries of the parent with care and accepted Mr D was not the non-resident parent. In June they started to remove his details from their computer system, but a system fault prevented them from doing so.

In July 2004 the Agency apologised to Mr D for this 'unnecessary and upsetting intrusion into your life', and paid him compensation of £100. In December the Agency wrote to Mr D saying that he owed £1,692.55 in maintenance arrears and warned him they may impose a deduction from earnings order. Mr D said this correspondence started his girlfriend's breakdown of trust in him.

In January 2005 the Agency sent a deduction from earnings order to Mr D's employer. In February Mr D's solicitors wrote to the Agency: they were considering Mr D's position with regard to damages for the hurt to his reputation, distress, and extra

expense incurred. Mr D's superior asked the Agency to withdraw their demand for payment of the maintenance arrears. The Agency then cancelled the deduction from earnings order.

In March 2005 the Agency apologised to Mr D's solicitors for not having dealt properly with Mr D's case, and gave assurances that the computer system was being corrected to remove his details. They also said that a compensation payment was being considered. On 10 March the Agency refused Mr D a compensation payment. They acknowledged the inconvenience they had caused him, but required evidence of the legal costs he had incurred before they could make that decision. The Agency said that on 23 March and again on 4 April they raised the matter of the fault with their computer system with their service provider. (The Agency were unable to say when and how they eventually removed Mr D's details from their system successfully.)

In April 2005 Mr D took on a specialist operational role in Iraq. On 12 April the Agency sent him two further letters, including a schedule of what maintenance payments he was to make and when, and in May they asked Mr D's employer for information. Mr D said the situation became more frustrating and inconvenient with each letter. Each time he had to discuss the matter with his superiors, solicitors, family and girlfriend, which was time consuming and stressful. He said that the latest correspondence had caused a total breakdown of trust with his girlfriend. In July Mr D's solicitors told the Agency that their expenses up to 16 June 2005 were £193.72. The Agency did not respond.

On 8 November the solicitors contacted Mr D's MP, who asked the Agency to investigate the matter. In reply, the Agency said that Mr D had received compensation of £100 and they had closed the case. They were currently considering whether or not to reimburse Mr D's legal costs.

In January 2006 the Agency awarded £50 to Mr D for inconvenience caused and £193.72 for his legal costs. The solicitors asked the Agency to review the 'derisory' compensation payment. The Agency said they could review their decision if new evidence was provided but that the solicitors' letter gave no grounds to do so. In April the Ombudsman received Mr D's complaint, and then referred the case to the Independent Case Examiner (ICE) to try and resolve the matter.

In July 2006 the Agency refused Mr D a compensation payment for gross embarrassment and distress. In August Mr D's staff officer supplied evidence to suggest that the Agency had caused Mr D stress and financial concern. He said that the intrusion had '*affected his [Mr D's] effectiveness in a tense and highly focussed operational role...*' and that he was 'deployed in a high profile, high paced role demanding a great deal of physical and mental energy, and requiring much motivation'. He said that Mr D had become sullen and withdrawn and that the Agency had placed a great burden on him when he was learning a new role. That had affected Mr D's performance and he had lagged behind others who joined the unit after him. In August the Agency awarded £50 to Mr D for distress.

ICE upheld Mr D's complaint in November 2006. Their recommendations to the Agency included awarding further compensation and reimbursing Mr D's legal fees from June 2005 onwards. The Agency said they accepted ICE's findings and apologised to Mr D for the level of service he had received. They did not explain, as recommended

by ICE, what action they had taken to ensure they would not contact him again, and refused to pay further compensation to Mr D as they considered that the £200 already paid was adequate. They noted that they should not have reimbursed Mr D's legal costs up to June 2005, because the Agency had been set up so that customers would not require professional advisers, except in exceptional circumstances. They refused to reimburse Mr D's legal costs from June 2005 onwards. ICE asked the Agency to reconsider their decision.

In February 2007 the Agency awarded Mr D further compensation of £75 for the inconvenience caused, but they did not address ICE's recommendation about reimbursing Mr D's legal costs from June 2005 onwards.

## What we investigated

We investigated Mr D's complaint that the Agency had pursued him for maintenance having previously conceded that he was not a non-resident parent. He said that the Agency's action had caused him extreme distress and had adversely affected his career progression. Mr D wanted the Agency to stop chasing him for maintenance and he sought further compensation (he had received payments totalling £275).

## What our investigation found

After admitting they had wrongly identified Mr D as a non-resident parent in March 2004, the Agency failed to correct the problem and continued to pursue him about his non-existent maintenance liability. In June they began removing Mr D from their computer system, but failed to complete this action, enabling the imposition of a deduction from earnings order. Again, in March and April 2005

they began to address why they had been unable to remove Mr D from their system, but failed to resolve it. The Agency are unable to say when they successfully removed Mr D from their system, but it was clearly some months after the problems were first identified. This took far too long.

One of the *Principles of Good Administration* is 'Getting it right', meaning that public bodies should act in accordance with the law and due rights of those concerned, and in accordance with their own policy and guidance. Another is 'Putting things right', which means that public bodies should put mistakes right quickly and effectively. The failure to meet one or more of the Principles does not necessarily indicate maladministration but, in this case, the Agency's mistakes and inability to sort them out fell so far short of what they should have done that we considered there was maladministration.

As a result of the Agency's maladministration, Mr D suffered severe distress, frustration and inconvenience. The repeated assertion that he was the father of a child is likely to have impacted negatively on Mr D's partner's trust in him. The time taken to resolve matters and to offer Mr D redress compounded his worry and sense of powerlessness, and would have affected his ability to perform to the necessary level in a stressful working environment. He also incurred unnecessary legal costs because of the Agency's actions.

We upheld Mr D's complaint and concluded our investigation in September 2008.

## Outcome

Two of the *Principles for Remedy* ('Getting it right' and 'Putting things right') recommend taking into account both objective evidence and more subjective views of the impact of the injustice or hardship and considering the full impact on the individual. The Agency's own policy of redress says it is not necessary to obtain objective evidence of severe distress where the distress is self-evident, which we considered was the case here.

As a result of our recommendations, the Agency:

- agreed to pay Mr D a further £1,225 to remedy the injustice to him;
- agreed to pay £1,389.50 to compensate him for legal expenses and agreed to reimburse his reasonable travel costs (incurred attending legal appointments) since June 2005; and
- arranged for a senior officer to send Mr D a written apology and to give him her contact details so he can contact her if anything goes wrong in future.



# Mr J's complaint about the Child Support Agency

*The Child Support Agency caused Mr J distress, affecting his relationship with his family and partner, because they failed to remove his details from their computer system when they found that he was not the man they were looking for. They failed to 'put things right' fully for more than four years.*

## Background to the complaint

In August 2003 the Child Support Agency (the Agency) received a maintenance application form. In October the Agency sent Mr J a maintenance enquiry form, believing him to be the non-resident parent. (In tracing the non-resident parent the Agency apparently chose an 'incorrect entry' and wrongly identified Mr J.) Mr J did not know and had not had a relationship with the person with whom the Agency claimed he had had a child. He telephoned the Agency and was assured they would put things right. Despite that, the Agency asked Mr J's employer about his earnings and issued a child support maintenance calculation.

In December 2003 the Agency confirmed that Mr J was not the non-resident parent and referred the case to a specialist team to remove his details from their system. An 'incident number' was raised but no further action was taken. (The Agency told us that a National Insurance number removal form should have been completed and sent to the team, but they were unable to confirm if that was done. As no note was made on the system to tell officers that Mr J was not the non-resident parent, his details were not removed.) The Agency awarded Mr J compensation of £100.

On 18 December 2006 the Agency sent Mr J two letters: one demanded immediate payment of £3,498 arrears; the other said that a maintenance payment of £144 was overdue. Mr J was 'mortified and extremely upset' to receive letters from the Agency again. He rang the Agency and was promised a call back, which he did not receive.

On 21 December the Agency sent Mr J a letter saying they would collect the maintenance through a deduction from earnings order. Mr J telephoned them on 28 December to explain they had previously accepted that he was not the non-resident parent. The Agency told us this was the first time they identified that the action taken in 2003 to remove Mr J's details had not worked. No one returned Mr J's call.

On 19 January 2007 the Agency wrote to tell Mr J that he owed arrears of £5,544, and that unless he made arrangements to pay, they would involve a debt collection agency. Mr J telephoned the Agency, but they did not call him back. In February, after the Agency had imposed a deduction from earnings order, Mr J's employer deducted £213.36 from his wages (£212.36 for maintenance and arrears, and a £1 administration fee). Mr J telephoned the Agency on 15 February, and again explained the history of his dealings with them. He asked to be called back. He telephoned again on 16 February, saying he was unhappy that no one had called him back and reiterating that he was not the non-resident parent. Mr J did not receive the call back he had requested.

On 20 February 2007 Mr J telephoned the Agency and was told that the debt collection agency had been asked not to take any further action. The next day the Agency's solicitors wrote to Mr J, saying that his failure to respond to an earlier letter from them left the Agency no alternative but to take enforcement action. They intended to apply for a deduction from earnings order unless he paid £5,610 by 28 February.

On 23 February the Agency telephoned Mr J. They apologised to him and advised that the case would be closed. They also told Mr J's employer that the deduction from earnings order had been terminated and refunded £212.36 to Mr J.

In March 2007 Mr J's MP wrote to the Agency and to the Parliamentary Under-Secretary of State for Work and Pensions to complain about the Agency's treatment of Mr J. The Parliamentary Under-Secretary of State replied to the MP, saying that Mr J had been identified as the non-resident parent based on *'a slight similarity to the date of birth that a parent with care had provided'*. He said that the Agency had not removed Mr J's records from their system in 2003, which had resulted in him receiving further letters. He apologised for the way the Agency had dealt with Mr J and said that they had assured him that they had removed his details from their computer system.

On 4 April 2007 the Agency twice wrote to Mr J about arrangements for collecting maintenance payments. The Agency say this happened because the 'prompt' placed on their computer system to prevent further notifications being issued did not work. On 5 April Mr J wrote to the MP enclosing the previous day's letter. He said he was upset and angry that nothing had changed after everything he had been through. He said:

*'I don't think the CSA know how much pain and anguish they have and are still putting me through. I'm at the end of my tether. I am very worried how this is affecting my credit rating and security details. No one has assured me that my records will return to normal or that my mental health or the trust of my family will be returned. How do I know this won't happen again? I don't, because there has been no guarantee that it will stop.'*

On 20 April 2007 the Agency told the MP that Mr J had been incorrectly identified as the non-resident parent because they had not followed the relevant procedures. They had only established a *'tentative link with the date of birth provided by the parent with care'*. They said they had now removed *'all'* of Mr J's details from the system, and had awarded him compensation of £250 for gross inconvenience and £150 for severe distress. This payment was wrongly sent to Mr J's neighbour. The Agency apologised to Mr J and made him a further payment of £200 for gross embarrassment.

In May 2007 Mr J's MP referred a complaint to the Ombudsman. In February 2008, during our investigation, the Agency sent Mr J a schedule for maintenance payments, addressed to *'Mr Person Erroneous'*. The Agency told us that they had previously removed only Mr J's name and National Insurance number from their system and put an 'inhibitor' in place to prevent the issue of further correspondence. However, they thought the action on Mr J's case resulting from our investigation could have caused the system to remove the inhibitor. The Agency reapplied the inhibitor and removed Mr J's address from their system. They said that they had also amended their procedures to ensure that addresses as well as names and National Insurance numbers are removed in future.

## What we investigated

We investigated the Agency's incorrect identification of Mr J as the non-resident parent and why they failed to put things right once they were made aware of their error.

Mr J told us that the Agency's actions caused him shame and anxiety. He felt that he had been *'violated financially, mentally and emotionally'*

as had his privacy, family and work life ‘*all because nobody would listen to him*’. He said he had never had a clear, direct apology from the Agency with which he could prove his innocence to his family.

## What our investigation found

Having wrongly identified Mr J as the non-resident parent it was incumbent on the Agency to put things right. After appearing to do so when they awarded compensation to Mr J, they then failed to remove his details from their system. Their failure to rectify the situation became apparent to them on 28 December 2006, and Mr J’s telephone call gave them another opportunity to put things right. Instead, they took no substantive action until 20 February 2007 after wrongly imposing a deduction from earnings order. The Agency continued to pursue Mr J until April 2007. In trying to redress their errors, the Agency then made a further error by sending the compensation payment to the wrong address. Their total failure to put things right was maladministration. The issue of a further collection schedule in February 2008 showed the Agency had not learnt from their maladministration or revised procedures to prevent the same thing happening again. Those further failings amounted to maladministration.

In summary, the Agency repeatedly did not ‘get it right’ in their dealings with Mr J, and failed to ‘put things right’ (two of the *Principles of Good Administration*). This caused Mr J stress, frustration and embarrassment. In particular, it affected his relationship with his family and partner as well as his dignity and self-esteem and impacted on his work and health. His stress and embarrassment were compounded by the Agency’s repetition of their failures and he experienced frustration and hopelessness.

Our investigation was concluded in September 2008 and we upheld Mr J’s complaint.

## Outcome

The Ombudsman’s *Principles for Remedy* (‘*Getting it right*’ and ‘*Putting things right*’) recommend taking into account both objective evidence and more subjective views of the impact of the injustice or hardship and considering the full impact on the individual. In this case we considered that the Agency’s actions disrupted Mr J’s life in an extreme way both professionally and personally, without justification, and that the payments made by the Agency were not adequate redress for that.

In response to our recommendations, the Agency:

- made a further compensation payment of £1,800 to Mr J; and
- sent Mr J a written apology from a senior officer and gave him the contact details of another senior officer whom he can contact if anything goes wrong in future.

