



Independent
Case Examiner



INDEPENDENT CASE EXAMINER
For the Department for Work and Pensions

Annual Report

1 April 2018 - 31 March 2019



Our Purpose

We provide a free independent complaints review service for the Department for Work and Pensions (DWP) and their contracted services.

We have two primary objectives:

- to act as an independent adjudicator 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.



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Independent Case Examiner's Foreword & Introduction



DWP has a significant proportion of customers with some level of vulnerability and must be able to meet their additional needs. Any one of us can become vulnerable, depending on life events and our ability to cope when they arise.

DWP's services are in place specifically to help people deal with many of those events - loss of employment, family separations and coping with the consequences of physical and mental ill health or disability for example. Factors such as a sudden change in circumstances, low income and age can be vulnerability risks, but so can the complexity of the very benefit system people are turning to for help.

Many of DWP's policies and procedures recognise this and include extra steps to try to safeguard vulnerable customers, but too often this year I have seen cases where those steps have not been followed. I don't wait until my annual report to raise concerns and have been doing so during the year, particularly with regard to DWP's services to working age people. Very recent discussions reassure me that real action is being taken to make sure these vulnerability safeguards do work effectively – and also that my concerns about meeting vulnerable customers' needs are shared at the highest levels in DWP. It is an important matter and I will continue to pay close attention to it in the coming year.

Again I have included short summaries in my report of some of the cases I have considered – they reflect the continuing programme of change for the Department and their customers. Roll out of Universal Credit continues, and we have seen an anticipated increase in the number of complaints about that, reflecting the problems for customers navigating a new benefit involving different rules as to how and when they can be paid.



I mentioned last year that we were investigating complaints from women regarding a lack of communication about State Pension Age changes. This continued until August when we were told that a group had sought a Judicial Review of issues including those I was considering. As I have no jurisdiction to investigate complaints that have been, or are, the subject of consideration by a court, tribunal or the Parliamentary and Health Service Ombudsman (PHSO), we duly closed the cases we had previously accepted.

The Child Support Agency (CSA) continued the closure of existing child maintenance cases although we have continued to accept complaints about them as well as the replacement Child Maintenance Services (CMS) and the transition process between the two. I noted last year that attempts by CMS to resolve problems without escalating to their complaints process had led to some customers feeling they were simply being prevented from making a complaint. I saw more of those this year and am pleased that CMS have now set aside the approach that had this unintended consequence. Whilst it is unfortunate the problem arose, I am pleased that CMS listened to feedback and took action.

It is clear from what our complainants tell us that ICE investigations are valuable to them, and in particular that we take the time to properly understand their concerns. This can yield early results, and the number of cases we resolved and settled without progressing through to a full report has increased this year.

I am pleased whenever we can satisfy a customer more quickly through one of these routes and we have included examples of these in the report,

along with cases that progressed through for adjudication and others that also led to some of the sixteen systemic recommendations I made this year. These arise from cases with events which might happen again for other customers and which could be prevented – such recommendations have ranged from ensuring consideration of vulnerability, to a change in a CMS letter to avoid confusion, to review of the process for the audio recording of medical assessments. DWP continue to be open and receptive to these systemic recommendations.

I can't close without saying how pleased I am to be able to write this report, having been re-appointed to the ICE role in April 2019 following open competition, as my previous term of office ended. It is a privilege to have the role and to work with the committed ICE team, whose skills are clearly recognised elsewhere in the Civil Service as staff progress steadily through the ICE office to promotion elsewhere. This year in particular we have in turn welcomed several new investigation, team and technical managers. I continue to be grateful for the superb support they give me, and for the fact that our staff share my tenacity for getting to the bottom of every single case we consider and my commitment to treating all of our customers well.

Finally, thank you for reading my report; I welcome any feedback you may have.



Joanna Wallace
Independent Case Examiner



Casework Statistics

The data and figures included in this report are based on casework in the twelve month period between 1 April 2018 and 31 March 2019.

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. 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 reaching agreement between the business and the complainant. This approach is quicker as it avoids the need for the Independent Case Examiner to adjudicate on the merits of the complaint and issue a full investigation report.

Findings

Detailed below are the findings the Independent Case Examiner can reach:

- **Upheld** - there is evidence of maladministration in relation to the complaint which was not remedied prior to our involvement.
- **Partially upheld** - some aspects of the complaint are upheld, but others are not.
- **Not upheld** - there is no evidence of maladministration in relation to the complaint that was put to this Office.
- **Justified** - although the complaint has merit, the business has taken appropriate action to resolve the matter and provide redress prior to the complainant's approach to this Office.



Redress

If the complaint is upheld or partially upheld, the Independent Case Examiner will make recommendations for action to put matters right, which may include an explanation, an apology, corrective action or financial redress.

	Reporting Year	2018/19
	Complaints Received	4695
	Complaints Accepted for examination	1284
	Total case clearances (of which):	3748
	Closed when the matter being complained about became subject to legal proceedings	2512
	Withdrawn	51
	Resolved	206
	Settled	173
	ICE Investigation Reports	806
	Of those complaints investigated % partially upheld	28% (229)
	Of those complaints investigated % of fully upheld	16% (130)
	*Of those complaints investigated % of cases not upheld	56% (447)

*This includes cases we deem justified, because although the complaint has merit, the business has taken all necessary actions to remedy matters prior to the complainant's approach to ICE.

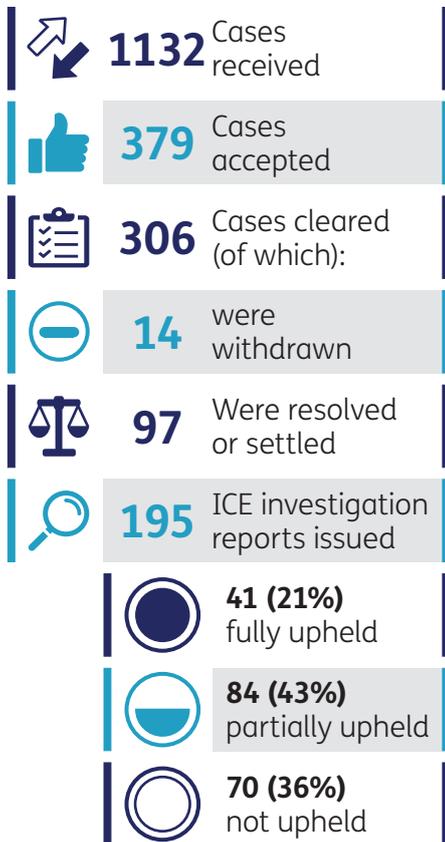
This report sets out examples of the cases we have examined during the reporting year, all of which have been anonymised to protect the identity of the complainant. We have included some complex cases, some with more routine administrative errors and poor complaint handling in them, and others which highlighted opportunities for learning or wider systemic service improvements.



