



Independent
Case Examiner

2017-18 ICE Annual Report for Department for Communities Northern Ireland – Social Security Benefits (NISSB) and the Child Maintenance Service (CMS)

The ICE Service

Our Purpose

We provide a free independent complaints review service for the Department for Communities.

We have two primary objectives:

- to act as an independent referee if a customer considers that they have not been treated fairly or have not had their complaints dealt with in a satisfactory manner; and
- to support service improvements by providing constructive comment and meaningful recommendations.

Our Mission

To judge the issues without taking sides.

Our Vision

To deliver a first rate service provided by professional staff.

1. Overview

The Independent Case Examiner's Office consider each case strictly on its own merits, taking account of individual circumstances and nuanced differences, in order to determine appropriate redress, even where the facts of the case may appear superficially to be similar.

2. Possible complaint outcomes

Withdrawn cases

Complaints may be withdrawn for several reasons. For example, some complainants decide to withdraw their complaint when we explain the appeal route for legislative decisions, or that their complaint does not relate to maladministration. From time to time people also withdraw their complaint because the business has taken action to address their concerns after we accepted the case for examination.

Resolved cases

We try to resolve complaints with the agreement of the complainant and the business, without the need to call for and consider the evidence, as this generally represents a quicker and more satisfactory result for both.

Settled cases

We try to reach settlement of complaints following an examination of the evidence, by agreement between the business and the complainant. This approach avoids the need for me to adjudicate on the merits of the complaint and issue a full investigation report.

Findings

Detailed below are the findings I can reach:

- **Upheld**

If there is evidence of maladministration in relation to the complaint which was not remedied prior to our involvement, the complaint is upheld.

- **Partially upheld**

If only some aspects of the complaint are upheld, but others are not, the complaint is partially upheld.

- **Not upheld**

If there is no evidence of maladministration in relation to the complaint, the complaint is not upheld.

- **Justified**

Although the complaint may have merit, the business has taken all necessary action to remedy it prior to the complainant's approach to my office.

Redress

If the complaint is upheld or partially upheld, I will make recommendations for redress such as an apology, corrective action or financial redress.

3. Northern Ireland Social Security Benefits

Context

This strand of the Department for Communities administers and provides guidance on a range of social security benefits and pensions to the people of Northern Ireland. The number of cases received at ICE from this area remains relatively small and as in previous years, the overall picture of how complaints are dealt with remains positive.

Statistical Information 1 April 2017 to 31 March 2018

Complaints Received

The number of complaints received and accepted for examination during the reporting period are detailed below:

Received	11
Accepted	5

Case Clearances

The table below details the number of cases cleared during the reporting period:

Resolution	0
Settlement	0
Investigation Report from the ICE	5
Total	5

Outcomes

ICE investigation report findings are detailed below:

Fully upheld	2 (40%)
Partially upheld	0 (0%)
Not upheld	3 (60%)
Total	5

Categories of complaint

ICE office records the top 3 reasons for complaint, which are detailed below for NISSB:

Complaint categories	Number*
The business got it wrong	5
The business haven't given me the information that suits my needs	1
The business took too long	2

*One case can have multiple elements of complaint

Live caseload

Cases outstanding at 31/3/18 – 8. Of those:

- we are considering 3 cases to see if we can accept them for examination
- 5 cases are awaiting investigation

Case examples

Case Study 1

Mrs A complained that the Department for Communities delayed in forwarding the mortgage interest payments to her mortgage provider when she started claiming Employment and Support Allowance (ESA) in October 2015, until August 2016.

Our investigation found that when a claimant is transferring from Income Support (IS) to ESA and mortgage interest payments have previously been in payment, the ESA team should make a referral to the mortgage team so that they can obtain details of housing costs. However, when Mrs A made her claim to ESA on 9 October 2015 they failed to do that and her claim was processed without consideration being given to mortgage interest payments.

It was only following contact from her in August 2016 that the ESA department became aware of the error, and the following month an arrears payment of £4,609.44 was paid directly to the mortgage lender, and weekly mortgage payments were set up effective from 3 September 2016.

Mrs A complained to Department for Communities on 1 September 2016 and subsequently received apologies and an explanation that the failure to pay mortgage interest was due to an administrative processing error. She was unhappy with this explanation and said that she could have lost her home and raised concern that her mortgage provider had said that they would fine her for the missed mortgage

payments. She was asked to provide details of any costs incurred, but she did not do so.

We found that it was clear that Department for Communities acted maladministratively when they failed to include Mrs A's mortgage costs, but once they became aware of the error it was promptly rectified. However, although I noted that Mrs A had received apologies and explanations for the oversight, I did not think that they acknowledged the distress that their error would have caused Mrs A in trying to sort this matter out, and I upheld her complaint to that extent. I recommended that Department for Communities apologise to her and make a consolatory payment of £65 for this and another matter that she complained about. I was unable to recommend that a payment should be made in respect of costs as Mrs A also failed to provide any evidence of costs incurred to my office.

Case Study 2

Mr B complained that the Department for Communities took inappropriate action when processing his Disability Living Allowance (DLA) claim in June 2016. In particular they: used inappropriate online Medical guidance; failed to request additional medical evidence from his consultant; and failed to refer him to an External Medical Practitioner to assess his level of disability in more detail.