# Mr G's complaint about Jobcentre Plus

*In Mr G's case, Jobcentre Plus lost his papers, hampering our, and their own, investigation of his complaint.*

## Background to the complaint

Mr G separated from his wife, leaving the marital home, in October 2005. He was made redundant January 2006 (he had previously been self-employed), and claimed jobseeker's allowance in February 2006. The claim had not been dealt with by the time he reconciled with his wife and moved back to the marital home on 27 April. Mr G then made a fresh claim for himself and his wife in April. On 22 May Jobcentre Plus said that they were looking into Mr G's circumstances before deciding his claim. In particular, they were considering the implications of his self-employment and his ownership of a 'second property'. In June Mr G told Jobcentre Plus that he had found employment.

On 1 August 2006 Jobcentre Plus told Mr G that he was not entitled to jobseeker's allowance because he had not paid enough class 1 National Insurance contributions (as an employee) and because he had savings of £16,000 or more. Mr G queried the decision: he said he had previously been told that his contributions were sufficient to support a claim, and said he did not have over £16,000 in savings. On 1 September Jobcentre Plus told Mr G that the tax years 2003-04 and 2004-05 were relevant to his claim for contribution-based jobseeker's allowance, and that he had paid only 'self-employed' contributions (class 2 contributions) during those tax years. Jobcentre Plus referred to a property 'in which you do not reside' and said that Mr G was being treated as having capital of £97,000, and so he was not entitled to income-based jobseeker's allowance. (When a claim is made by a person after leaving the marital home, the value of the

claimant's interest in the home is treated as capital after an initial period of 26 weeks.) On 5 September Mr G wrote to Jobcentre Plus saying they had ignored the fact that he had been employed for six months in the year before his unemployment, and that although he jointly owned the marital home, he received no income from it and had paid rent on his own temporary accommodation.

Meanwhile, in August 2006, the Ombudsman received Mr G's complaint about Jobcentre Plus. In September we asked the Chief Executive of Jobcentre Plus to respond to the complaint. Accordingly, Jobcentre Plus wrote to Mr G's MP (but did not copy their letter to Mr G). They said Mr G had not received the level of service he was entitled to expect, and apologised for the inconvenience caused. They explained that Mr G had not paid sufficient class 1 contributions in the relevant tax year (those he had paid fell outside the relevant tax years). They said that, because Mr G was living apart from his wife at the start of his claim, the value of the matrimonial home had to be taken into account when determining his available capital. Jobcentre Plus said that after Mr G returned to the marital home, his wife's part-time earnings had to be taken into account and they had sent him forms on which to declare them. (Mr G received the forms but had mistakenly thought they were for him to declare his earnings.)

On 3 January 2007 Jobcentre Plus told Mr G that they had looked at his claim 'following a recent change', and had awarded him jobseeker's allowance from 10 January 2006. They would make him a final payment for the period from 10 February

to 31 March 2006 excluding three 'waiting days', but he was not entitled from 7 June 2006 because he worked for more than 16 hours a week. Mr G then asked Jobcentre Plus about payment for the period between 1 April and 7 June 2006. Jobcentre Plus told Mr G that he was entitled to income-based jobseeker's allowance from 28 March 2006 because of 'a change in savings', but that he was not entitled from 7 June 2006 because of the hours he worked. They paid him a further three days' allowance, but said nothing about payment for 1 April to 7 June.

## What we investigated

Mr G was dissatisfied with Jobcentre Plus's response to his complaint and in June 2007 the Ombudsman decided to investigate his complaint. We investigated his complaint that Jobcentre Plus had mishandled his claims for jobseeker's allowance made in February and April 2006, and that they handled his complaints about that poorly.

Mr G said he had been caused inconvenience and outrage and, potentially, suffered a financial loss. He wanted his jobseeker's allowance claim paid in full, an explanation for the delays and lack of responses, and compensation for that.

In the course of our investigation we made enquiries of Jobcentre Plus, but they could not find the papers relating to Mr G's claim.

## What our investigation found

The loss of Mr G's papers was maladministrative and prevented us from making any assessment of why the delays in his case occurred. It also prevented Jobcentre Plus from dealing with his April 2006 claim for jobseeker's allowance.

In respect of Mr G's February 2006 claim, it is not known if Jobcentre Plus knew in August 2006 when he had left the marital home, but they ought to have found out before deciding that the 26-week rule applied from the start of his claim. They acted maladministratively in reaching a decision that did not take account of all the relevant considerations.

The decision of 3 January 2007 appears consistent with the legislation about the 26-week rule, but we did not accept Jobcentre Plus's subsequent assertion to us that it was only the loss of Mr G's papers that led them to reach that decision. If they had dealt with Mr G's claim without unreasonable delay, they could have assessed his claim correctly by 6 May 2006. We found their maladministration delayed the payment of Mr G's entitlement by eight months.

Jobcentre Plus failed to deal properly with Mr G's second claim. They made enquiries about his wife's earnings but because they did not explain clearly what information they needed, Mr G provided details of his own income instead. Mr G drew his mistake to the attention of Jobcentre Plus but they did not reply for six months. The lack of clarity and the lateness of their response was maladministrative. Jobcentre Plus told us that there was no evidence that they had processed Mr G's claim. That failure was maladministrative and caused injustice to Mr G as his claim for the period 27 April to 6 June 2006 was undecided.

We were unable to say whether Jobcentre Plus had misled Mr G about the sufficiency of his contribution payments, or whether there had been a genuine misunderstanding. That would involve a level of detail that neither party could be expected to recall clearly now.

We saw no evidence that Jobcentre Plus answered Mr G's complaint about the reasonableness of

taking into account the value of the marital home. The legislation required them to do so, but they should have explained that more clearly to him. Had they done so, their failure to deal properly with his claim in the first place might have come to light sooner. Jobcentre Plus's failure to copy to Mr G their response to his MP showed a lack of customer focus, and they did not consider his complaint properly. They acknowledged they were responsible for delays, but to simply observe that they had not processed Mr G's second claim, without considering the implications of that for him, was extremely poor. Jobcentre Plus's poor complaint handling caused inconvenience and led to an investigation by this Office which should not have been necessary.

In summary, Jobcentre Plus caused Mr G considerable inconvenience over a very long time through their maladministration. They did not have the information they needed to determine his April 2006 claim and did not operate an effective complaints procedure.

We upheld Mr G's complaint and concluded our investigation in March 2008.

## Outcome

To remedy the injustice to Mr G, Jobcentre Plus agreed to:

- pay him £400 to compensate him for the inconvenience and trouble he was put to;
- consider paying him interest on the arrears paid on his first claim;
- offer to interview him to reconstruct his second claim, and pay him any arrears with interest;
- compensate him for any reasonable but unnecessary expenses incurred as a result of their delays in sorting out his benefit entitlement; and
- check and confirm to him that they have credited him with all the contributions he was entitled to between 6 February and 7 June 2006.



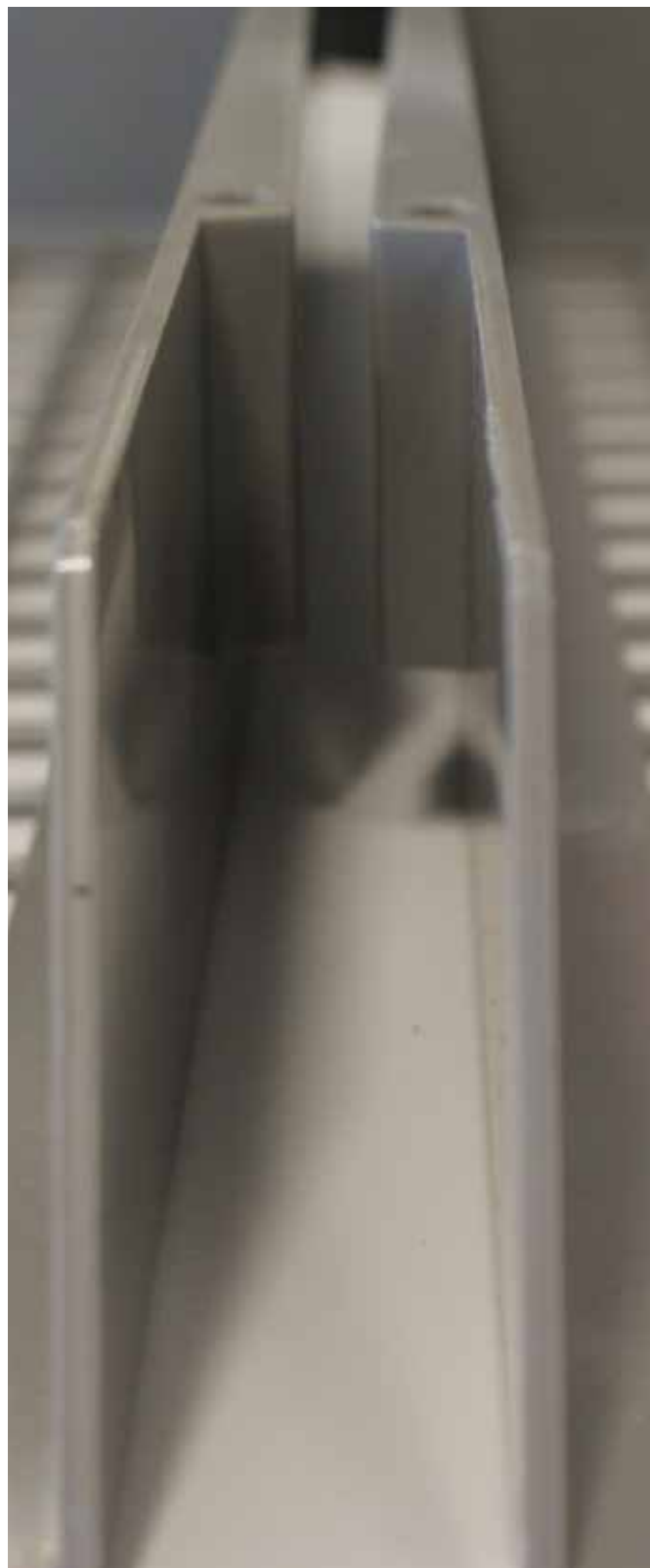
## Falling between the gaps

DWP is an enormous organisation. It is, understandably, challenging for large departments such as DWP to avoid communication failings between, and within, the different parts of the organisation, and between themselves and citizens. These failings can and do lead to a lack of joined-up service. Sometimes the problems arise from system failures. On other occasions they are the result of individuals failing to be 'customer focused'.

We continue to see complaints about DWP where such failings are entirely avoidable; different parts of the organisation failing to see beyond their immediate responsibilities and to appreciate the wider responsibilities of the department and the needs of their customers. As a result individuals 'fall through the gaps' between the services DWP provide. These failings lead to poor customer satisfaction or, on occasion, to significant financial loss and considerable distress.

*'I feel that the main problem is that there is no continuity of personnel who deal with one's affairs'*

Mrs P complained about The Pension Service  
(page 82)







## Mrs M's complaint about Jobcentre Plus

*In Mrs M's case, problems arose because Jobcentre Plus had not ensured that Coroners' Offices provided correct information about bereavement benefit; as a result Mrs M fell through a gap in the system and missed the opportunity to claim over a thousand pounds to which she would have been entitled.*

### Background to the complaint

Mrs M's husband died suddenly in December 2004. The death was reported to the Coroner's Office which issued the Ministry of Justice's leaflet *When sudden death occurs*. Several months later Mrs M learnt that she could have applied for bereavement benefit, which includes a lump sum bereavement payment and bereavement allowance which is paid for up to 52 weeks after the date of death. In August 2005 Mrs M applied for and received the bereavement payment. She was also awarded bereavement allowance backdated three months (the maximum allowed) to 1 May 2005. She then unsuccessfully appealed against the decision not to backdate the award to December 2004, and so lost 18 weeks' entitlement to bereavement allowance.

In November 2005 Mrs M complained to Jobcentre Plus that they had treated her unfairly and asked them to compensate her for the lost bereavement allowance. She said she had been treated differently from a person registering a death at a Register Office; if she had received from the Coroner's Office the same information that Register Offices supply she would have made a timely claim for bereavement allowance. Jobcentre Plus's reply did not respond directly to Mrs M's compensation request, but said that the procedures then in place in Coroners' Offices '*appeared to cover all eventualities*'.

Mrs M complained to the Ombudsman, through her MP, about Jobcentre Plus. We referred the matter back to Jobcentre Plus in September 2006

for investigation. They asked the Department for Constitutional Affairs (DCA) to contribute a response to the MP. In October Jobcentre Plus told the MP that Mrs M's benefit had been backdated as far as the law allowed; that the leaflet Mrs M had received from the Coroners Office pointed her towards Jobcentre Plus; and that Coroners' Offices also held copies of DWP's leaflet *D49* on what to do after a death. Jobcentre Plus said Mrs M could request compensation if she felt there had been maladministration.

The Minister of State at DCA wrote to the MP, in November 2006, referring to the leaflet *When sudden death occurs*, and said that the leaflet had referred to the fact that copies of leaflet *D49* could be obtained from Jobcentre Plus. The Minister added that the next time DCA reprinted their own leaflet they would consider revising it to point out that '*time limits apply and claimants should be aware that if they are late in applying they could lose the right to benefit*'. In December Mrs M asked Jobcentre Plus for compensation. She enclosed a copy of the Minister's letter which she said clearly indicated that DCA '*considered the present situation to be unacceptable*'. Jobcentre Plus refused Mrs M's request for compensation, saying that '*it is not accepted that the Department has made a mistake with your claim*'.

In May 2007 Mrs M asked Jobcentre Plus to review their decision. They upheld their decision, explaining in a letter that the onus was on the customer to enquire about potential entitlement to benefits and to claim within the time limits. In response to Mrs M's complaint that she had been

treated inequitably as a result of registering her husband's death at a Coroner's Office, the letter said:

*'The primary duty of Coroners and their officers is to investigate violent, unnatural or sudden deaths of which the cause is unknown. In carrying out this duty they issue the leaflet "When sudden death occurs" to alert the bereaved to the existence of bereavement benefits ... . The Coroner in this case discharged their duty and sent the leaflet. It should also be noted that [DCA] has not made a recommendation to change those procedures but will "consider" changing the wording in the leaflet for future publications of the leaflet ... I therefore conclude that there is no evidence of a clear and unambiguous error by [DWP] and a special payment award is refused.'*

In July 2007 the MP referred Mrs M's complaint back to the Ombudsman saying that Mrs M remained dissatisfied with the response from Jobcentre Plus. The Ombudsman accepted Mrs M's complaint for investigation in August.