Casework



Working Age Benefits



Working Age benefits are administered by Jobcentre Plus and are primarily claimed by individuals who are trying to find work or who are unable to work due to illness or incapacity. During the year, we completed an increased number of investigations into complaints from Universal Credit claimants; including those from third parties (landlords) who had been affected by Universal Credit service failures in respect of the payment of housing costs.

The examples we have selected speak to the challenge of providing services to vulnerable customers, who may be less able to navigate DWP’s processes and procedures. In such cases, DWP’s own failure to use the steps put in place to help vulnerable claimants can have significant negative consequences.

Case study 1: Delay in communication of ESA closure and Mandatory Reconsideration

Mr A complained that DWP delayed in informing him that his Employment Support Allowance (ESA) had stopped and in carrying out the Mandatory Reconsideration (MR) request that he made.

Mr A was in the Support Group, receiving Contribution based ESA and under the permitted work rules he was doing some paid work. In August 2017, DWP made a decision that he had no entitlement to ESA from March 2017 because his paid employment exceeded the permitted working hours. Mr A followed the route of MR and appealed against the decision of August 2017 but was unsuccessful.

We explained to Mr A that the rules surrounding permitted work are clearly set out in form PW1 (Information about Permitted Work) which tells the claimant that the permitted work must be less than 16 hours (on average) or else it may affect entitlement. We also explained



“

I received the ICE report and wanted to express my gratitude to ICE for giving me a voice and listening to me and providing a report which fully explained what had happened on my case and the stress and suffering I endured.”

to Mr A that whilst there had been delay in the DWP making their decision that he had no entitlement, completing the MR and closing down his claim – he had financially benefitted from this delay in that he was paid ESA between 14 March and 1 August 2017 to which he had no statutory entitlement. Mr A was satisfied that the explanation we provided resolved his complaint.

Case study 2: Mortgage cost payment under Universal Credit

Mr B said that Jobcentre Plus failed to progress his application for assistance towards his mortgage costs as part of his Universal Credit claim.

Mr B was claiming Jobseekers Allowance (JSA) and receiving support towards his mortgage costs. When making his Universal Credit claim, he told Jobcentre Plus that he was paying a mortgage and was employed on a zero hours contract. Jobcentre Plus should have made him aware that under Universal Credit, a claimant will not qualify for assistance towards mortgage costs in any assessment period in which they have earnings.

Instead Jobcentre Plus incorrectly told him he would qualify; it was only after Mr B complained about the delay in receiving payment some five months later, that the legislation was explained to him. Although Jobcentre Plus apologised and made him a £75 consolatory payment I was not satisfied this fully recognised the extent of their delays, or the financial disappointment Mr B had experienced - I upheld the complaint and recommended a further apology and £75 consolatory payment.

Case study 3: Evidence supporting Universal Credit claim

Ms C complained that Jobcentre Plus delayed progressing her Universal Credit claim, gave contradictory information about the required supporting evidence and incorrectly told her that her claim had been sanctioned.



When Ms C attended the initial work focused interview, Jobcentre Plus recorded that to progress her Universal Credit claim she would need to provide two further items of evidence. Ms C telephoned Jobcentre Plus the following month to ask about payments, but they didn't remind her why they had been unable to progress the claim; instead she was incorrectly told that her payment would shortly be made. When Ms C contacted them again, an agent then told her that sanctions had been placed on her claim.

Ms C was eventually told why her claim had not progressed, but Jobcentre Plus confused matters and didn't explain what evidence was required, insisting on a bank statement to prove her address, when other verification would have been equally sufficient.

I upheld Ms C's complaints and recommended an apology and a £100 consolatory payment.

Case study 4: Direct payment to landlord under Universal Credit

Mrs D said that Jobcentre Plus failed to administer her request to have her tenant's housing cost element of Universal Credit paid directly to her instead of her tenant.

Although Jobcentre Plus wrote to tell Mrs D that they were considering this, the tenant's housing cost element was not immediately suspended as it should have been. For the next three months the housing cost element was paid directly to the tenant, who failed to pay rent to Mrs D each month.

Although the issue was resolved following an enquiry from Mrs D, the tenant left the property shortly after, so Jobcentre Plus were unable to recover arrears for Mrs D as they ordinarily would have done. I upheld Mrs D's complaint and recommended an apology and £100 consolatory payment for the inconvenience this matter had caused, but as the tenant remained liable for the rent arrears, the opportunity to recover those was not lost and as such I did not conclude that Mrs D had incurred a financial loss.



Case study 5: Accommodating mental health issues

Mr E said that DWP failed to take account of his mental health condition when arranging his Work Capability Assessments. He was also concerned that DWP had subsequently ended his ESA payments, failing to take full account of evidence he had provided and delayed considering his appeal.

DWP informed Atos Healthcare, who were responsible for arranging Mr E's Work Capability Assessment, of his mental health condition and when he didn't attend the arranged assessment, DWP appropriately visited him, making him aware of his responsibility to comply, and referred him to Atos once again. I was content that DWP had taken account of Mr E's mental health condition in making arrangements for Atos to conduct his assessments and I did not uphold that element of his complaint.

However, when Mr E didn't attend the rearranged assessment and DWP decided to end his entitlement, they failed to document what, if anything, they had considered in respect of his mental health condition. They subsequently failed to give proper consideration to Mr E's dispute of that decision – it was only after Mr E approached my office that he was given a decision notice, some six years late, affording him the opportunity to take this to an appeal tribunal. I therefore upheld Mr E's other complaints and recommended an apology and £500 consolatory payment in recognition of these matters and DWP's poor complaint handling.

Case study 6: Accommodating vulnerability

Miss F said that Jobcentre Plus failed to consider her domestic situation before stopping her ESA.

Jobcentre Plus were aware that Miss F was homeless when she made her claim, but did not annotate her records with the appropriate indicator and wrote to her at an address they knew she no longer



“
I am writing to thank you for the excellent service received in my wife’s complaint about Atos. She has now received an apology and a cheque for £100. I feel you have achieved the best possible result.”

had access to. As a consequence Miss F was unaware of her Work Capability Assessment and DWP consequently disallowed her claim when she did not attend, failing to have regard to the safeguarding procedures they should have followed, in recognition that Miss F was vulnerable and had a mental health condition.

The claim was reinstated shortly after, as Jobcentre Plus decided that Miss F had shown good cause for failing to attend; however when Miss F didn’t attend the rearranged appointment, the claim was once again disallowed without any consideration given to the safeguarding procedures. When Miss F appealed the decision it was overturned by an independent tribunal and she received ESA arrears.