After Mr B made a claim for DLA a referral was made to a decision maker to decide on his entitlement to benefit. Mr B had stated on his claim form that he did not have any medical reports from anyone who was treating him (such as an occupational therapist or doctor) in support of his claim. On 15 June 2015 the decision maker wrote to Mr B's GP to ask for information about the treatment he was receiving, the history of his condition and to comment on the severity of that. The decision maker wrote to Mr B the same day to ask him to provide further information regarding the impact that his medical condition had on him. Both Mr B and his doctor replied to those enquiries later the same month.

Our investigation found that in June 2016 Department for Communities decided that Mr B was not entitled to DLA – in doing so the decision maker took account of the information that he had provided on his original claim form, further information that both he and his GP had provided, and the appropriate online guidance that was available to all decision makers.

We found that in considering Mr B's claim for DLA the decision maker was under no obligation to request additional medical evidence from his consultant or to refer him for a medical assessment or examination to assess his level of disability in more detail. The decision maker considered that they had enough evidence and information to inform their decision and I did not consider that in doing so there was any maladministration on the part of Department for Communities. I did not uphold Mr B's complaint. I noted that the correct route for Mr B to take to challenge or dispute the decision to disallow his DLA claim was through the mandatory reconsideration and appeal process, which he had done.

4. Child Maintenance Service

Context

The Child Maintenance Service (CMS) operates within the same legislative framework and in the same way as the Child Maintenance Group in other parts of the United Kingdom. It also administers Child Support applications originating from some parts of England.

The 2012 Child Maintenance scheme was introduced in November 2013 – there are differences in the administration of this scheme, most notably the introduction of charges for both parties if the collection service is used – paying parents pay an amount in addition to their maintenance liability and receiving parents receive a reduced amount of maintenance.

The number of cases received at ICE from Northern Ireland remains relatively small and as in previous years, the overall picture of how the CMS deals with complaints remains positive.

Statistical Information 1 April 2017 to 31 March 2018

Complaints Received

Complaints received and accepted during the period are given in the table below:

	Legacy cases	2012 Scheme cases
Received	0	1
Accepted	0	0

Case Clearances

The table below details the number of cases cleared during the reporting period.

	Legacy cases	2012 Scheme cases
Resolution	0	0
Settlement	0	0
Investigation Report from the ICE	5	0
Total	5	0

Outcomes

ICE investigation report findings are detailed below.

	Legacy cases	2012 cases
Fully upheld	1 (20%)	0
Partially upheld	2 (40%)	0
Not upheld	2 (40%)	0
Total	5	0

Categories of complaint

ICE office records the top 3 reasons for complaint, which are detailed below for CMS:

Complaint categories	Legacy*	2012
The business got it wrong	6	0
The business haven't given me the information that suits my needs	4	0
The business doesn't treat me with respect	4	0

*One case can have multiple elements of complaint

Live caseload:

Legacy cases outstanding at 31/3/18 –2. Of those:

- both are currently being investigated

2012 cases outstanding at 31/3/18 – 0

Case examples

Case study 1

Mr C complained that despite closing his case in March 2001 due to him leaving the UK, CMS continued to charge his account causing maintenance arrears of £33,000 to accrue without any explanation being provided.

Our investigation found that despite having a maintenance liability in place from May 2000, Mr C failed to make payments and failed to respond to any of their requests for information. From February 2001 there was a period of more than seven years when CMS was completely unaware of Mr C's circumstances, and it was only after they obtained details of his new employer in April 2008 and successfully imposed a

Deduction from Earnings Order the following month that he was prompted to contact them. This was the first time he had been in touch with CMS since October 2000 – he told them that he had been unemployed since 2001 and had lived abroad and then when he returned to Northern Ireland he received benefits between 2003 and 2006. CMS told him that they could not review his case as he should have contacted them at the time the changes occurred. Mr C's maintenance liability remained in place throughout that period and his case was never closed – which was correct.

Following a change to Agency procedures in July 2011 CMS were able to complete a review to reflect Mr C's benefit claim from 2001 to 2006 which reduced the arrears he owed by £7,600. However, Mr C remained liable to pay the remaining arrears on his case.

I did not uphold Mr C's complaint, finding that CMS had consistently explained to him why they were unable to review his case for the period when he said he was abroad, and that they had acted in accordance with their procedures. I noted that Mr C owes a considerable amount of arrears of maintenance, largely because he failed to inform CMS of significant changes to his circumstances and because he hadn't always paid the maintenance he should.

Case study 2

Mr D complained, amongst other things, that CMS delayed from December 2015 to May 2016 to recalculate his child maintenance case.

Our investigation found that the receiving parent telephoned CMS on 7 December 2015 to ask them to review Mr D's maintenance liability, and a month later CMS telephoned Mr D to obtain details of his current earnings. In early February 2016 Mr D subsequently provided a wage slip and information about his second part-time job; however CMS did not complete the review until April 2016 when his weekly liability increased from £49 to £71 from 1 December 2015.

We found that CMS aim to complete a review of a maintenance calculation within 12 weeks of receiving a request from either party, as such, they should have completed their review by 28 February 2016. CMS completed the review seven weeks outside of that service standard and arrears of £440 accrued as a result of that backdated review, of which £150 had accrued due to CMS's failure to complete the review within their service standard.

I noted that CMS had apologised to Mr D and made a consolatory payment of £25, however I did not consider that the consolatory payment recognised the full impact of CMS's maladministration or that there was no apparent reason why the review could not have been completed shortly after Mr D had provided details of his earnings. I upheld Mr D's complaint to that extent. I recommended that CMS apologise to Mr D and award a further consolatory payment of £75 for this and another matter that he complained about.