## What we investigated

Our investigation looked at what information about bereavement benefit the Coroner's Office had given Mrs M and how that compared with the information she would have been given if she had reported her husband's death to a Register Office.

Mrs M said that the difference in treatment between two groups of people in similar positions was unfair, and could result in different (and entirely predictable) outcomes as regards the benefits to which a bereaved person was entitled. She said she had not been given clear information about possible entitlement to bereavement

benefits, and so she had been unaware of her entitlement to bereavement allowance until the deadline for claiming the full amount had passed. Mrs M said she had lost about £1,500 in benefit.

## What our investigation found

Given that the complaint we referred back to Jobcentre Plus concerned alleged maladministration on their part, it should not have been necessary for Mrs M to have to ask for compensation. Jobcentre Plus should themselves have referred the matter to their special payments team; their response of October 2006 therefore showed a regrettable lack of customer focus and was not in line with the *Principles of Good Administration*.

Because Mrs M's husband had died suddenly she had to report his death to the Coroner's Office. The information they gave her did not provide a sufficiently clear pointer to her possible entitlement to bereavement benefit, and did not include correct information about where she should claim. Instead, the leaflet *When sudden death occurs* merely referred to a DWP leaflet and said that it explained '*benefit procedures*', adding incorrectly that the leaflet could be obtained from the Benefits Agency of the Department of Social Security (DWP's predecessor). None of the information from the Coroner's Office referred specifically to bereavement benefit or explained that claims should be made to Jobcentre Plus, or that the DWP leaflet could be obtained from Jobcentre Plus. By contrast, if Mrs M had reported her husband's death to a Register Office she would have been given: an oral indication of her potential entitlement to bereavement benefit; form *BD8* which included a prompt to claim bereavement benefit and explained that claims should be made to Jobcentre Plus; and leaflet *D49* which

repeated that information and gave the time limits for applying for the bereavement payment and allowance.

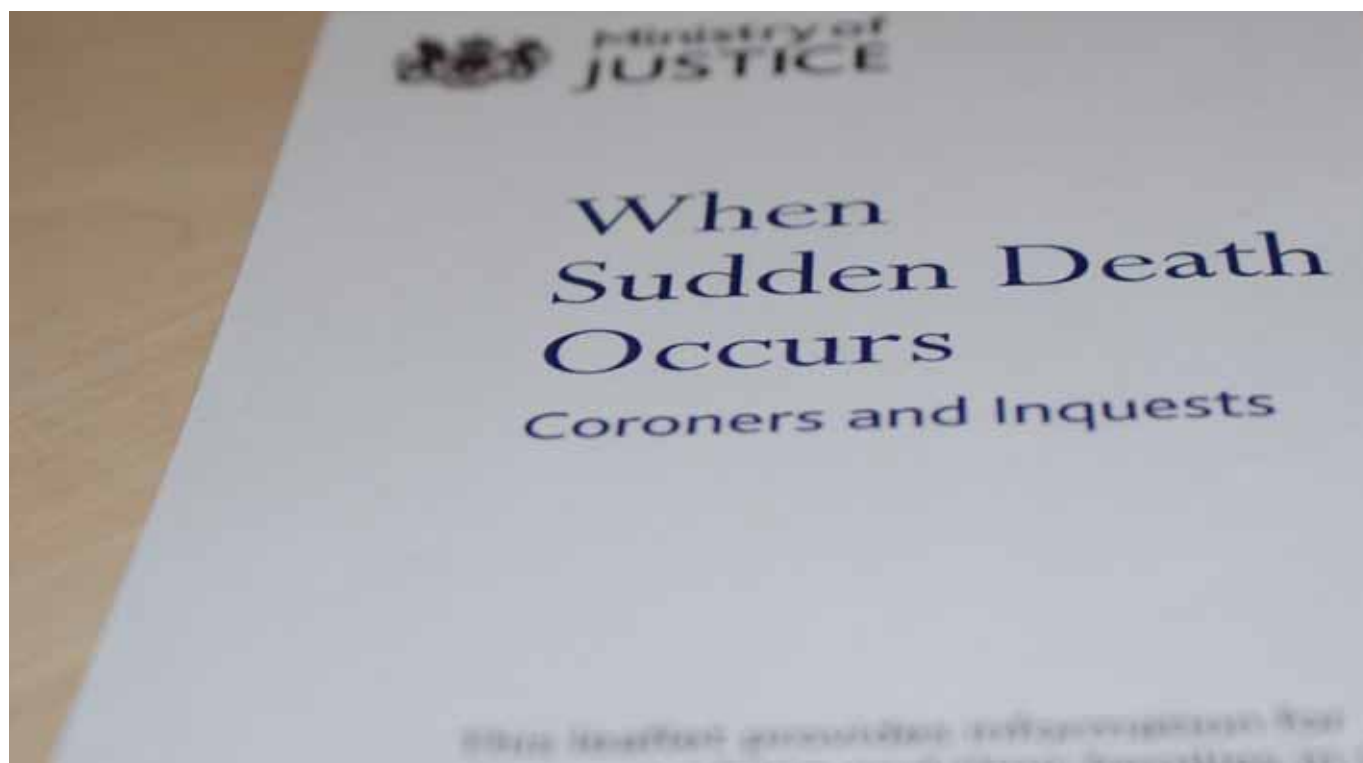
We concluded that it was unreasonable of Jobcentre Plus not to have ensured that Coroners' Offices provided correct information about possible entitlement to bereavement benefit. Instead, they allowed a situation to continue over a long period whereby the information given out by Coroners' Offices was inadequate and incorrect. That was maladministrative, and resulted in one group of potential claimants being placed at a disadvantage compared with another. In Mrs M's case, by the time she became aware of her entitlement to bereavement allowance she did not qualify for the full amount.

We upheld Mrs M's complaint and concluded our investigation in September 2008.

## Outcome

As a result of our recommendations, Jobcentre Plus:

- paid £1,411.38 to Mrs M (an amount equivalent to the bereavement allowance lost), plus £204.68 interest;
- paid her compensation of £100; and
- agreed that a senior officer would send an apology for the inconvenience and upset caused.



# Mr E's complaint about Jobcentre Plus

*In Mr E's case, Jobcentre Plus took too narrow a view of their own responsibilities, providing his daughter with information about only one of the benefits to which Mr E might have been entitled. The failure to offer an interview, in line with their normal practice, also meant that Mr E did not receive the joined-up service that Jobcentre Plus aim to deliver.*

## Background to the complaint

Mr E's wife passed away in November 2003. His daughter (Ms D) telephoned Jobcentre Plus to ask if her father was entitled to any help with the funeral costs. She was correctly told that he did not qualify for help towards the funeral costs from the social fund. (Although Mr E was not entitled to a funeral expenses payment from the social fund – because neither he nor his late wife were in receipt of a qualifying benefit – he could have been entitled to a lump sum bereavement payment of £2,000.) Ms D accepted what she was told and neither she nor her father made any further enquiries.

In early 2005 one of Mr E's friends told him that he had received bereavement benefit, and on 3 March Mr E asked Jobcentre Plus to review his case. Mr E and Ms D were interviewed by Jobcentre Plus about the possible poor advice received in 2003. In addition to the interview, Jobcentre Plus's special payments team asked the local Business Manager for her comments about Mr E's complaint. The Business Manager said that:

*'On checking with Social Fund officers it is evident that individual officers have varying levels of awareness of bereavement benefit and it is not the norm to advise about other benefits unless asked. If a customer calls to the office to report a death, normal practice is to conduct an interview and advise the customer of the benefits available. A disparity of service appears to have occurred in this case and I feel that the customer should be believed and a*

*special payment made to recompense the loss of award.'*

In spite of these comments, Jobcentre Plus rejected Mr E's request for compensation, on the grounds that there was no evidence that Ms D had been misdirected.

## What we investigated

The Ombudsman received Mr E's complaint in March 2006.

We investigated Mr E's complaint that Jobcentre Plus had failed to advise Ms D about claiming bereavement payment, and had then refused to compensate him.

## What our investigation found

One of the *Principles of Good Administration* ('Being customer focused') is relevant here. A department should aim to provide accurate, complete and understandable information about their service; they should aim to ensure that customers are clear about their entitlements; and they should deal with people in a co-ordinated way, referring them to other sources of help if they themselves cannot help. DWP's own internal guidance highlights the importance of, where appropriate, providing specific advice tailored to a customer's individual circumstances and requirements.

As Ms D mentioned a funeral and help with paying for it, Jobcentre Plus assumed she was asking about a funeral payment and put her through to the social fund team, and apparently took the view that as Ms D failed to ask about bereavement benefit she could not reasonably have expected the social fund officer to have put her through to the bereavement benefit team. That interpretation of Jobcentre Plus's duties was far too narrow, and fell short of the *Principles of Good Administration* and Jobcentre Plus's own internal standards. Jobcentre Plus restricted themselves solely to giving information about one source of help when a number of possible entitlements to benefit existed. That failure to give clear, accurate and comprehensive information was maladministration. That maladministration came about because Jobcentre Plus's guidance at the time did not instruct officers to make the link between a reported bereavement and a possible entitlement to bereavement benefits. The guidance was effectively a barrier to providing a genuinely customer focused service; something that Jobcentre Plus have now recognised through a revision to their guidance.

We also found that Ms D was not offered an interview (normal practice when a customer notifies a death to Jobcentre Plus), because she was put through to the social fund team, whereas it is the bereavement benefit team who act on notifications of death and offer the interviews. Again, the guidance prevented Jobcentre Plus from providing a joined-up, customer focused service to Mr E and Ms D.

The effect of all that maladministration was to keep Mr E ignorant of his entitlement to a bereavement payment. When he did discover his potential entitlement, the time limit for claiming it had expired. Had Jobcentre Plus not been maladministrative it is reasonable to conclude that

Mr E would have claimed, and been awarded, a bereavement payment of £2,000. Instead, he was deprived of financial help at a difficult time which added unnecessarily to his distress and caused him inconvenience.

We concluded our investigation in February 2008 and upheld Mr E's complaint.

### Outcome

To remedy the injustice to Mr E, Jobcentre Plus agreed to:

- apologise to him for the failure in customer service he experienced;
- make him an ex gratia payment of £2,000 equivalent to the bereavement payment he would have received;
- pay interest for loss of use of that sum from the date of his wife's death to the date of payment, if the amount is more than £10; and
- pay compensation of £200 for the inconvenience and distress caused.

We also welcomed the commitment to retrain social fund officers about the existence of bereavement benefits.

## Mrs Z's complaint about Jobcentre Plus

*In Mrs Z's case, her son's claim fell through the gap because Jobcentre Plus had not ensured that information held in different places was consistent with the relevant regulations, and their staff were not fully aware of them either. Jobcentre Plus also failed to refer Mrs Z to the officer who was specifically trained to deal with claims from people her son's age.*

### Background to the complaint

On or before 19 June 2006 Mrs Z downloaded income support and incapacity benefit claim forms from Jobcentre Plus's website, so that she could claim on behalf of her son, J, who has severe learning disabilities. She rang Twickenham Jobcentre Plus (Twickenham) as instructed on Jobcentre Plus's website and the income support claim form, to obtain a claim date. According to Mrs Z, the officer she spoke to seemed unaware that claim forms could be downloaded or that a person doing so then needs to telephone to obtain a claim date. Mrs Z took the claim forms to Twickenham on 29 June. They stamped the forms as received on 3 July, although J's birth certificate was verified as a true copy on 29 June.

On 4 July 2006 Stratford Income Support Office (Stratford) awarded J income support. When Mrs Z rang them to ask how J's payments would be adjusted if he was also awarded incapacity benefit, she was told that J was ineligible for incapacity benefit and advised to claim severe disablement allowance. Mrs Z received a letter from the Taunton Contact Centre (Taunton) where the incapacity benefit claim was being processed, asking for unspecified information. When Mrs Z telephoned them, no one was able to help her. She was told that all claims were dealt with by telephone and she should ring back. When she did so, Taunton said their letter was a mistake, and also that the claim had been forwarded to them by mistake. Mrs Z was told (incorrectly) that claims could only be dealt with by telephone or by an appointment and was advised to make an appointment with

an under-18s adviser at Twickenham. When Mrs Z rang Twickenham she was referred to the Ashton-in-Makerfield Benefit Delivery Centre (Ashton): they told her J would not be eligible for incapacity benefit, but that he could become eligible for it after six months once he had received National Insurance credits from his income support. Although Mrs Z protested that J was not sick, she was advised to submit 'sickness certificates' to receive National Insurance credits. Mrs Z said she spent at least two hours on the telephone to three offices that day, having to repeat the nature of her son's disabilities and answer insensitive questions, such as whether the officer could speak to her son about his claim.

On 12 July 2006 Mrs Z complained to her MP, who wrote to the Chief Executive of Jobcentre Plus. On 26 July Jobcentre Plus wrote to J's school to ask about the hours he attended. The school was closed for the summer holidays. On 27 July Twickenham told Mrs Z that the claim date for J's incapacity benefit was wrong, and that a new form would be sent to allow her to amend the claim date. The form did not arrive. In August a Jobcentre Plus Director replied to the MP saying that J's case should have been dealt with at his local job centre and said he was sorry it had been dealt with incorrectly and that Mrs Z had been wrongly advised about needing medical evidence. He said Jobcentre Plus needed to confirm the details of J's education before deciding his incapacity benefit claim. He added that Jobcentre Plus had 'brought Mrs [Z's] complaint to the attention of the people who have dealt with her enquiries to ensure

*customers in similar circumstances are given the correct advice’.*

On 22 August 2006 Ashton were asked to check if any child benefit already paid to J needed to be offset from his incapacity benefit arrears. Ashton sent an enquiry that day to the Child Benefit Office. Ashton did not receive their reply of 4 September and sent duplicate enquiries on 12 and 19 September. They received a reply on 20 September. On 26 September Ashton asked Stratford if income support needed to be deducted from incapacity benefit arrears. They chased up their enquiry on 18 October and received a reply the same day. Ashton then told Mrs Z that J had been awarded incapacity benefit from 3 April 2006 (backdated three months from 3 July, and based on a claim date of 29 June, not 19 June). Arrears were paid. Jobcentre Plus told us that the award was based on a claim date of 29 June because a telephone call or electronically signed form of communication were not acceptable, on their own, as claims for incapacity benefit.