While it is not within my remit to comment on the accuracy or otherwise of benefit entitlement decisions, if I find that there has been a failure to follow due process I may offer comment. In Miss F’s claim I decided that it was entirely possible that, had her case been administered in accordance with established procedures, the second disallowance decision may not have been made. I therefore upheld the complaint and recommended an apology and £850 consolatory payment, in recognition of DWP’s failure to follow its safeguarding procedures.

Case Study 7: Incorrect benefit payment under ESA

Mr G approached my office with several complaints, including that Jobcentre Plus had recorded his earnings inaccurately causing him to be underpaid ESA in excess of £8,000.

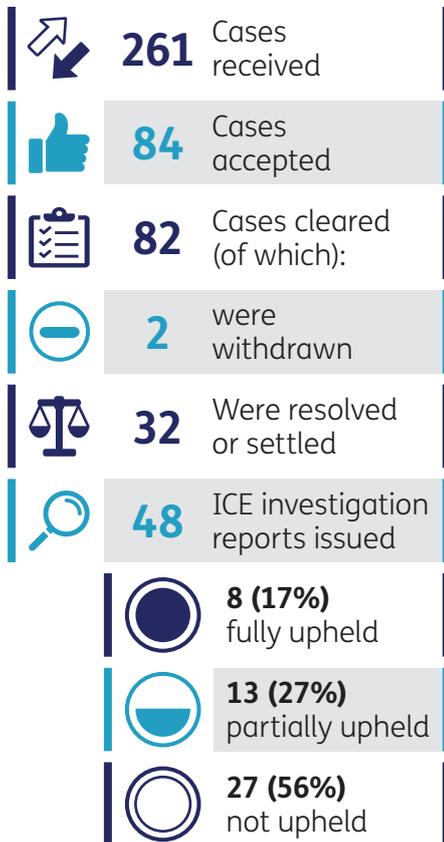
When Mr G made his claim for ESA for himself, his wife and their disabled son in August 2011, he was in receipt of Statutory Sick Pay which cannot ordinarily be paid at the same time; this was not recognised and he was awarded Contributions based ESA. Mr G and his family would have had entitlement to Income Based ESA at the point his Statutory Sick Pay ended, but he continued to receive the



Contributions based benefit. Because of that the family were denied access to additional premiums, which amounted to a loss of about £180 a month for a period of over four years, until this was identified, corrected and paid in 2016. I upheld this element and a number of other elements of Mr G's complaint and I recommended an apology and a £400 consolatory payment, in recognition that Mr G was vulnerable, had received a very poor service and had been without a significant amount of benefit for an extended period of time.



Disability Benefits



The DWP are responsible for paying benefits to those who have a disability or long term illness. In the main these cases are from Personal Independence Payment (PIP) claimants, some of whom have experienced errors and service failures, which may have impacted on the payment of their benefit.

However, it is apparent from our investigation for these complainants that a significant proportion are driven by the belief that the decisions that have been reached in response to their claim are wrong, rather than by concern about errors or service failures on the part of DWP. In such cases, the appropriate route for claimants to follow is the dispute and appeal process.

Case Study 8: Consideration of evidence in a PIP claim

Mr H made a claim for PIP providing supporting medical evidence, not all of it was legible. A decision was subsequently made by DWP and Mr H was awarded the standard rates for PIP.

Mr H asked for a MR, and during that provided additional evidence to support his claim, including legible copies of the documents that could not previously be read. For reasons that were unclear, the evidence Mr H provided was not scanned onto DWP's computer system, and consequently was not considered as part of the MR; the decision remained unchanged. It was only after Mr H complained about the decision that the missing evidence was identified, however the decision again remained unchanged. During the complaint escalation the decision was looked at a further two times, and revised in his favour, based on new additional information Mr H provided – some 12 months after the original decision had been made.

I upheld Mr H's complaint on the basis that DWP did not properly scan all the evidence he provided when they should have done, with the result that it was not available to the Decision Maker when they



“

Thank you for your report on this case. It is evident that you have made a thorough investigation into the circumstances of my complaint and I look forward to hearing from the Pension Service as referred to in your recommendations.”

first reconsidered the decision. I asked DWP to award a consolatory payment of £100 to acknowledge that. However, I noted that the eventual decision that resulted in Mr H being awarded the enhanced rate of PIP was based on additional, new evidence that had not previously been made available to DWP.

Case Study 9: Inputting errors in a PIP claim

Mr I claimed and was subsequently awarded PIP with effect from December 2013, in line with when he made his claim. However, when inputting the decision on their computer system DWP used a future effective date so the award would not start until February 2016, meaning that Mr I did not receive the money he was entitled to. DWP took steps to put matters right by rebuilding the claim on their computer system and payments started from October 2014. However, they failed to close the first claim, so the system had two live claims for him. This began to cause problems in February 2016 when Mr I began to be paid twice and the incorrect details triggered a succession of contradictory and confusing letters to Mr I regarding his entitlement. The incorrect information surrounding Mr I's PIP entitlement was also shared with other government departments via their computer systems, and had an adverse effect on other benefits he and his partner were entitled to such as Tax Credits and Housing Benefit.

DWP eventually corrected the claim in response to Mr I's complaints. Whilst no attempt was made to recoup the overpayment, I was not satisfied that DWP had adequately addressed the impact this had on Mr I and his partner's other benefits. I partly upheld Mr I's complaint, and in recognition of the considerable confusion caused by DWP's errors I recommended he receive a consolatory payment of £200.

Case Study 10: Complaint handling in a PIP claim

Mr J made a claim for PIP which was disallowed, he asked for a MR and he was then awarded the standard rates of PIP. Mr J then



appealed to Her Majesty's Courts and Tribunals Service, and provided additional evidence to support his dispute at the Tribunal.

However, despite having followed the appropriate process to challenge DWP's decision, Mr J made numerous complaints, centred on his belief that the decisions DWP had made were wrong. In response to his complaints, DWP clearly explained their decisions and the dispute process, which they acknowledged he was following.

I did not uphold Mr J's complaint that DWP failed to respond to him in accordance with their procedures. On the contrary, I was satisfied that DWP adhered to their complaints process and responded fully to the issues Mr J had raised – although it is apparent that he did not always agree with their responses.

Case Study 11: Decision making in a PIP claim

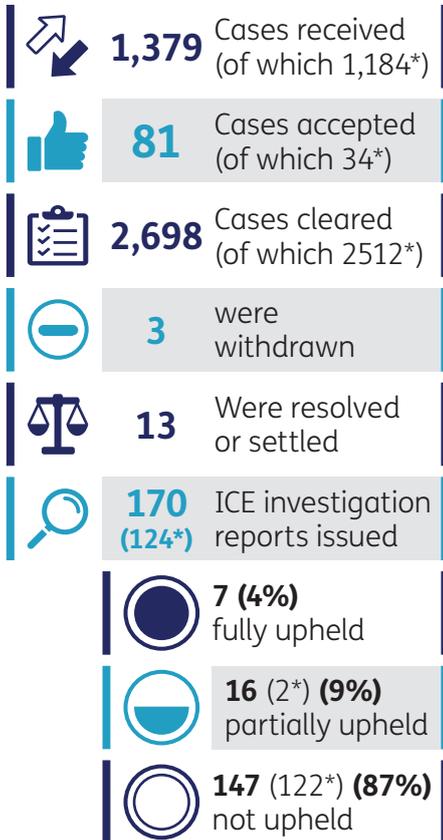
Mr K had been receiving Disability Living Allowance (DLA) since childhood, and he was invited to claim PIP when it was introduced. DWP decided that Mr K was not entitled to PIP, and a Tribunal upheld DWP's decision following his appeal. Mr K made a further new claim for PIP some 18 months later, resulting in an award of PIP from the start date of that new claim.

Mr K's mother complained on his behalf, as she believed that the original decision was wrong, and sought compensation for lost entitlement of PIP during the period between the two claims. It was clear from their correspondence that Mr K and his mother had been through a very difficult period since the earlier claim was made and had faced various hardships. After thoroughly reviewing the evidence surrounding the two claims, DWP concluded that financial redress was not appropriate as there was no evidence of maladministration.

Whilst I had great sympathy with the difficulties Mr K and his mother had faced during the period between the two claims, I did not uphold the complaint as I was unable to find any errors on the part of DWP, which would have justified the financial redress they were seeking.



Pensions



*Concerned communications associated with changes to women's State Pension age.

The Pension strand of DWP administers a range of benefits to those approaching or of State Pension age. The volume of cases we received for this area continued to be inflated as a direct result of the on-going complaints campaign associated with DWP communications about changes to women's State Pension age.

During the reporting year we saw a few, notable cases involving pensioners who lived abroad and a number of cases involving Pension Credit and Winter Fuel payments.

Case Study 12: Communications associated with changes to women's State Pension age

Mrs L complained that since 1995, The Pension Service had failed to provide her with timely and appropriate information relating to the changes in her State Pension age. I did not uphold that complaint as I found that DWP sent a letter about her pension age to her in 2012 as they should and provided a personalised pension forecast when she asked for that; they had no other commitment to provide information to her. However, I found that The Pension Service delayed in responding to two complaint letters within their agreed 15 working day timescale, with no apology given to her for the delay. I recommended that The Pension Service apologise to Mrs L for that oversight.

Case study 13: International Pension Centre

Mr M claimed State Pension in 2014 and chose to have it paid into an account in the Netherlands, where he lived. He complained that from 2016 onwards the amount of State Pension he received had reduced and DWP had failed to explain why. Payments by this method are converted from sterling into the local currency (Euros) and transmitted via foreign automatic clearing houses to the pensioner's overseas account.



“
I should like to thank you and your staff for the very comprehensive report. I should particularly also like to thank your very helpful colleagues who prepared the background information for you and who kept me updated during the many months it has taken to prepare the report.”

I found that DWP had told Mr M when he first claimed State Pension and opted to have his payments made into an overseas bank account that “the amount of money we send you may change because of currency rate”. DWP had explained to Mr M that the amount he received was less because of changes to the exchange rate between Sterling and Euro and I did not uphold his complaint.

Case study 14: Winter Fuel Payments

Mrs N lived in an old property with her partner. Her partner’s mother Mrs A lived next door, however, the address and postcode held for Mrs N and Mrs A were the same. When Mrs N began to claim her State Pension she was entitled to Winter Fuel Payments, and as the DWP computer system showed that Mrs N and Mrs A lived at the same address, the Winter Fuel Payments were split for several years. Each year Mrs N successfully challenged the decision, but DWP failed to do anything to prevent the same thing happening the next year. In response to Mrs N’s complaint DWP made a slight amendment to her address on their computer in 2016, after which she received her Winter Fuel Payments without any problem. However, she remained unhappy with DWP’s handling of her complaint and brought it to my office. I found that DWP could have done more over a six year period to prevent the repeated split payments. I upheld Mrs N’s complaint about that and recommended that DWP make her a consolatory payment of £100.

Case study 15: Pension Credit

Mr O complained that DWP inappropriately prosecuted him for fraudulently claiming Pension Credit. Mr O received Pension Credit but then failed to tell DWP that he had started self-employment; his Pension Credit was disallowed, with a £4000 overpayment. Mr O disputed the decision on the basis that the self-employed earnings used to calculate that amount were not accurate. He provided his accounts for a MR and DWP duly returned them to him, but failed to record or consider them in the MR. The prosecution proceeded

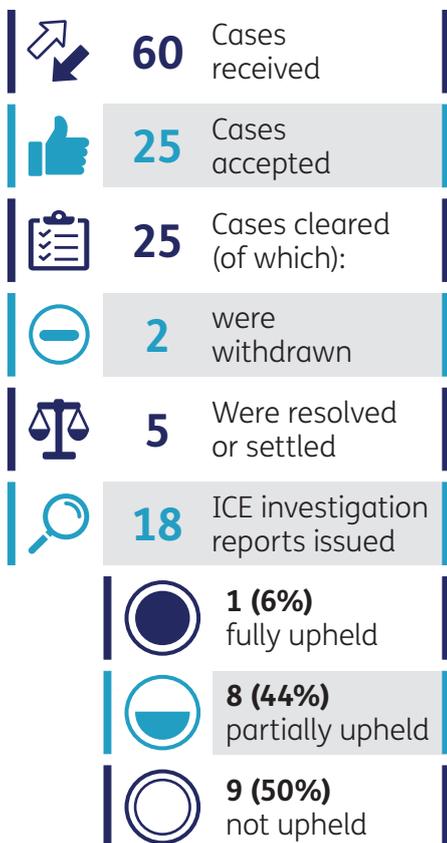


on incorrect information and he was convicted of fraud, receiving a suspended sentence and a £250 fine.

Mr O made a new claim for Pension Credit and provided details of his accounts and appealed the overpayment decisions. A Decision Maker accepted that he had earned significantly less than previously recorded and reduced the overpayment of Pension Credit by 95%. However, DWP failed to consider if he was entitled to backdated Pension Credit since his previous claim. It was not until my office became involved that DWP identified that Mr O was entitled to backdated Pension Credit and paid him arrears of around £5,000. I did not agree that DWP had acted inappropriately in prosecuting Mr O as he had failed to tell them about a change in his circumstances. However, the magnitude of the fraud was less than he was prosecuted for, as his accounts had not been considered and DWP had also failed to backdate his Pension Credit; I partially upheld the complaint and recommended a consolatory payment of £500.