On 24 October 2006 Mrs Z received a letter saying that J’s income support would not change and that he would continue to get £81.95 a week. However, the letter went on to say that his income support would decrease to £14.48 a week and decrease from 19 October to £3.45 a week. J would continue to receive income support *‘for as long as he is sick’*. Mrs Z found the letter confusing. In November the Chief Executive wrote to the MP apologising for the delay in paying incapacity benefit arrears, blaming the need to obtain information from J’s school and the Child Benefit Office. Jobcentre Plus later wrote to Mrs Z, awarding her compensation of £20 for the costs incurred in dealing with and complaining about J’s incapacity benefit claim, and a consolatory payment of £100. They apologised: for the delays; that staff did not know

how to deal with downloaded claim forms; and for the insensitive way the claim was dealt with. Jobcentre Plus paid no interest for the delay in paying the arrears, as the arrears had been paid within four months of the claim (the *‘indicator of delay’*). The letter also contained the following standard paragraph:

*‘Consolatory payments are made in very exceptional circumstances where an official error has had a direct adverse effect on the life of the customer and/or on the life of another person. It should be remembered that some dealings with the Department, whether or not an error occurs, may take time and that complying with the law can often be frustrating or inconvenient and sometimes stressful.’*

## What we investigated

We received Mrs Z’s complaint in November 2006. We investigated her complaint that Jobcentre Plus had given her conflicting and incorrect advice, did not know how to deal with the claim, were insensitive and asked inappropriate questions. We also looked at whether there was confusion and lack of communication between different Jobcentre Plus offices, unreasonable delay in processing the claim and poor complaint handling.

## What our investigation found

Jobcentre Plus should not have told Mrs Z to claim severe disablement allowance, as that benefit was no longer available. When Mrs Z was told the claim date for the incapacity benefit was incorrect and that they would send her a new form, they did not do so. This was not in line with a focus on dealing with people helpfully and promptly.



We expect public bodies to deal with people promptly, bearing in mind their individual circumstances. Given that Jobcentre Plus knew that J's claim had been handled poorly, the enquiries to the Child Benefit Office and Stratford should have been followed up more quickly and given a much higher priority. They could and should have been made simultaneously, thus it should have been possible to obtain the necessary information in two to three weeks in contrast to the eight weeks actually taken.

We found that J's incapacity benefit claim should have been dated from 19 June 2006. That would be in line with the instruction on Jobcentre Plus's website that claimants should contact them to establish the date of their claim. A statement in the downloaded claim form that benefit cannot be paid for a period more than three months before the date Jobcentre Plus receive the claim form is inconsistent with the regulations, and with the statement on their website that claimants should contact them to establish the date of their claim.

Jobcentre Plus's letter of 10 August 2006 did not adequately address Mrs Z's complaint. Although it said her complaint had been drawn to the attention of the relevant officers, Jobcentre Plus need to do more to ensure their procedures are effective and to ensure they learn lessons from complaints and use them to improve services and performance. The letter Mrs Z received on 24 October 2006 was poorly worded and confusing, and incorrectly referred to J as 'sick'. This insensitivity was particularly poor. The standard paragraph in Jobcentre Plus's letter of 1 December 2006 was unnecessary and inappropriately suggested that some of the fault may have lain with the need for Mrs Z to comply with the law.

Public bodies should acknowledge mistakes when they happen, explain what went wrong and put

things right quickly and effectively. We found that Jobcentre Plus incorrectly blamed the delay in paying J's incapacity benefit on the need to obtain information from his school and the Child Benefit Office. J claimed benefit on 29 June 2006 and Jobcentre Plus did not write to the school until 26 July (when it was closed), and did not contact the Child Benefit Office until 22 August (and did not follow up their enquiry until 12 September). Jobcentre Plus should have ensured J's claim was dealt with urgently, and accepted that a significant share of the responsibility for the delay was theirs.

Finally, J's claims were not particularly complicated. When considering whether to pay interest on the delayed arrears payment, Jobcentre Plus should have calculated interest from when they could reasonably have been expected to have processed his claim, rather than from four months after his claim was submitted. We saw no reason why four months was used other than that it is an 'indicator' in a set of guidelines. The case should have been considered on its merits and in relation to relevant issues.

As a result of Jobcentre Plus's maladministration, Mrs Z suffered anguish and distress. She lost confidence in the ability of Jobcentre Plus to deal with her son's claim, or claims from other people in similar circumstances. She was put to a great deal of unnecessary effort and inconvenience to follow up J's claim to ensure that he was being paid his full benefit entitlement. Further, Mrs Z and J had to wait an unreasonable amount of time to receive benefits and received no compensation for that delay.

We upheld Mrs Z's complaint and concluded our investigation in January 2008.

## Outcome

To remedy the injustice to Mrs Z and J, Jobcentre Plus agreed to:

- pay Mrs Z further compensation of £150 for gross inconvenience and £250 for severe distress; send her a written apology; and calculate interest from a date appropriate to the case (the revised amount was less than £10, so was not payable); and
- review the start date of J's incapacity benefit claim.

To bring about systemic change, we recommended that Jobcentre Plus:

- ensure consistency between the regulations, the statements on their website and the forms to be downloaded from the website, particularly in respect of the claim date;
- modify their guidelines about processing clerical claim forms to include forms downloaded from the internet; remind all staff who take telephone calls from the public: about how to respond when a claimant rings to say they have downloaded a form and wishes to establish the date of claim; and that benefit claims for people under 18 years of age (and enquiries about such claims) should be referred to the young people's specialist officer in each job centre;

- provide guidance to their special payment officers to reinforce the principle that DWP's *Guide to Financial Redress for Maladministration* should not be read as a rigid set of rules, but that discretion should be used in making each decision and each case should be considered on its own merits, particularly when calculating interest for delay;
- provide guidance to officers that standard paragraphs should only be used where they are appropriate in all the circumstances of the case;
- consider changing the wording of letters so that people whose changed circumstances have led to a change in their income support do not receive letters with contradictory information about whether their income support has changed, and reflect the fact that not everyone receiving income support is sick; and
- consider how to ensure they give priority to claims which they have already recognised as having been subject to delays on their part.

Jobcentre Plus agreed to comply with our recommendations.

## Mr L's complaint about Jobcentre Plus

*Mr L fell through gaps in Jobcentre Plus's internal arrangements but he also suffered because Jobcentre Plus failed to alert his local authority to his entitlement to housing benefit when they backdated his claim. Better communication could have prevented many of the problems Mr L encountered.*

### Background to the complaint

Mr L received jobseeker's allowance from 22 March 2005. A year later, on the advice of his local Jobcentre Plus office, he applied for income support and incapacity benefit instead, on the grounds of ill health. His claim forms went to the incapacity benefit and income support sections of the Belfast Benefit Delivery Centre (Belfast), which provides benefit processing services for DWP in the London area. He indicated on his forms that he wanted to claim from 22 March 2005.

In April 2006 the income support section noted that they had not received any medical evidence for Mr L's claim. In effect, they could not allow the claim until they saw that the incapacity benefit section had received suitable medical evidence. Separately, the incapacity benefit section wrote to Mr L. They said he needed to provide a medical certificate if he wanted to claim from 22 March 2005. In fact, Mr L's claim could not start from March 2005 because he had been receiving jobseeker's allowance, but Jobcentre Plus did not tell him that. He sent them copies of medical certificates for 2005 and a copy of a psychiatrist's letter about his condition and treatment. The letter described his alcohol-related health problems. Jobcentre Plus did not consider the documents to be suitable medical evidence.

In the absence of medical evidence, the income support section disallowed Mr L's claim in May 2006. The decision letter they sent him did not explain that the lack of medical evidence was a reason for the decision. Later in May Mr L provided

a doctor's statement covering two months from 19 May 2006. In June the incapacity benefit section asked Mr L for evidence from March 2006. Mr L replied and confirmed that 18 March 2006 was the date he wished to start his claim. In July the incapacity benefit section allowed his claim. But Mr L received no payment of benefit because his income support claim was already closed. In August he received a summons from the local authority about his council tax arrears. Once his jobseeker's allowance claim had stopped, his entitlement to help with his rent and council tax had also stopped and arrears had built up.

In August 2006 Mr L made a fresh income support claim. Belfast allowed his claim from 17 August. That was the date they had received the claim, although Mr L had attempted to make it clear that he wanted his claim to start from 18 March 2006. He wrote to them and in October Belfast backdated his claim and sent him arrears of £1,242.84. Belfast did not write to Mr L or to the local authority about the backdating decision. Mr L did not receive the payment – the Royal Mail returned it undelivered. Belfast suspended Mr L's income support payments, as the returned payment had made them believe they held the wrong address for him. Mr L told them his address, which was unchanged, and Belfast reissued the arrears and reinstated Mr L's payments. In November the Ombudsman received the MP's referral of Mr L's complaint.

In January 2007 we asked Jobcentre Plus to respond to Mr L's complaint and the Chief Executive replied in February. The letter said that they had closed

his claim because: he had not provided medical evidence; they had not backdated his claim of 17 August 2006 because he had not asked them to; and they had returned the arrears payment because he had moved house without telling them. The Chief Executive said that they should have told the local authority about the backdating decision, and apologised for the errors and delays in handling his claim. Mr L replied explaining, among other things, that he had not moved house. The Chief Executive wrote back, responding to the points Mr L had made. In particular, she said she was sorry it had not been made clear to Mr L that the income support claim form had a section for customers to tell Jobcentre Plus anything else they needed to know – which included backdating requests. On 15 May Jobcentre Plus awarded Mr L a compensation payment of £50 by way of apology for failing to tell the local authority that they had backdated his income support claim.

## What we investigated

We investigated the way in which Jobcentre Plus handled Mr L's income support and incapacity benefit claims, and whether their explanations and offer of redress were adequate. Mr L sought further redress for the impact on his health of being in debt to friends and facing threats of eviction. He also wanted an improvement in the way Jobcentre Plus handled his continuing benefit claim.

## What our investigation found

Mr L said on his incapacity benefit claim form that he wanted to claim from March 2005. However, he could not be entitled to benefit for the same period that he had been receiving jobseeker's allowance. The date of claim eventually agreed was

18 March 2006, but Belfast did not query the date of claim until June 2006. Omitting to clarify the start date departed from DWP's guidance about ensuring that claimants have every opportunity to provide all relevant evidence, and about providing information to the public.

Mr L had tried to provide the required medical evidence. The information fell short of what was needed, but his covering letter should have prompted Belfast to contact him or refer the case to a decision-maker. The regulations and Jobcentre Plus's guidance do not insist that medical evidence must be medical certificates. The regulations also provide that a self-certificate is sufficient evidence for the first seven days of incapacity. Omitting to clarify matters at this stage was a further departure from DWP's guidance.

The income support decision letter of May 2006 omitted a significant reason for the refusal (the lack of medical evidence), and did not explain that providing medical evidence within a month would avoid having to make a fresh claim. The income support section could have given Mr L information about requests for backdating when they spoke in early August 2006. Had they done so, they would have been acting in line with DWP's guidance. They also knew from Jobcentre Plus's records and Mr L's claim form that he had been without benefit since March 2006. The income support section also failed to notify either Mr L or his local authority about the decision to backdate his claim.

Cumulatively, Jobcentre Plus mishandled Mr L's claims. Had they followed DWP's guidance they would have decided Mr L's claim much sooner than they did. Instead, they fell far short of the standards described in the *Principles of Good Administration*; their errors and omissions amounted to maladministration.

Mr L also had difficulty communicating with Jobcentre Plus. We saw evidence that he and his adviser attempted to telephone Belfast but were unable to get through, even to an answering machine. The addresses on letters to Mr L about his claims had various titles and did not consistently provide full contact details. The information in the letters was sometimes too little for Mr L to identify the action he needed to take next, or its urgency. Jobcentre Plus's records of contact with Mr L and his adviser were incomplete. Thus the arrangements for facilitating claimants to contact Belfast and for ensuring that staff could, and did, comply with Jobcentre Plus's guidance on record keeping were inadequate. That was also maladministration.

Jobcentre Plus's complaint handling fell short of the standards set by their own guidance. Given the details available to the special payments officer, we do not see how a properly informed decision about compensation could have been made. In the round, their complaint handling fell far short of the *Principles for Remedy*, and was maladministrative.

Jobcentre Plus's maladministration had a significant impact on Mr L: he lacked funds and faced debt recovery action; he was worried about losing his home and about his health; he incurred avoidable costs and had to make repeated telephone calls. Furthermore, Mr L was not in good health (he was receiving treatment to help reduce his alcohol and drug use; he was taking antidepressants; and he was suffering from post-traumatic stress syndrome, and obsessive compulsive disorder), so the communication problems caused him additional anxiety.

We upheld Mr L's complaint and concluded our investigation in September 2008.

## Outcome

To remedy the injustice to Mr L, Jobcentre Plus agreed to:

- pay him a further £450 by way of apology;
- meet his costs of £34.82, and pay him interest for the loss of use of his benefit arrears; and
- give him the appropriate telephone numbers and address for him to use for queries about his benefit claim.

We also recommended that Jobcentre Plus review their handling of benefit claims and complaints in their Northern Ireland offices.

# Mr H's complaint about the Disability and Carers Service and Jobcentre Plus

*In Mr H's case, neither Jobcentre Plus nor the Disability and Carers Service gave him all the relevant information he needed about how saving the mobility component of disability living allowance might impact on his entitlement to other benefits, despite him asking the question directly of both agencies. Debt Management took too long to reach an overpayment decision.*

## Background to the complaint

In August 1999 Mr H (who was severely disabled due to a spinal cord injury) was awarded the higher rate mobility and care components of disability living allowance. He also received income support. In 2000 Mr H enquired about obtaining a modified vehicle to increase his mobility. He believed that the Motability Scheme did not support his requirements and decided to save up his disability living allowance in order to buy a vehicle and make modifications himself. (The Motability Scheme is overseen by a charity called Motability. People who receive the higher rate mobility component of disability living allowance are eligible to participate in the Scheme. Individuals can use that part of their disability living allowance to lease or purchase a vehicle through the Scheme.)

In March 2000 Mr H contacted the disability living allowance helpline and the Benefits Agency (then responsible for income support claims), gave full details of his circumstances and said that he wanted to save his disability living allowance to purchase a vehicle. He was told he could save his disability living allowance and that other benefits would not be affected, but he was not told that his income support might be affected if he saved a certain amount of money.

In 2002 Mr H became concerned that his neighbour was making false allegations against him, particularly in relation to benefit fraud. Mr H wrote to ask Jobcentre Plus and the Disability and Carers Service if allegations had been made against him and followed those letters up with telephone calls

to Jobcentre Plus in September and October to ask if his benefit claims were in order. He was told that 'everything was ok'. He was advised to contact the Disability and Carers Service in response to his questions about saving disability living allowance. In October Mr H wrote to the Disability and Carers Service and then made telephone calls in October and November in which he spoke about his ongoing concerns with his neighbours, and asked for assurance that he was acting legally by saving his disability living allowance. He was told that the advice given in 2000 was correct and that his disability living allowance would not affect other benefits, even if saved.

In December 2004 Mr H telephoned the Disability and Carers Service with a query about a pre-budget reference to a change in the law on bank account savings. Mr H was told that the benefit law had not changed and that no changes that would alter his ability to save his disability living allowance were expected.

In February 2006 a Jobcentre Plus fraud investigator visited Mr H and said that no amount of savings, above the specific levels in benefits legislation, was exempt from examination. By Mr H's account, he then telephoned the Disability and Carers Service and told them that the information they had previously given him was wrong; and that the officer he spoke to and a supervisor had both repeated the previous advice that he could save disability living allowance without it affecting his other benefits. Mr H then complained to his MP about the handling of his case. Also in February, a Jobcentre Plus fraud investigator told Mr H that his

savings had affected his income support eligibility, and informed Mr H's MP that the Disability and Carers Service had confirmed that their advice to Mr H had been that he could save his disability living allowance without it affecting other benefits.

At the start of March 2006 Mr H told Jobcentre Plus that he had saved enough money to buy a van and asked if he could purchase one. On the same day the Disability and Carers Service told a Jobcentre Plus fraud investigator that their general reply (to queries like Mr H's) would be that disability living allowance would not affect other benefits. They added that as they only dealt with disability living allowance and attendance allowance they did not have a lot of knowledge of other benefits, and that they did not realise that Mr H would be saving for such a length of time as to affect his income support. Later that month Jobcentre Plus decided that Mr H's income support should have been reduced from 9 August 2000 (as he had more than £3,000 in savings) and stopped altogether from 4 June 2003 (as he had over £8,000 in savings). Mr H was told that his entitlement would be recalculated and that he would be informed of any overpayment. (Mr H appealed against the income support decision.) In a separate letter to Mr H, Jobcentre Plus provided more information about their decision and said that they considered it acceptable for Mr H to spend his savings on a van. (Jobcentre Plus should also have told Mr H that from 10 April 2006 the capital upper limit for income support was increasing to £16,000 and the amount to be disregarded was increasing to £6,000.)

Jobcentre Plus said that they transferred Mr H's file to Debt Management at the end of March 2006 for an overpayment calculation. In April Mr H's MP referred his complaint to the Ombudsman. At the end of April Mr H paid a deposit for a van and then claimed income support, which was awarded

backdated to 12 April 2006. Debt Management said that they did not receive Mr H's case until 5 May. The file was then returned to Jobcentre Plus as the information on it was incomplete.

In June 2006 the Ombudsman accepted Mr H's complaint for investigation. In August Jobcentre Plus told us that they were unable to confirm the status of Mr H's file or when a decision on his case might be made. In October Mr H told the Disability and Carers Service that if he had not been misinformed he would not have pursued the saving of disability living allowance in the way that he did. In November Mr H advised us that his wife was unwell and had attempted suicide; he believed that the ongoing problems with DWP had contributed to her actions. In December Jobcentre Plus confirmed that they were seeking a bank statement from Mr H's bank (which they obtained in February 2007). The file was then returned to Debt Management.

In March 2007 Debt Management received advice that the overpayment was recoverable from Mr H and a decision was issued seeking repayment of £3,813.30. Mr H appealed against the overpayment. In September a tribunal dismissed Mr H's income support appeal, and decided that the income support paid from 9 September 2000 to 8 September 2002 was recoverable, but not the income support paid from 2002 onwards, as they were satisfied that Mr H had declared the capital. DWP later decided not to recover the remaining recoverable overpayment of £282.

## What we investigated

Mr H complained that:

- Jobcentre Plus and the Disability and Carers Service had misdirected him about saving his disability living allowance, and failed to provide a joined-up service;
- Jobcentre Plus and Debt Management had decided wrongly that he had been overpaid income support and that the debt was recoverable, and had taken too long to reach that decision; and
- both Jobcentre Plus and the Disability and Carers Service had discriminated against him on the grounds of his disability, in that the Motability Scheme did not offer the support he needed but they penalised him for using the benefit intended to support his mobility needs.

Mr H said that he and his family suffered intense distress and gross inconvenience.

We did not investigate Mr H's lost entitlement to income support as that was considered by the tribunal at the same time as his appeal against the overpayment decision.

We did not investigate the actions of Motability, as they are outside the Ombudsman's remit.

## What our investigation found

We found that Jobcentre Plus and the Disability and Carers Service had misdirected Mr H by, between them, not giving him all the relevant information about his entitlements; what he could and could not expect from them; and about his own responsibilities. Both bodies failed to tell

him that saving up disability living allowance might affect his income support entitlement. In reaching that finding we took particular note of the customer service goals of both bodies which aim to give people the information they need to make decisions about their individual benefit entitlement. We also took account of the fact that Disability and Carers Service advisers should provide information and advice on a wide range of benefits and services, which will assist them to understand customers' needs on a general level. Had Mr H received complete information, he would have sought a different solution to his need for an adapted vehicle, would not have come to the attention of fraud investigation officers (with the anxiety that brought) and could have chosen to spend his disability living allowance differently (rather than taking a decision in haste to spend his savings on a van that was not suited to his needs).

We found that Jobcentre Plus and Debt Management took too long to reach the overpayment decision: there was no adequate explanation for their failure to take any action on this matter between May and December 2006. The additional uncertainty this created caused Mr and Mrs H acute anxiety.

We did not find that Mr H had been discriminated against on the grounds of his disability. The bar to Mr H building up the capital he needed to obtain a suitable vehicle derived from the content of social security legislation, rather than from the administrative actions of the Disability and Carers Service and Jobcentre Plus.

The investigation concluded in February 2008 and we partly upheld Mr H's complaint.



## Outcome

As a result of our recommendations:

- Jobcentre Plus paid £1,050 to Mr H for the impact of their errors (£600 for incomplete advice, the time taken to consider his complaint, the need to go to appeal and the delay in considering the overpayment; £200 for the embarrassment Mr H suffered; and £250 for the severe distress caused to Mr and Mrs H);
- the Disability and Carers Service paid £950 to Mr H by way of apology (£500 for being denied the knowledge to make an informed decision about using his disability living allowance, and for the consequences of receiving too much income support; £200 for the embarrassment Mr H suffered; and £250 for the severe distress caused);
- the Disability and Carers Service and Debt Management each sent a letter of apology;
- Jobcentre Plus and the Disability and Carers Service said that the effect of saving disability living allowance had not been properly explained to Mr H, and that this issue would be included in the next refresher training for helpline staff;
- Jobcentre Plus and the Disability and Carers Service updated their partnership agreement to allow issues to be resolved through their respective external relations and customer services managers, and for Disability and Carers Service staff to access two Jobcentre Plus databases;
- the Disability and Carers Service updated their guidance to include a section on dealing with telephone calls where the person asks if disability living allowance payments affect means-tested benefits; and
- DWP set up a working group to share good practice across their businesses; to address performance issues; and to help bring about a more seamless service for customers.



# Miss F's complaint about Jobcentre Plus and Debt Management

*In Miss F's case, Jobcentre Plus and Debt Management failed to co-ordinate their actions, and failed to refer her case to Jobcentre Plus's specialist mortgage interest team when that would have been the appropriate thing to do. All of this caused unnecessary confusion for Miss F.*

## Background to the complaint

### Miss F's claim for income support

In July 2003 Miss F successfully claimed income support. In January 2004 Jobcentre Plus closed down her claim from October 2003. Miss F successfully reclaimed from 11 March 2004; her mortgage lender told Jobcentre Plus that her outstanding mortgage balance was about £66,000 (the correct balance was £34,879.06).

### Fraud investigation

During a fraud investigation in 2004, it was established that Miss F received £150 a month from Miss Y. (Miss F shared a house with Miss Y and this money paid for expenses incurred by Miss Y's son while she was at work.) These payments stopped in December 2004 pending the outcome of the fraud investigation.

### Decision affecting Miss F's entitlement to income support

Jobcentre Plus decided on 30 December 2004 that Miss F had not been entitled to income support from 11 July 2003, and had been overpaid because she had undeclared income from Miss Y. Jobcentre Plus did not inform Miss F of this decision. On 11 April 2005 Jobcentre Plus told Miss F that they had not taken account of that income when calculating her benefit; and that they would tell her if she had been overpaid, and whether any overpayment was recoverable. The letter did not specify the periods for which they

had already decided Miss F had been overpaid. In contrast, Jobcentre Plus gave Miss F's local authority full details of the decision, prompting them to decide that she was not entitled to council tax benefit from July to October 2003 and April to September 2004. Jobcentre Plus received an appeal from Miss F, which they said they could not accept, as no formal decision had been made.

In May 2005, on the basis of information from the local authority, Miss F appealed against the decision that she was ineligible for income support from July to October 2003 and from April to September 2004. Jobcentre Plus rejected the appeal on the basis that they had not formally decided her entitlement to income support. On 10 June 2005 Miss F withdrew her income support claim. (She was worried about claiming in error, and concerned that the overpayment might increase if she continued to claim.) On 21 June Jobcentre Plus told Miss F that she could not appeal until she had received a decision specifying when she had not been entitled to income support, but as her local authority had given her a decision, she could appeal to them about her council tax benefit. In reply, Miss F referred to Jobcentre Plus's letter of 11 April which gave her the right of appeal, and said the letters from the local authority suggested that Jobcentre Plus had already decided her benefit entitlement. In July, at the request of an Appeals Officer, Jobcentre Plus informed Miss F that she had not been entitled to income support from 11 July 2003 to 20 December 2004. Miss F appealed again.

In April 2006 Jobcentre Plus wrongly told the Tribunals Service that Miss F's appeal about her income had lapsed (they had muddled this appeal with one about mortgage interest payments). In September a tribunal decided that the money from Miss Y should not be treated as income for the purposes of calculating her income support. The Tribunals Service forwarded the decision to Debt Management, and they asked Jobcentre Plus for a revised decision in light of the tribunal decision. In December Debt Management calculated a recoverable overpayment of £1,169.01 and a non recoverable overpayment of £27.06. Jobcentre Plus suggested to Debt Management that the overpayment could be written off without the need for a revised decision.

On 17 January 2007 Debt Management asked Miss F to repay £1,169.01. She appealed and provided a copy of the tribunal's decision. At this point, the Ombudsman received Miss F's complaint. In July Debt Management revised their decision and told Miss F she had been overpaid from 9 April to 8 November 2004. Income support had been paid in error between 9 November and 20 December 2004, but any overpayment was not recoverable. Miss F appealed, again citing the tribunal's decision. Following our enquiries, Jobcentre Plus told Miss F's local authority that the decision not to allow her income support had been revised at appeal. Jobcentre Plus also told Miss F that she had not been overpaid. They also sent a revised decision to Debt Management, and noted that their decision to recover the overpayments was incorrect. Debt Management amended their records.

### Overpayment of mortgage interest payments

Jobcentre Plus calculated Miss F's mortgage interest payments on the basis of the information from her lender, which turned out to be incorrect.

In September 2005 Jobcentre Plus asked Debt Management to calculate the resulting overpayment and to consider recoverability. Miss F appealed. In January 2006 Debt Management decided that the overpayment was £895.44 and should be recovered from the lender. They did not tell Miss F about that decision. The lender repaid the money in April, but it remained in a suspense account until December because it bore no reference. In the meantime, Debt Management sent three letters to Miss F in April and May chasing up repayment. On 5 May Jobcentre Plus told Miss F that they had revised their decision about her housing costs and her appeal had lapsed. The lender added the overpayment to Miss F's mortgage account.

### What we investigated

The complaints we investigated were Miss F's grievances that:

- Jobcentre Plus had given conflicting information to her and her local authority about their decisions concerning her benefit entitlement;
- Debt Management had taken £895.44 from her mortgage account without telling her and without giving her a right of appeal; and
- Debt Management had wrongly tried to recover the income support overpayment.

Miss F said she had closed her income support claim because she was confused about her entitlement and possible overpayments, and so had missed out on help with her mortgage interest and council tax benefit. She had also been distressed and inconvenienced.

## What our investigation found

Judged by the *Principles of Good Administration*, DWP repeatedly failed to 'get it right'; were not 'open and accountable'; and completely failed to offer a co-ordinated service between the different parts of DWP, thus lacking 'customer focus'.