Debt Management



Debt Management is the part of DWP responsible for managing and recovering claimant debt, including benefit overpayments and Social Fund loans. The Debt Management complaints examined during this reporting period were largely the result of Debt Management taking action on old debts that have been on their books for some time.

This has resulted in complaints about delays in starting recovery and complaints that Debt Management have failed to demonstrate that the debt was owed in the first instance, as the following examples illustrate:

Case Study 16: Delayed debt recovery

Mr P complained that Debt Management delayed in recovering an overpayment of JSA from 1997. Mr P was notified that he was overpaid JSA of over £2,000 as he had failed to tell DWP that he had started work. A Magistrate’s court found him guilty of benefit fraud in 1998 and he received a £50 fine and Conditional Discharge for 18 months. Regardless of that conviction he still had to repay the benefit overpayment, which was referred to Debt Management in July of that year. Between 1998 and 2000 Debt Management were unsuccessful in their attempts to contact Mr P to recover the overpayment, following which there was a period of five years when no action was taken. Debt Management identified a new address for Mr P in 2006 and contacted him there in 2007 but then not again until 2010. Following that they wrote to him 12 times between 2012 and 2015 to ask him to make repayments, but he didn’t. A Direct Earnings Attachment was issued in 2016 that successfully recovered all of the overpayment between March and October of that year. I was satisfied that Debt Management did what they could and that Mr P was fully aware of the debt and the need to repay it. I did not uphold the complaint.



Case study 17: Dispute of loan

Mrs Q's complaint stemmed from two Social Fund loans that she disputed being paid to her in 2010 and 2011. DWP's computer records showed several Social Fund loans, including the two she was disputing - which was sufficient evidence that the loans were taken out and remained repayable. Given that evidence, it was for the customer to show the debt had been repaid, extinguished, or had in some other way become unrecoverable. Mrs Q initially disputed the two loans when she received a letter from Debt Management in 2013. Disappointingly Debt Management failed to either respond to Mrs Q, or to pursue the repayment of the loans for almost two years, until a further letter about repayment was sent to her in 2015. Mrs Q again disputed the two loans and complained that Debt Management had failed to reply to her initial complaint. In response Debt Management told her their records showed that she had received the loans she was disputing and she had been unable to provide any evidence to the contrary. I was satisfied that Debt Management had followed the correct process in confirming that the loans remained payable and I did not uphold the complaint. However, I recommended that Debt Management apologise to Mrs Q and make her a consolatory payment in recognition of their delays and poor complaint handling.

Case study 18: Failure to notify of debt recovery

Mrs R complained that DWP had failed to provide evidence of a crisis loan they said she had received in 2005 and failed to notify her in 2016 before starting deductions from her benefit towards repayment of the loan. DWP records showed that Mrs R claimed JSA in 2005 and at the time applied for a crisis loan for living expenses, whilst she was awaiting her first JSA payment. No further action was taken to pursue repayment of the crisis loan until 2016, despite two separate periods when Mrs R had received benefits from which repayments could have been taken. It was not until Mrs R made a new claim for ESA in 2016 that deductions began, at which point Mrs R disputed ever having taken out the crisis loan in 2005. Mrs R refused to provide evidence



“
Thank you for my rise!
This is the first month of
eventually getting the
pension I should have,
mostly due to your efforts.”

that she had sufficient capital at the time to avoid the need for a loan, as she claimed was the case.

I found that DWP had sufficient information to support that the loan from 2005 was repayable when they started recovery action in 2016, noting that there was no time restriction on them being able to do that. However, I found no evidence that Mrs R had been notified by DWP before deductions from her ESA began in 2016. Given the length of time that had elapsed since the loan was made, it was reasonable for Mrs R to have expected prior notification that deductions from her benefit would start, a point which DWP acknowledged and apologised for in addressing her complaint. On that basis I did not uphold it, but nevertheless, in recognition of the overall delay in taking recovery action, coupled with several missed opportunities to do so sooner, I recommended a £50 consolatory payment should be made to Mrs R.



Contracted Provision



The DWP has contracts with private and voluntary sector organisations to deliver some services on their behalf, most notably employment services and health assessments. These organisations have responsibility for responding to complaints about their services themselves – but in the event that the complainant is dissatisfied with the final response, they can bring their complaint to my office.

We received only a small number of complaints about the Work Programme – as referrals to that came to an end in March 2017. The complaints process, including escalation to my office, applies to all contracted employment provision including the newer Work and Health Programme which was launched throughout England and Wales on a rolling basis between November 2017 and April 2018. Those complaints we did receive were generally from claimants who did not want to participate in the programme and were unhappy that they were required to do so.

The majority of the complaints we receive about health assessments concern perceived errors or failures associated with the reports produced by medical assessors. Such complaints often follow an unfavourable benefit entitlement decision from a DWP decision maker, or an unsuccessful appeal. Our investigation into these type of complaints focuses on whether the Medical Services provider did enough to investigate the concerns raised by the complainant and fully responded to the complaints made. Where I uphold a complaint it is often because I found that the complaint handling was poor.

Below are some examples of the type of cases we have examined:



WORK PROGRAMME PROVIDERS

Case Study 19: Information compromised

Ms S complained that during her time with the Work Programme provider, they had compromised her privacy, confidentiality and trust. In making her complaint, Ms S provided a detailed account of what had happened since she started the programme three months earlier. The information provided by Ms S underpinned a thorough investigation by the Work Programme provider during which statements were taken from the people she had dealt with, and the action taken by them was reviewed. That investigation found no evidence to substantiate Ms S' claim that her personal information had been compromised. I was satisfied that the Work Programme provider gave Ms S a complete and informative overview of the events in her case, and explained that they acted appropriately in protecting her information. I did not uphold Ms S' complaint.

COMPLAINTS ABOUT MEDICAL SERVICES

Case study 20: Audio recording

Mr T complained that he was not given appropriate support by the Medical Services provider when he asked for his PIP assessment to be audio recorded. I did not find any failures on the part of the provider who had done what they should in line with DWP's policy on this, which states that the claimant needs to provide their own recording equipment which must be capable of providing two identical audio recordings in cassette or CD format. However, that guidance also prohibits the use of devices that are most readily available such as laptops, smartphones, tablets and MP3 players.

Given the restrictions on acceptable recording devices, I considered it unreasonable to expect that claimants would have access to the equipment specified and this was effectively a barrier to making the recordings that DWP say they permit. I wrote to DWP to ask they



consider their policy and in response they told me of a video recording pilot, with a view to rolling that out more widely.

Whilst I did not uphold Mr T's complaint, he was satisfied with the outcome, in particular that his complaint had resulted in 'positive action' to improve the PIP assessment process.

Case study 21: Assessment report

Mr U complained to the Medical Services Provider about the content and factual accuracy of the report completed by the Healthcare Professional responsible for his assessment. I was satisfied that the Medical Services provider conducted a thorough investigation into the points raised and the quality of the assessment report. Having done so, they identified a number of discrepancies, concluded that it was not of the required standard, and informed DWP, suggesting that they arrange a further assessment.

Whilst the Medical Services provider did offer their apologies in response to Mr U's complaints, I did not consider that the apology provided gave sufficient recognition of for their failure to produce a report that was fit for purpose, and it was to that extent I upheld Mr U's complaint and recommended he receive a consolatory payment of £100.

Case Study 22: Healthcare Professional conduct and report

Ms V complained to the Medical Services provider about the conduct of the Healthcare Professional during the face to face assessment she attended, and also about the content of the assessment report they had completed. The complaint was made some six months after the assessment, by which time DWP had made their decision on the PIP claim. The Medical Services provider conducted an investigation into the quality of the report, and the points raised by Ms V were put to the Healthcare Professional concerned, they concluded their investigation and provided Ms V with a comprehensive response.



“
This has been very stressful for Robert and myself and I should like to offer our appreciation and thanks for all that you have done to finally bring this long drawn out matter to a satisfactory conclusion.”

They were satisfied that the Healthcare Professional had conducted themselves professionally, and the assessment report was of sufficient quality. After Ms V escalated her complaint, a further investigation was completed, and the outcome remained the same.

Following a full examination of the available evidence I was entirely satisfied that the Medical Service provider had addressed all the concerns raised by Ms V and I did not uphold her complaints.

Case Study 23: Home visit/complaint handling

After Mr W submitted his claim for PIP he was invited to a consultation at the Medical Services provider’s assessment centre. Following representations made by Mr W and his friend, the consultation was subsequently rearranged and took place at his home. The resulting assessment report completed by the Healthcare Professional was forwarded to DWP to help inform their decision regarding his entitlement to PIP.

After DWP had made their decision about his PIP claim, Mr W complained that he felt the assessment was rushed, that the Healthcare Professional had misrepresented certain facts and they had not considered medical evidence provided. The content of the assessment report did not support Mr W’s assertions, and the Medical Services provider’s own investigation found no inconsistencies with the quality and content of the report. Since I was satisfied that the Medical Services provider investigated and responded to his concerns at the first stage of their complaint process, I did not uphold that aspect of Mr W’s complaint.

However, after Mr W whilst dealing with his complaint the Medical Services provider took no action so he was unable to escalate it until they issued a letter nearly 12 months later telling him he could approach my office. Even if the Medical Services provider was satisfied with the completeness of their initial complaint response, they should



have responded to Mr W, explained that to him and allowed him to escalate his complaint onwards. I upheld that aspect of Mr W's complaint on the basis that the Medical Service provider had not adhered to their own procedures for responding to complaints.

Case Study 24: Incomplete complaint reply

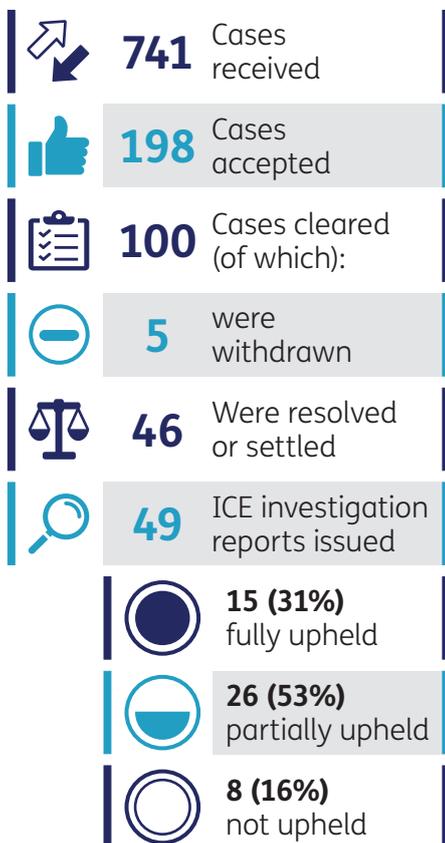
Mr X brought complaints to my office concerning the Medical Service Provider who arranged and completed his ESA Work Capability Assessment. In response to Mr X's complaints, the Medical Service provider had addressed his concerns, and in doing so identified some service failures on their part. By way of an apology, they offered a consolatory payment of £100. However, our investigation did identify that there was one particular issue Mr X had raised which they had not investigated. Having discussed this with Mr X, we approached the Medical Service provider with a view to getting them to offer the explanations he wanted. They agreed to do so and offered to make a further consolatory payment by way of an apology for failing to address his concerns in full prior to Mr X approaching my office. Mr X agreed that this settled his complaint.

Case Study 25: PIP claim decision and complaint handling

Mr Y brought complaints to my office about the assessment completed by the Medical Services provider in respect of his PIP claim. When we examined his complaint, it was clear that the crux of Mr Y's dissatisfaction was the decision made by DWP about his PIP claim. Since we have no role in decisions about entitlement to benefit, we explained to Mr Y that if he wanted to challenge that he must follow DWP's MR and appeals process – this subsequently resulted in the decision being revised in his favour. Notwithstanding that, our investigation found that the Medical Services provider delayed in dealing with Mr Y's complaint, who recognised that and agreed to apologise and make him a consolatory payment of £200. Mr Y was satisfied with the explanations we provided and the action the Medical Services provider agreed to take to address his complaint. Mr Y agreed that this settled his complaint.



Child Maintenance Service



The Child Maintenance Service (CMS) was introduced in November 2013 to replace the Child Support Agency; they carry out similar work, calculating how much maintenance should be paid for the financial support of any child whose parents do not live together and for some also collecting that maintenance. Fees are charged to both parents where CMS’ collect and pay service is subsequently used.

The number of CMS complaints that we received this year increased as CSA continued to close cases and direct customers to apply to CMS. Despite this office highlighting to CMS in the previous reporting year that they were not following their published complaint process, we continued to see cases where CMS made repeated attempts to re-engage with customers, rather than registering a complaint. Having reiterated the nature of our concerns, we received assurances from CMS during the reporting year that their practices had been reviewed to address the concerns we had raised. We will be keeping a watching brief on this issue to satisfy ourselves that this is the case.

Case study 26: Variation delay

Mr Z complained that CMS failed to deal appropriately with his variation application or his subsequent complaint about it. Mr Z applied for a variation in 2016 for contact costs to visit his children and mortgage payments he was making on the children’s home. CMS aim to complete variation applications within 25 days of receiving evidence. In Mr Z’s case it took CMS seven months to complete the variation calculation; in the meantime Mr Z complained to CMS about the delay. There were a number of occasions when requested call backs were not made and Mr Z’s initial complaint made in 2017 was incorrectly closed when it shouldn’t have been, then there were



further delays in progressing the complaint when Mr Z tried to take things further. Following my office's investigation of the complaint CMS agreed to apologise and offered a consolatory payment of £75.00; Mr Z was satisfied the action taken settled his complaint.