Jobcentre Plus failed to give Miss F proper notice of their decision of 30 December 2004, and should have given her proper notice in April 2005 of the amount and period of the overpayment, and of her right of appeal. Jobcentre Plus gave inconsistent information to Miss F and her local authority. They unfairly refused to accept her appeal; that was poor service and obstructed Miss F's right to a fair hearing within a reasonable period of time. Jobcentre Plus gave wrong information to the Tribunals Service, delaying Miss F's appeal and further obstructing her right to a timely hearing. They failed to give Debt Management a revised decision within five working days of receiving the tribunal's decision, and wrongly suggested that they write off the overpayment, not recognising that the tribunal's decision meant there was no overpayment. The revised decision was not produced until some 11 months after the tribunal's decision. That was maladministration.

Debt Management failed to update their records when notified of the overpayment, did not take account of the tribunal's decision and chased Miss F for a non-existent overpayment. They should also have queried Jobcentre Plus's view that there was no need for a revised decision. These actions amount to maladministration.

Jobcentre Plus should have referred the mortgage interest overpayment to their housing cost department, while Debt Management did not spot that the matter was not for them to deal with. Finally, although Debt Management correctly

approached the lender for repayment, they asked Miss F to repay the money too, and chased her for recovery after the lender had repaid the money. This too was maladministration.

As a result of all that, Miss F was caused worry, inconvenience and aggravation. She had to make unnecessary appeals, and it took longer to resolve her benefit entitlement than it needed to have done. She was also pursued for an overpayment she did not owe. Miss F suffered financial injustice: if Jobcentre Plus had properly explained their decision of December 2004, she would have known they were not disputing her entitlement after 20 December 2004, giving her no reason to withdraw her claim.

We concluded our investigation in September 2008 and upheld Miss F's complaint.

### Outcome

In line with the *Principles for Remedy* we recommended that:

- Jobcentre Plus make Miss F a payment equivalent to any income support and council tax benefit she lost after withdrawing her claim, together with interest (they later paid her £467.37 plus interest of £57.80);
- Jobcentre Plus and Debt Management pay her compensation of £350 and £150 respectively, to recognise the inconvenience, worry and frustration caused; and
- senior officers from both Jobcentre Plus and Debt Management write to Miss F to apologise for the maladministration of their respective organisations.

Our recommendations were accepted.



## Complaint handling

DWP have the equivalent of about 108,000 full-time staff, serving over 20 million customers at any one time. Each working day they visit 3,000 customers in their own homes and answer 300,000 telephone calls. Consequently, it is unrealistic to expect administrative perfection from them – things will go wrong sometimes. However, when things do go wrong, DWP should try to ‘put things right’ as quickly as possible, in keeping with the *Principles of Good Administration*. This entails a willingness to acknowledge when things have gone wrong; to apologise promptly and sincerely; and to consider carefully all relevant factors to provide an appropriate remedy. We consider this to be a significant issue.

Effective complaint handling has a number of very important benefits, not least of which are that it is a valuable source of learning for the organisation and the speedy resolution of complaints is a more effective use of public funds. Time and effort spent defending the indefensible is time and effort wasted. Unfortunately, we continue to see a number of complaints where a complaint to our Office could have been avoided had DWP recognised their mistake, apologised and put it right sooner.

*‘This whole situation is stressful and distressing for both my partner and myself’*

Mr T complained about the Child Support Agency (page 79)





# Mr T's complaint about the Child Support Agency

*In Mr T's case, the Child Support Agency's handling of his complaint was atrocious; they failed to reply to some correspondence, the answers they did give were not always complete, and they provided a very poor service over the telephone. What had started as a relatively simple problem (their failure to implement a scheduled increase in his child support payments) became much more complicated because they failed to 'put it right' at the earliest opportunity.*

## Background to the complaint

Mr T paid child support maintenance to Ms A and to Ms B. His case was handled by the Child Support Agency's (the Agency's) Bolton office. In February 2007, in accordance with the Agency's payment schedule, Mr T increased his payments to Ms A. However, the Agency returned £22.56 to Mr T in March, because they had not taken into account the fact that his payments to Ms A were meant to increase. The Agency told Ms A that she had been overpaid by £196.59 and asked her to repay it. Mr T's relationship with Ms A then became fraught because she did not think she had been overpaid. The Agency also told Ms B that she had been overpaid by £9.63.

On 11 April 2007 the Agency asked Mr T to repay the money they had refunded to him in March. Mr T twice telephoned the Agency. In the first call, he asked to speak to a supervisor, but the line went dead while he was placed on hold. During the second call, Mr T said that he wanted to speak to a supervisor or manager. He was told that his call would be returned but it was not. A few days later Mr T received a letter from the Agency dated 23 March, telling him about the overpayments to Ms A and Ms B, and enclosing a new payment schedule. He telephoned the Agency, saying that he had been paying in line with the original payment schedule and could not see how the overpayments had occurred. He said that as he had paid the increased amount, which the Agency had then wrongly refunded to him, that was their mistake and he should not have to pay the money again. The Agency agreed with him. Mr T asked for

a correct payment schedule. He was told his call would be returned in a few days, but it was not.

On 17 April 2007 Mr T emailed the Agency to complain about the way he had been spoken to on the telephone, and that his call had not been returned as promised. He again queried the payment schedule. Mr T said that *'this whole situation is stressful and distressing for both my partner and myself'*. Mr T telephoned the Agency on 30 April, in response to a call asking why he had not made payments the previous month. He said the adviser had put the telephone down on him when he had said she was not listening to his explanation for not making payments (namely, that the Agency were still sorting out his payments). The adviser said a manager would return his call. That did not happen.

On 1 May 2007 Mr T telephoned the Agency. He said he did not want them to ask for payment while he was waiting for them to tell him what he should pay. He sent an email of complaint to the Chief Executive's office. The Agency did not respond. On 9 May Mr T emailed the Agency again, to say that Ms A had told him that the Agency had sent him a warning letter about non-payment. He asked the Agency to confirm this. The Agency telephoned Mr T on 12 May to say that they had received his email (they did not specify which) and would look into his complaint. The Agency's note of the telephone call said an officer would call Mr T on 14 May after 4.00pm. There is no evidence that the Agency called Mr T or responded to his complaint.



On 10 May 2007 the Agency sent a letter to Mr T requesting maintenance of £135 (there was no indication for which period or for which parent with care this payment related to). Mr T made the payment on 11 May. On 29 May he emailed the Agency asking why they had not replied to his correspondence or sent him a new payment schedule. Ms A telephoned the Agency on 9 June and was told that they had not received any maintenance from Mr T. Mr T told us that Ms A accused him of failing to pay and reduced his contact with his daughter that week.

Mr T telephoned the Agency four times on 15 June 2007. In summary, he complained that the Agency were demanding payment, not giving him a payment schedule and not returning his calls. His requests to speak to a supervisor during these calls were refused. On 17 June Mr T sent an email of complaint to the Agency's Senior Resolutions Manager. He said his calls had not been returned and that staff had been obstructive. On 25 July Mr T wrote a letter of complaint to the Agency. He said they had not replied to his emails, and that the £135 payment had all been paid to Ms A and had not been split with Ms B. On 27 July Mr T received a letter from the Agency requesting payments for 18 June and 19 July, which did not make clear which parent with care the payments related to. Mr T telephoned the Agency, and was told that the letter was wrong and a new payment schedule would be sent out.

On 10 August 2007 Mr T sent another email, further to a telephone call from the Agency informing him that they had sent his payroll details to an unknown party. He complained that the officer had refused to give further details. He asked what information had been released, and whether the Agency were trying to enforce a deduction from earnings order on his employer. On 13 August the Agency confirmed to Mr T that they had been

trying to place a deduction from earnings order, and were investigating the data protection breach. On 14 August the Agency sent Mr T a revised payment schedule. He owed arrears to Ms A, which he paid, but on 5 September the Agency telephoned him chasing the payment. (During the call the Agency realised that Mr T had paid the arrears but that they had incorrectly split the payment between Ms A and Ms B.) Mr T emailed the Senior Resolutions Manager to complain. On 7 September the Agency told Mr T that as the mistake was theirs, they would pay the remaining arrears to Ms A.

On 10 September 2007 the Agency told Mr T that an error by Royal Mail had led to the disclosure of his personal details and that the Information Commissioner had been informed. On 21 November Mr T sent the Agency what was his eighth email of complaint, having been telephoned about a maintenance payment that he had in fact already paid. He also complained that he had not received any information about the investigation of the data protection breach. On 7 December the Senior Resolutions Manager apologised to Mr T for the poor service he had received. He said the Agency were investigating his complaints and the allocation of his payments. On 12 December Mr T emailed the Senior Resolutions Manager to say he was unhappy with the letter of 10 September and to ask why the Agency had been pursuing a deduction from earnings order.

## What we investigated

Mr T complained to the Ombudsman in July 2007. We investigated his complaints that:

- the Agency had tried to enforce a deduction from earnings order when there were no arrears;

- staff were unhelpful, rude and obstructive;
- when the Agency provided his personal details to an unknown party they did not take appropriate action to deal with the incident; and
- the Agency failed to deal effectively with his emails and telephone calls of complaint, and had not taken action against staff who had behaved inappropriately.

Mr T said that the Agency's actions had led to a breakdown in his relationship with one of the parents with care. He was frustrated and annoyed by the Agency's treatment of him; he had not received a full response to his complaint and had spent time and effort trying to resolve things. Mr T wanted someone held accountable; he also wanted good customer service and complaint handling incorporated into the Agency's procedures; an apology for the way his case was handled; and a payment for his correspondence costs.

## What our investigation found

The Agency failed to implement an increase in Mr T's payment schedule, and when he tried to sort out what he owed by asking for a new schedule, they took too long to provide it. The Agency incorrectly allocated payments of maintenance to the parents with care, and wrongly told them they had been overpaid. There would have been no need to attempt to implement a deduction from earnings order if the Agency had acted correctly. When judged against the *Principles of Good Administration*, the Agency did not 'get it right' and they repeatedly failed to 'put things right'.

Although the Agency told Mr T about the breach of the Data Protection Act, they gave him very little information, and took over a month to

explain to him why the breach had occurred. All of that was very poor service and amounted to maladministration.

The Agency's complaint handling was atrocious. They failed to provide an adequate service during telephone calls, and badly handled Mr T's emails and letters (in failing to provide substantive answers, or to respond at all). The Agency also failed to respond to Mr T's complaints or to investigate the actions of staff. Their actions fell so far short of the standards of '*Being customer focused*', as set out in the *Principles of Good Administration*, as to amount to maladministration.

Because of the Agency's maladministration, Mr T's relationships with both parents with care were strained; he suffered distress, inconvenience and frustration; and incurred unnecessary correspondence costs. All of that could have been avoided, if the Agency had responded more appropriately to Mr T's complaint.

We concluded our investigation in September 2008 and upheld the complaint.

### Outcome

The Agency accepted our recommendations and agreed to:

- pay compensation of £450 to Mr T (on top of £50 already paid);
- pay him £20 for his correspondence costs; and
- arrange for a senior officer to send him a written apology.

## Mrs P's complaint about The Pension Service

*Mrs P's case demonstrates poor complaint handling at an individual level and at a systemic level. The Pension Service took far too long to resolve Mrs P's complaint about their handling of her late mother's pension; it took 18 months for them to get as far as considering compensation for the impact of their maladministration. Then, because of weaknesses in the departmental guidance, they did not take into account all the relevant factors; they discounted part of Mrs P's claim simply because it did not match the particular meaning DWP put on 'time' and 'distress'.*

### Background to the complaint

In July 2003 Mrs P's mother (Mrs R) went into hospital. In September Mrs P returned Mrs R's pension book to The Pension Service to be updated. In November The Pension Service updated Mrs R's entitlement and paid arrears. Meanwhile, in October, Mrs P had applied to become her mother's appointee. She was interviewed and told her application had been approved. She also completed her mother's application for pension credit. Mrs R continued to receive pension books in her name: Mrs P's appointee application had actually been refused because Mrs R was not present at the interview. (The Pension Service lost the application and so did not confirm with the hospital that Mrs R was in attendance there.) They also lost the pension credit application.

In February 2004 Mrs P made fresh appointee and pension credit applications, which were approved. During this period Mrs P asked for a change of Post Office where the pension book could be cashed. She returned several books before the change was made. After Mrs R died in March, Mrs P notified The Pension Service and asked for any benefit arrears to be paid. In June Mrs P chased the matter up and The Pension Service then made two payments of arrears (one of which should not have been made). In July Mrs P complained to Nottingham Pension Centre (Nottingham) about the service she had received and asked for compensation for the time spent dealing with these errors, for the stress caused,

and for interest for the periods Mrs R had been without benefits. Nottingham said they would reply within three months. In November they told Mrs P her complaint had not been looked at. They apologised for the delay and asked for evidence of her communication costs. Mrs P provided estimates of her costs and said she wanted all of her complaint taken into account when considering compensation.

In February 2005 Mrs P was notified that she would receive £64.62, but without explanation. (The payment was, in fact, to cover her communication and travel costs.) Mrs P contacted Nottingham, who said the rest of her compensation claim would be passed to the special payments team in Newcastle (Newcastle). It appears that Newcastle did not receive the papers: they were resent in April, but Newcastle have no trace of receiving them. In August responsibility for handling pension credit claims – and thus Mrs P's complaints – moved to Mexborough Pension Centre (Mexborough). When her file arrived it was put into storage. In October Mrs P chased matters again. Mexborough said the file would have to be retrieved, but by January 2006 they had not found it. They created a new file, with Mrs P's help, and made a special payment referral to Newcastle in late January. The referral gave brief details of the events leading to Mrs P's complaint and noted some of the facts. There was no section covering 'what should have happened' and the full extent of what errors were accepted was not clear. The referral did not give full details of events from July 2004.

In February 2006 a special payments officer considered Mexborough's referral. Under *'what should have happened'* the officer recorded that papers for the appointee and pension credit applications had gone missing and that there was no follow-up action when Mrs P had first complained. The officer awarded Mrs P compensation of £100 for inconvenience, but refused an award for time and stress, saying there was no evidence to support that claim. The decision letter sent to Mrs P on 13 February said that payment for a person's time could only be made if it was necessary for a person to take unpaid time off work, and that payments for distress can only be made on receipt of *'objective evidence, usually in the form of medical evidence confirming the effects on a person's health'*. The letter signposted Mrs P to the Ombudsman if she was still dissatisfied. Mrs P responded on 6 March saying, amongst other things, that her complaint was about the original matters and also about poor complaint handling. Newcastle reviewed their compensation decision, but did not change it. Mrs P asked Newcastle if they had taken account of her recent letter. Newcastle said they had not. They then considered her letter, but the decision remained unchanged. In July the Ombudsman received Mrs P's complaint.

## What we investigated

We investigated The Pension Service's handling of the pension payments, the claim for pension credit and the appointee application, and also their complaint handling. Mrs P said that: in dealing with both the original matters and the complaint no action was taken unless she chased the matter up; there were long delays; and the eventual responses were superficial and impersonal. She said she was put to inordinate time and trouble, incurred unnecessary costs, and suffered inconvenience,

frustration and distress. She sought a proper response to her complaint, an appropriate remedy and improvements in the way The Pension Service handle complaints.

## What our investigation found

The Pension Service took two months to update the pension payments after Mrs R had gone into hospital, they did not take necessary action on the pension credit and appointeeship applications and then lost the papers. They also failed to act on requests for a change of Post Office and took three months to make the final payments due. Taken together, that all amounted to maladministration. Instead of *'Putting things right'* (one of the *Principles of Good Administration*), the level of customer service or focus was appalling. Nottingham led Mrs P to expect that her complaint would be dealt with within three months but it was not. When they did act, instead of passing the whole matter to Newcastle with a properly completed referral form, they dealt with Mrs P's communication costs. What may have been an attempt to be helpful only impeded a full consideration of her complaint. Mrs P also received a payment with no explanation. Matters went further awry when Newcastle did not receive the special payment referral from Nottingham. No one officer took responsibility for ensuring the complaint was progressed, and despite Mrs P chasing progress, still nothing happened. When Mexborough assumed responsibility for the complaint, no one told Mrs P. When the file arrived they put it into storage, and could not retrieve it. The compensation referral was sent to Newcastle some 18 months after Mrs P complained. It should have been done within a month. That was extremely poor service and amounts to maladministration.

Because Mexborough did not complete the special payment referral form properly, Newcastle failed to take all relevant matters into account. They also discounted Mrs P's claim for time and stress, because she had not claimed in a way which matched the particular meaning DWP's *Guide to Financial Redress for Maladministration* puts on 'time' and 'distress'. In most circumstances, the Guide directs officers not to make any payment for distress without objective evidence that maladministration has caused a significant deterioration in someone's physical or mental health. But Mrs P had not claimed that her health had been affected in that way. Similarly, the Guide says that a payment for loss of earnings should only be made in exceptional circumstances. But Mrs P had simply spent more time than was reasonable in dealing with The Pension Service. While we would not criticise officers for applying the guidance as they understood it, we were critical of the guidance itself. The decision letter sent to Mrs P did not address her complaint, and did not meet DWP guidance on tailoring letters. Although her response made clear what she was complaining about, her points were not properly taken into account. Finally, Mrs P was inappropriately signposted to the Ombudsman when she had not exhausted The Pension Service's own complaints procedure. This was maladministration.

The injustice to Mrs P was that she was caused considerable inconvenience and frustration over an extended period; she was put to excessive time and trouble in dealing with The Pension Service and in having to involve the Ombudsman; and was caused distress.

We upheld Mrs P's complaint and concluded our investigation in June 2008.

## Outcome

Jobcentre Plus agreed to our recommendations and as a result they:

- paid £400 to Mrs P as compensation for the injustice suffered;
- reviewed the question of interest (they calculated that she would be owed £5.50, but amounts less than £10 are not normally paid); and
- arranged for the Chief Executive to send Mrs P a written apology for their poor complaint handling.

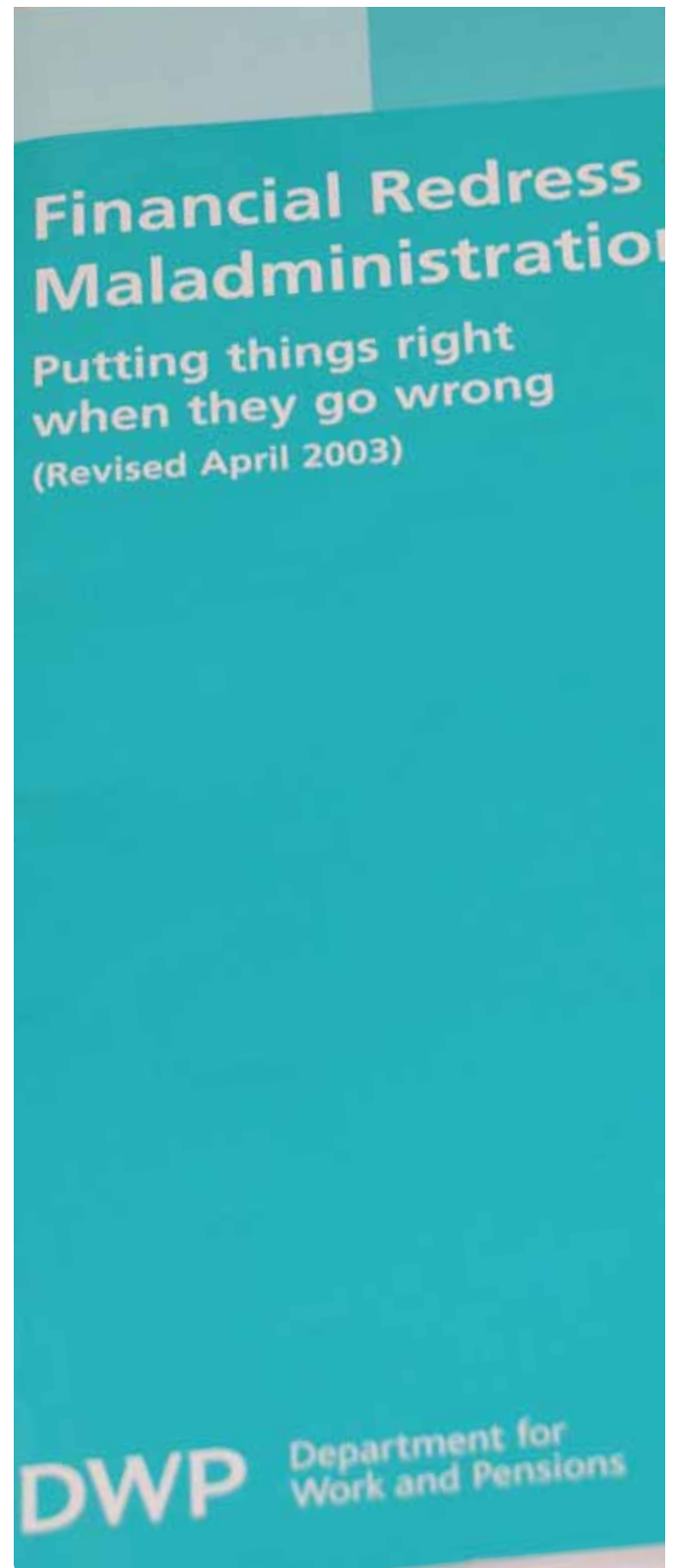
The Pension Service are improving the way they handle complaints. For example, reviewing officers will, in future, carry out a full and fresh reconsideration of a complaint; they are considering whether to introduce a generic training programme for special payments officers; and DWP have made changes to ensure that complainants are properly signposted at the end of each stage of the complaints procedure. We made two recommendations aimed at improving complaint handling by DWP and their agencies:

- If a customer's complaint cannot be resolved immediately at first contact and he or she pursues the matter, there should be one officer at stages two and three of The Pension Service's complaints procedure with overall responsibility for handling that complaint from receipt to resolution (including updating the complainant on progress and writing to them with the response to the complaint and the decision on any remedy).

- During DWP's review of the Guide, they should ensure that it is clearer than at present in guiding officers to provide remedies which take full account of the impact of maladministration on an individual customer, in accordance with the Ombudsman's *Principles for Remedy*, and avoids rigidities that prevent this.

In her response to a draft of our report, Mrs P commented that:

*'I am pleased at this much later stage that I pursued my complaint against The Pension Service, although at times I did feel that the system was much larger than myself ... I feel that the main problem with the service as a whole, right from the initial contact, is that there is no continuity of personnel who deal with one's affairs. I can see that you have recommended this in the complaints procedure itself which should be a great improvement, giving a more personal approach. Hopefully others who have to resort to the complaints system may be better dealt with.'*



## Mr V's complaint about The Pension Service

*In Mr V's case, although the original error was relatively small, The Pension Service's handling of his complaint was so poor and so lacking in customer focus that they managed to turn a minor mistake into a significant problem, interrupting the payment of Mr V's pension and causing him a great deal of frustration.*

### Background to the complaint

In 2004 Mr V, who lived in Hong Kong, began receiving his state pension, paid monthly and direct into his Hong Kong bank account. In August 2005 Mr V wrote to tell The Pension Service that his HSBC bank accounts would soon transfer from Hong Kong to Macau. The Pension Service acknowledged his letter, but input the account details incorrectly using a Hong Kong code. (Electronic transfer payments to Macau were not possible; had the officer used a Macau code the system would have recognised this and not allowed payments to be issued in that form.) In October Mr V wrote to The Pension Service again as no payments had been made into his Macau bank account; he gave his account details again and details of a separate Hong Kong dollar account (in case the currency being used was causing the problem). The Pension Service acknowledged his letter.

In November and December 2005 Mr V wrote two further letters to The Pension Service; he asked for a reply and said he had received no pension payments since August. In December The Pension Service wrote to Mr V and said that a payment to cover the period from 8 August to 27 November would be made direct to his HSBC account. Mr V said that he did not receive this letter. In late December Mr V received a letter from The Pension Service (dated 6 December) about direct payment. He replied the next day and said that his bank in Macau could see no reason for the payment problems and that he received electronic transfer payments from other agencies without difficulty.

He suggested ways to overcome the problems but said, if they did not work, they could send him a cheque.

In January 2006 Mr V emailed the 'Centre for non-residents' section of HM Revenue & Customs' website, complaining about The Pension Service. They forwarded the email to The Pension Service. Mr V then emailed The Pension Service direct. In the meantime, The Pension Service had suspended the payments due to Mr V (in line with their normal procedures where automatic payments are returned). In February Officer C, at The Pension Service, replied to Mr V's emails and said that two payments had been issued on 19 January. Mr V replied, saying he had no evidence of any payments reaching his account and added '*This matter is so frustrating and depressing I could weep*'. Officer C emailed Mr V to say that he had received technical advice to the effect that electronic transfer could not be used to Macau, that payments could be made by post to Macau and that the payments previously issued to Mr V had shown up as returned. The same day The Pension Service wrote separately to Mr V to say that his HSBC account in Macau had been sent a payment of £1,298.36 covering his pension from 8 August 2005 to 19 February 2006.

In March 2006 Mr V received The Pension Service's letter, but his bank had not received any payments. Mr V emailed Officer C to query this: he said that the depression and stress caused by this matter was harming his health. Ten days later Mr V sent a further email to Officer C referring to his emails being ignored and asking whether the money he

was owed would ever be paid. Also in March, The Pension Service issued a further payment of £185.48 (for the period 20 February to 13 March). In April a different officer, Officer D, emailed Mr V and said that a payment of £1,298.36 had been issued on 17 February and a payment of £185.48 had been issued on 13 March. She asked for confirmation of receipt of the first payment so they knew the details were correct for the second. Mr V replied to Officer D, acknowledging receipt of two copies of Form IPC152 (which claimants complete to confirm that a payment has not been received). He also said that: HSBC Macau had received two cheques for £1,298.36; they had been sent for collection to the UK on 14 March and returned without payment by The Pension Service; HSBC Macau had sent the cheques for collection again on 29 March; HSBC had not received an order for £185.48; amounts could be credited direct if they were made payable to HSBC (Macau); he had incurred a fee for each collection; and he would not be returning the IPC152 forms in case that led to cancellation of cheques that might still be in the system.

The Pension Service have no record of receiving any further letters or emails from Mr V from this point on. However, Mr V emailed Officer D in late April to explain that his Hong Kong dollar account had been credited with £1,289.36 and his sterling account with £1,308.36 (which he believed resulted from a duplicate payment order). He said also that HSBC had charged him fees totalling £14.25 for two deposits and a £10 cancellation fee when The Pension Service had countermanded one of the duplicate payments. He asked if his pension could now be paid to HSBC Macau without duplication.

In late May 2006 Mr V emailed Officer D to say that his bank statement showed no payment since 10 April and no sign of the payment of £185.48. He questioned the lack of replies to his emails and asked what was happening to his pension. He

emailed Officer D in June asking why payments had stopped. Between 18 July and 8 August Mr V's bank in Macau received four separate payments of £185.48. On 9 August the Ombudsman received a referral of a complaint from Mr V from a Member of Parliament, and accepted the complaint for investigation in September. In late September The Pension Service wrote to Mr V, apologising for the delay in his case, naming an officer for him to contact and explaining that they had continued to send his payments to Hong Kong instead of Macau and that they had, from February 2006, made all payments by payable order. Mr V did not receive this letter. In November The Pension Service awarded £100 to Mr V by way of apology because the service they provided had fallen short of their usual standard, and £24.38 towards the interest he might have earned on his state pension had he received it on time.