Case study 27: Conflicting information about document destruction

Mr AA complained that CMS incorrectly destroyed original medical documents, gave him misleading information during his telephone calls with them and failed to return his calls. Mr AA applied for a variation for costs associated with illness or disability for another child in his household and provided an original Disability Living Allowance (DLA) entitlement letter, making it clear on the form that it was an original. He also provided a Doctor's letter, which he later said was also an original though he did not note this on the form.

CMS procedures are that any original documents should be photocopied, scanned onto their system and returned within 48 hours by their third party provider, Xerox. Mr AA did not receive his documents as expected and when he asked why, he was given conflicting information. CMS first told Mr AA the documents had been destroyed within five days of receipt; then told his MP that they had been destroyed six weeks after receipt, in line with their data retention policy.

CMS acknowledged their error in destroying his documents and failing to call him back when asked to do so and made him a consolatory payment of £150. I recommended that CMS make Mr AA an additional payment of £35 for the conflicting information he was given about when his documents were destroyed. I also raised a systemic recommendation that CMS make it clearer on their forms when they are prepared to accept copy documents, rather than originals.



“

Thank you for understanding the situation and your recommendations as described. I asked CHDA to donate the fifty-pound award to Cancer UK. Your report is quite detailed and thorough for the incident of complaint, and again I thank you for it.”

Case Study 28: CSA/CMS crossover

Mrs BB complained that CMS provided her with incorrect and contradictory account information about her payments and failed to respond to her letters of complaint. Mrs BB made a new application to CMS following the closure of her CSA case in 2016 and CMS took responsibility for the collection of CSA arrears. From the outset the amount recorded by the CSA was incorrectly calculated due to the incorrect recording of a payment.

Although both parents had agreed to direct payments, CMS needed to send payment schedules to both parents, setting out the payments and an amount towards arrears. CMS were not told by the CSA about the correct arrears figure for another six months, meaning that payment schedules sent to Mrs BB and the paying parent included incorrect amounts. By the time the arrears amount was corrected the paying parent had made some payments so the arrears balance should have been nil. However, some of the payment schedules issued after that told Mrs BB that she had been overpaid, whilst others said she was owed arrears. I found that the contradictory payment schedules caused Mrs BB confusion and that two letters of complaint from her were ignored, before she wrote to her MP. Although CMS replied to the letter from her MP a week later, they failed to acknowledge that they hadn't replied to Mrs BB. I upheld the complaint and recommended that CMS make Mrs BB a consolatory payment of £75.

Case Study 29: Incorrect information about payments

Miss CC's payments were collected monthly from the paying parent by a Deductions from Earnings Request (DER) issued to his employer, the Ministry of Defence (MOD). This is a method of payment unique to personnel of the armed forces and there are some small differences between a DER and a Deductions from Earnings Order (DEO), one of which is the timing for deductions to be made by the employer. The MOD issues deductions for child support maintenance at the end of



“
ICE Staff were really helpful and understanding of my learning difficulties and willingly repeated information to ensure I understood.”

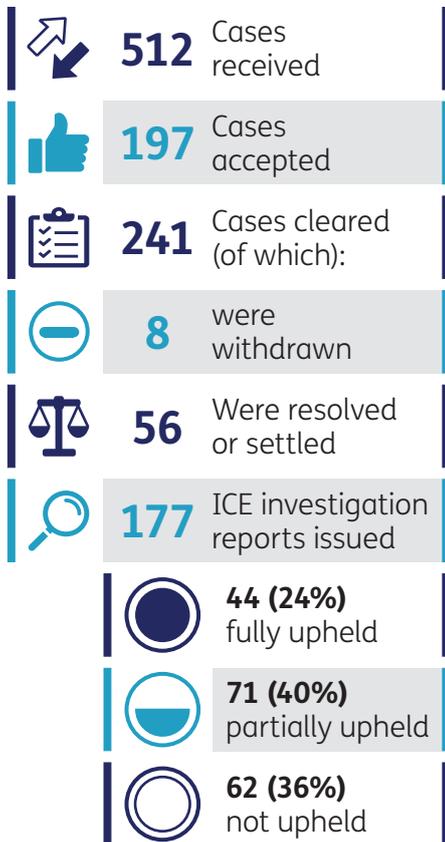
every month but in their letters to Miss CC, CMS incorrectly told her that the payments would be deducted from the paying parent’s wages by the 19th of the month - the expected deadline for a DEO. This information was given in complaint response letters and also appeared on payment schedules that were sent to her.

As a result of that incorrect information, Miss CC telephoned CMS every month shortly after the 19th to enquire about her payments; this formed part of her later complaint to my office.

I found that CMS acknowledged service failures on their part both before the DER was issued and when payments were being collected and made Miss CC consolatory payments totalling £100; as such I did not uphold her complaints. However, whilst not part of her complaint I found that Miss CC had lost out on maintenance of £91.96 due to a delay on CMS’ part in contacting the paying parent about the child maintenance application. I recommended that CMS pay her that amount, plus an additional consolatory payment of £50. I also made a systemic recommendation to CMS about the lack of awareness of CMS staff about the difference in payment dates for a DER.



Child Support Agency



*Case clearances can be higher than cases accepted as some cases cleared were accepted in the previous financial year.

New applications for maintenance through the Child Support Agency (CSA) stopped in November 2013 and are now made through CMS. Since then the CSA have been closing their existing legacy cases but we have continued to accept complaints about them.

Complaints about the CSA during this reporting period continued, on the whole, to be extremely complex, to cover a number of years and required us to review large amounts of evidence. In many of the complaints we considered, the CSA case had already been closed and new applications had been made to CMS. However, in those cases where we find that CSA arrears remain outstanding, which may be inaccurate, we will make recommendations to address that.

Case Study 30: Failure to act and lack of explanation

Mr DD complained that the CSA failed to act on information he provided to them about his circumstances from 2008 to 2011. They also failed to provide him with a clear explanation as to why he had arrears of over £5,000 that were to be transferred to CMS in 2018 for collection, despite him informing CSA that he and the receiving parent had a private arrangement in place. My office contacted CSA to request further information and as a result of our examination of the case we established that CSA had written off the arrears on 11 December 2018, in accordance with a change to legislation from September 2018 regarding the closure of CSA cases. Mr DD agreed that the action taken by the CSA resolved his complaint.

Case study 31: Variation errors

Mrs EE complained that the CSA had failed to act on information she had provided since 2005 about the non resident parent’s assets and failed to take appropriate action on her application for a variation. The non resident parent had applied to pay child maintenance via the CSA in 2005 and at the same time Mrs EE had asked about making



a variation application and had been sent an application form. We found no evidence that CSA received the variation application from her before they completed the maintenance calculation which was for nil. Mrs EE disputed that maintenance calculation as she believed that the non resident parent had other assets and income that he had not told the CSA about, and asked about her variation application, which she said had been returned to the CSA. CSA failed to tell her that there was no variation application registered or what she needed to do about that.

The CSA referred her case to their Criminal Compliance Team to investigate the non resident parent's circumstances, which took several years to conclude but did appear to uncover evidence of additional assets and undeclared income that could have been included as part of a variation, had one been registered. The CSA didn't recognise the lack of a variation application and consequently when the non resident parent asked for his case to be closed, they completed several reviews to bring the case up to date, which included variation adjustments and resulted in a backdated arrears balance of over £21,000.

The non resident parent appealed the maintenance calculations on the grounds that he had never been notified of a variation application or been given the opportunity to contest it. An appeal tribunal upheld that appeal on the grounds that a variation application had never been made and the CSA were directed to remove any variation adjustments from the maintenance calculation. Following my office's investigation it came to light that the variation adjustments had been overstated and were wrong, meaning that Mrs EE was not owed any arrears. However, I upheld Mrs EE's complaint and I recommended that the CSA make Mrs EE a consolatory payment of £375 for the inconvenience and financial disappointment their actions had caused her.



“

I was delighted with the empathy shown by the Resolution Officer.”

Case study 32: Dispute of Child Maintenance

Mr FF approached my office with several complaints relating to arrears that the CSA said he owed them and their actions to pursue those arrears. After examining the complaint we noted that whilst Mr FF had been assessed to pay child support maintenance via the CSA since 2006, the case should have been closed in 2008, when he reported to them that the parent with care no longer had the right to reside in the UK. Although the CSA confirmed that with the Home Office, they failed to close the case as they should and Mr FF continued to pay child support maintenance until 2017. In response to our investigation CSA agreed to close his case effective from 2008 and reimburse the maintenance he had paid during the period when the case should have been closed – less some arrears that he did legitimately owe. We also asked the CSA to make Mr FF a consolatory payment of £200. Mr FF was satisfied that this addressed his complaint and agreed that it was settled.

Case Study 33: Trust Deed

Mrs GG complained that the CSA had failed to secure regular maintenance and collect outstanding arrears from the non-resident parent, since the start of her child maintenance application in 1996. The non resident parent was non compliant from the outset leading to delays in completing the initial maintenance calculation and an Interim Maintenance Assessment was eventually imposed in 1997. However, when the non resident parent failed to make any payments no further action was taken for the next three years. Following which CSA collected the weekly liability they had calculated of £5.20 per week for the next 16 years.

During that time Mrs GG made a further application, in 2006, which should have prompted the CSA to move her existing case to their 2003 scheme; they did not do that for seven years and as the non resident parent's liability increased as a result of the conversion, arrears of over £4,000 were owed. The CSA delayed asking the non resident



“
*Very impressed by the
Case Manager who
listened and sorted
everything out.”*

parent to make payments towards those arrears, but when they did he complied for nearly two years. That ended in August 2016 when the CSA received a Trust Deed (a type of insolvency unique to Scotland which affects child support arrears) from the non resident parent which meant that they were unable to take any further collection action.

In responding to Mrs GG's complaints the CSA recognised some of their failings and made her consolatory payments totalling £150. However, I was not satisfied that they acknowledged the extent of the failures dating back to 1996, nor the impact of those or the part they played in the arrears building up. I upheld Mrs GG's complaint and recommended that the CSA make her an additional consolatory payment of £350.



The ICE Office



Standards of Service

When we accept a complaint for examination we will initially attempt to broker a solution between the complainant and the relevant department or supplier, without having to request evidence to inform an investigation – this is known as “resolution”.

If we can't resolve the complaint, the evidence will be requested and the case will await allocation to an Investigation Case Manager (ICM). Cases are dealt with by dedicated teams and are usually brought into investigation in strict date order. Following a review of the evidence, it may be possible for the ICM to “settle” the complaint, if agreement can be reached on actions that satisfy the complainant. If the complaint can't be settled, ICE will issue a report detailing findings and any recommendations for redress. The majority of the complaints we receive are complex and require a full investigation.

Our published service standards explain how long it should take us to deal with complaints and details of our performance during the 2018/19 reporting year are overleaf:



INITIAL ACTION

We told  of complainants the results of our initial checks within our target of 10 working days

RESOLUTION

We cleared  of resolutions within our target of 8 weeks

SETTLEMENT AND INVESTIGATION REPORTS

Amount of investigation or settlement cases we cleared:

- 36%** within 15 weeks of the investigation commencing
- 27.5%** within 16 to 25 weeks of the investigation commencing
- 22.5%** within 26 to 35 weeks of the investigation commencing
- 14%** over 35 weeks of the investigation commencing

COMPLAINTS ABOUT OUR SERVICE

We have responded to  of complaints about our service within our target of 15 working days

CUSTOMER SATISFACTION

  of customers were satisfied with the service we provided



“
The time taken to deal
with the complaint was
unacceptable.”

Complaints about our service and the outcome of investigations:

We record as a complaint any expression of dissatisfaction by a complainant (that hasn't been resolved as normal business) about the service provided by the ICE Office or the outcome of the ICE investigation.

During the reporting year we received 418 complaints regarding the service we provided (the majority of which were from WASPI complainants, received on a standard template, concerning delays in allocating complaints for examination). This represents 9% of the 4695 cases received by the Office during the reporting year and we upheld 7% of those service complaints. In addition, we received 134 complaints about the outcome of an ICE Investigation and 3 combined complaints about service and outcome. This represents 4% of the 3295 cases cleared and we upheld aspects of 11% of those cases.

Findings of the Parliamentary and Health Service Ombudsman Office

Complainants who are dissatisfied with the outcome of an ICE investigation or the service provided by the ICE Office, can ask a Member of Parliament to escalate their complaints to the Parliamentary and Health Service Ombudsman's Office. The information we hold* suggests that during the reporting year, the Ombudsman Office completed 9 investigations concerning the ICE Office, of which 1 was partially upheld.

*PHSO's office has yet to publish their data for the 18/19 reporting year.



Continuous Improvement

During the reporting year the ICE Office achieved:

- **Customer Service Excellence** re-accreditation for the 9th consecutive year.
- **British Standards Institute (BSI)** re-accreditation for the 13th consecutive year, in respect of its own complaint handling.

The ICE Office is a Complaint Handler member of the Ombudsman Association and staff from the ICE Office attend working group meetings to share best practice and discuss common themes with other public and private sector Alternate Dispute Resolution (ADR) organisations.





Independent
Case Examiner



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