## What we investigated

Mr V complained that The Pension Service failed to make him regular pension payments from August 2005 to the end of July 2006; that from August 2005 onwards he received unsatisfactory replies to his correspondence; and that they had not replied to him at all after April 2006. He said he had been caused financial hardship, stress and inconvenience.

## What our investigation found

The Pension Service made a mistake in September 2005 when they failed to input Mr V's bank details correctly. While regrettable, that mistake on its own did not amount to maladministration. It was after Mr V contacted them in October 2005, having not received his pension, that The Pension Service failed to provide



an adequate service. In particular, they took four months to recognise what had gone wrong, despite clear and repeated contact from Mr V; and they sent duplicate cheques for the outstanding payment and failed to let him know what was happening or to respond to his emails. (We considered the possibility that Mr V's emails after April 2006 were not received, but found it more likely that they were, given that he used an address that had worked previously.) The Pension Service also failed to identify Mr V's correspondence as a complaint and to respond appropriately.

Those failures amounted to maladministration and Mr V suffered injustice as a result. He was put to inordinate trouble (including the trouble of making a complaint to the Ombudsman), and was caused considerable frustration and financial hardship (being denied timely payments of pension and incurring additional bank charges).

Two of the *Principles of Good Administration* ('Being customer focused' and 'Putting things right') were particularly relevant to Mr V's case. This case demonstrates what can happen when mistakes are not spotted and put right quickly: what should have been a simple matter of rectifying an unfortunate error led to months of difficulty for Mr V and unnecessary work and rework for The Pension Service; while the way in which Mr V was dealt with after October 2005 fell far short of reasonable expectations of customer focus. We acknowledged that The Pension Service had a lot of work outstanding during the period covered by this complaint. Nevertheless, this complaint shows that getting hold of a problem at the first opportunity and dealing with it in a customer focused way would provide better customer service, and be a more effective and efficient use of The Pension Service's resources.

The investigation concluded in June 2007 and we upheld Mr V's complaint.

### Outcome

In their initial response to the Ombudsman's investigation The Pension Service said they:

- now treat all emails as a priority and responses from their International Pensions Centre are sent within ten days;
- believed there to have been no more problems with Mr V's pension since they started to send payable orders to HSBC Hong Kong which are then transferred to Macau;
- had alerted staff to the error that occurred in Mr V's case, changed their processes to reflect that and would give staff updated information showing which countries can accept payment by electronic transfer; and
- had given Mr V a named contact should any further problems arise.

As a result of the recommendations in our final report The Pension Service also:

- paid Mr V a further £100 by way of apology for the anxiety they had caused; and
- paid him £17.25 to reimburse the bank charges he had incurred as a result of their errors.

# Mr and Mrs A's complaint about Jobcentre Plus

*The case of Mr and Mrs A highlights the pitfalls of taking a defensive approach to complaint handling. Jobcentre Plus gave considerable thought to the complaint but their efforts concentrated on how they could defend their position rather than taking a customer focused approach and try to put things right. As a result Mr and Mrs A's distress from the initial maladministration was compounded.*

## Background to the complaint

In September 2003 Mrs A applied to Jobcentre Plus for income support. She was told to provide bank and credit card statements, and a copy of her passport, all of which she gave to Officer L, who was dealing with her claim. Officer L used those details to take out loans, credit cards and store cards in Mrs A's name. The police were then contacted. They recognised Mrs A's name from a similar fraud enquiry affecting another Jobcentre Plus customer and realised that Officer L was also involved in the crimes against Mr and Mrs A. Officer L was later convicted of offences relating to both frauds.

In August 2005 Mr and Mrs A's lawyer wrote to Jobcentre Plus describing the impact of the fraud on them, and requesting compensation. Jobcentre Plus replied by saying that compensation was not appropriate as they had neither authorised nor condoned Officer L's activities, and that Officer L had *'engaged in unauthorised acts for entirely personal reasons that were not connected with the administration of social security benefits'* (meaning that her actions could not, in their view, be considered maladministrative). Mrs A countered that she had given her personal details to a government agency in support of her benefit claim, as required by law, and was entitled to feel those details would be used legitimately. She questioned whether Officer L's employment should have been ended earlier or more intensively supervised when her earlier fraudulent activities had come to light.

Jobcentre Plus sought legal advice about their potential liability, as Officer L's employer. The legal advice concluded that a court *'would see a close connection between [Officer L's] work for JCP, the obtaining of [Mrs A's] personal details and the subsequent fraudulent misuse of those details'*. The advice said also that one of the definitions of maladministration is turpitude (wicked behaviour), *'which suggests that there may be scope for awarding a small payment to [Mrs A] were you minded to do so'*. Jobcentre Plus also consulted the DWP team with policy responsibility for redress issues. Their opinion was that Officer L's actions could not be considered an exercise of an administrative function, and that although turpitude could be maladministration, *'it should be seen in the exercise of administrative functions rather than the unlawful activities, unconnected with such functions, of an individual who happens to be employed by a government department and whose actions were incidental to that employment'*.

In April 2006 Jobcentre Plus replied to Mrs A. They said the matter had been promptly and thoroughly investigated; that Officer L's actions had not been *'undertaken with the knowledge or authority of the Department or in the exercise of an administrative function'*; and that in the absence of evidence that DWP were negligent and could have prevented Officer L's actions, no compensation was payable. In November Mr and Mrs A's MP brought their complaint to the Ombudsman. We referred the complaint back to Jobcentre Plus, asking the Chief Executive to reconsider the view that no compensation could

be awarded because Officer L's actions were not authorised or condoned by DWP and so could not be considered maladministration. We said that *'the Ombudsman may not share this view'*. A Jobcentre Plus Director then asked the special payments team to reconsider their compensation decision: he was concerned that Mr and Mrs A's distress and inconvenience had been caused by a member of staff, and felt Jobcentre Plus must bear some responsibility. Nevertheless, in April 2007 the Chief Executive informed the MP that *'I think it is reasonable to conclude that neither Parliament nor the Secretary of State expects our administrative functions to be connected with the type of criminal activity involved in this case and therefore this activity should not represent maladministration'*. Mr and Mrs A were dissatisfied with that response and asked the Ombudsman to investigate their complaint. Their complaint was accepted for investigation in June.

## What we investigated

We investigated Mr and Mrs A's complaint that Jobcentre Plus's response had not addressed:

- the shock and upset they suffered, and the effect on their health;
- their loss of faith in government agencies and other providers; and
- the time and effort they had spent correcting their credit record and the ongoing effort involved each time they apply for any kind of credit.

In trying to ensure their credit record was accurate and correct, Mr and Mrs A had to co-ordinate correspondence with and between finance companies and credit reference agencies. They

were also told that future credit applications were likely to take longer to complete as their credit reference records have been flagged to require additional action. Mr and Mrs A have also been refused credit, which they say never happened to them before the above events.

## What our investigation found

Jobcentre Plus did not take a customer focused approach to Mr and Mrs A's situation. Instead, they went to extraordinary lengths to defend their position. The question of whether they had authorised or condoned Officer L's activities was not a reasonable test of whether she had acted maladministratively (we would not expect Jobcentre Plus to authorise or condone any maladministrative action). Nor were Officer L's actions incidental to her employment. As for the argument that her criminal actions were not connected to administrative actions, the notes to the then Parliamentary Commissioner Bill clarified that a department's administrative functions covered everything involved in how they administer their business with the public. Jobcentre Plus also argued that they had reasonable safeguards in place to prevent Officer L from using Mrs A's details fraudulently and so nothing more could be expected of them. We were not convinced that that was a proper test of whether something was maladministration. In summary, we found nothing by way of definition to prevent Officer L's actions from being considered maladministrative.

One of the *Principles of Good Administration* (*'Getting it right'*) is that public bodies should act in accordance with the law and with due regard for the rights of those concerned. In this case, Mr and Mrs A applied to Jobcentre Plus for benefits and supplied the information they had asked for, in support of that claim; as a direct result of

which their identity was stolen. Jobcentre Plus's failure to 'get it right' was so serious as to be maladministration.

Two more of the Ombudsman's *Principles of Good Administration* are relevant to this case. '*Being open and accountable*' includes that public bodies should take responsibility for the actions of their staff. In spite of indications from the Ombudsman and others about accepting their corporate responsibility for Officer L's actions, Jobcentre Plus sought to sidestep their accountability. '*Being customer focused*' includes dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances. But instead of acknowledging and responding to Mr and Mrs A's distress, Jobcentre Plus sent them letters which showed little sympathy and were defensive.

Jobcentre Plus's poor complaint handling significantly compounded their earlier maladministration. It is likely that an acknowledgement, an apology and a modest compensation payment would have resolved Mr and Mrs A's complaint quickly. That would have been in line with the *Principles of Good Administration* ('*Putting things right*'), whereby public bodies should put things right as soon as possible to prevent further injustice. Instead, Mr and Mrs A had to escalate their complaint through Jobcentre Plus and then to the Ombudsman.

Jobcentre Plus's maladministration caused Mr and Mrs A inconvenience and upset. They also lost confidence in the ability of government departments to handle their personal details appropriately and to respond positively and appropriately to legitimate complaints about their officers' actions. We upheld Mr and Mrs A's complaint and concluded our investigation in December 2008.

## Outcome

As a result of our recommendations, Jobcentre Plus agreed to:

- apologise to Mr and Mrs A for their maladministration, and to pay them compensation of £2,000 (Jobcentre Plus said they would review the amount if Mr and Mrs A provided evidence of the impact on their health of Jobcentre Plus's actions);
- consider if there are additional steps they should take to prevent, as far as possible, further instances of fraudulent use of customers' details by their officers; and
- consider what steps they should take to ensure that where inappropriate action by their officers has led to loss or distress for customers (or others), they take positive, prompt steps to accept responsibility for the actions of their staff and to provide appropriate remedies for those who have suffered as a result.



## Learning for the future

An organisation the size and complexity of DWP will always receive complaints. It is, therefore, essential that complaints are recognised as a source of information which can create opportunities for service improvement.

As the Ombudsman's *Principles of Good Complaint Handling* make clear, in addition to seeking an appropriate outcome to individual complaints, it is good practice for bodies to review complaints and the lessons that can be learnt from them in a wide context. The Ombudsman therefore expects bodies in her jurisdiction, in the light of their own knowledge of the complexity and challenges of their particular organisation, to reflect on whether they should do more than she has recommended in specific cases.

DWP have told us that as a result of learning from the cases in this digest:

- They are reviewing the guidance they give to staff about making redress for maladministration, with the aim of making it reflect more closely the Ombudsman's *Principles for Remedy* and HM Treasury's *Managing Public Money*, and that the new guidance will be supported by more detailed training.
- They will encourage staff who make decisions on redress not to treat the departmental guidance on financial redress as a rigid set of rules.
- The Child Maintenance and Enforcement Commission are reviewing the redress they make to wrongly identified non-resident parents, to ensure that it reflects properly the impact of their errors.

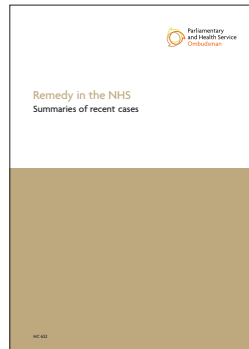
In addition DWP have told us that:

- Jobcentre Plus have gone beyond the recommendations we made in the case of Mr W, amending standard letters about mortgage payments to include a specific reference to the upper limit on assistance with mortgage interest.
- As a result of Mr and Mrs A's case, Jobcentre Plus are reviewing security arrangements and their recruitment policy.
- Jobcentre Plus are reviewing their complaint handling guidance to reflect the Ombudsman's *Principles of Good Administration* and *Principles of Good Complaint Handling*.
- As a result of Miss G's case, The Pension Service have written to almost 55,000 people who may also have received inaccurate pension forecasts.

These initiatives will be judged by their outcomes. Nonetheless, we welcome this work.



## Other publications



### Remedy in the NHS

The first in a new series of published summaries of complaints investigated by the Parliamentary and Health Service Ombudsman. The publication promotes better and more consistent complaint handling in the NHS and demonstrates how the Ombudsman expects the NHS to put things right when things have gone wrong.

Published June 2008

Available from the PHSO website

[www.ombudsman.org.uk/nhs\\_remedy/](http://www.ombudsman.org.uk/nhs_remedy/)



### Annual Report 2007-08

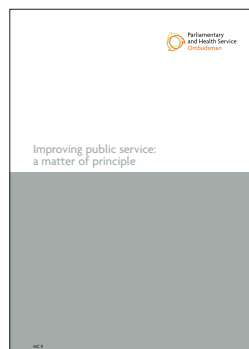
The Report shows how learning from individual complaints can serve the wider public benefit by driving improvements in public services.

The case studies included show how patterns of poor administration can be identified from individual complaints.

Published October 2008

Available from the PHSO website

[www.ombudsman.org.uk/annual\\_report/](http://www.ombudsman.org.uk/annual_report/)



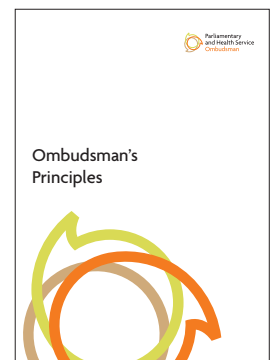
### Improving public service: a matter of principle

The second set of case summaries illustrates good and poor complaint handling by the NHS, government departments and other public bodies. The cases also show how things might have been handled differently if the body concerned had borne in mind the Ombudsman's *Principles of Good Administration*, *Principles for Remedy* and *Principles of Good Complaint Handling*.

Published December 2008

Available from the PHSO website

[www.ombudsman.org.uk/improving\\_public\\_service/](http://www.ombudsman.org.uk/improving_public_service/)



### Ombudsman's Principles

The *Principles of Good Administration*, *Principles of Good Complaint Handling* and *Principles for Remedy* outline the approach the Ombudsman believes public bodies should adopt when delivering good administration and customer service, and how to respond when things go wrong.

Published January 2009

Available from the PHSO website

[www.ombudsman.org.uk/principles/](http://www.ombudsman.org.uk/principles/)



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