



Independent
Case Examiner

ANNUAL REPORT

1 April 2017 – 31 March 2018



**INDEPENDENT
CASE EXAMINER**
For the Department
for Work and Pensions

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 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.

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Independent Case Examiner's Foreword & Introduction



Complainants contact the ICE office with wide ranging concerns arising from their interactions with DWP – the common thread for those who make the effort to get in touch is that the issue in their case is important to them.

These concerns may be long running – stemming from a Child Maintenance case that has been live for more than a decade for example - or arising from the handling of a recent claim under a relatively new benefit such as Universal Credit. What prompts our complainants to pursue their issue is the belief that more can be done to establish what happened for them, or more done to put that right.

The ICE office can consider the consequences of ‘maladministration’ – where DWP has not done what its policies or procedures say it should – and we do that on a case by case basis with small details in a case often determining whether an administrative error has been made or not. We considered a child maintenance case this year where the appreciation that a letter was posted a few days before a decision had been made (albeit that it arrived a few days after that decision, having been delayed in the post from HM Forces overseas) determined what action should have been taken on it and so the entire outcome for that paternity dispute.

The balance and content of our case load changes year by year with the introduction of legislation and policy decisions affecting benefits (such as that which introduced Universal Credit), State Pension, or the structure and application of Child Maintenance schemes. Being at the end of the whole complaint process, we can see cases years after the legislation or policy change was made and some time after the first people have been affected by it coming into operation.

We nonetheless take every opportunity if we see administrative issues to feed those back to DWP promptly, so any learning can be made as soon as possible to avoid others being affected. We made 14 such systemic recommendations this year and I am pleased to say these continue to be given careful consideration by DWP, with responses made to my office as to the actions taken as a result.

This year the consequences of such legislative changes on State Pension have been significant for our office as at the end of the reporting year 2979 women, most but not all part of the Women Against State Pension Inequality (WASPI) campaign, have complained that DWP were maladministrative in failing to communicate changes in State Pension retirement age arising from the Pensions Acts of 1995, 2007 and 2011. They have said this has denied them the chance to make informed choices about their future pension provision. By the end of the reporting year we had completed 68 cases and as the women's complaints included that 'standardised' responses had been made to them by DWP, we are giving every complainant the opportunity to tell us about any aspects of their own particular case which they believe could affect the decision for them, albeit that the main element of complaint is the same in all the cases. I have not upheld any of the cases on that main complaint although some other matters such as issues with complaint handling and provision of information have been upheld.

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I was absolutely thrilled with the help and support I was given by ICE. For once in a long, long time I did seem to be getting somewhere and getting answers.”

Whilst not arising from any legislative or policy change we have also seen a small number of cases this year relating to the payment of bereavement benefits and funeral costs that have led me to raise this as an area of business that might merit review and I am aware work is now underway on this. I know DWP works hard to try to make things easy at a stressful time in handling bereavement claims, but delay in confirming how much has been awarded until after the funeral has been held, has led to disappointment and additional anxiety.

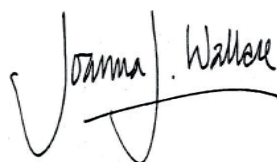
As well as complaints about ‘big issues’ such as paternity, pension changes and bereavement we also see many complaints about more minor administrative failings and this year we have noted numerous complaints about the Department’s failure to make promised telephone call backs, across all areas of the business. This hasn’t been the main part of any complaint but it has become an extra unacceptable irritant on top of the main underlying issue in a case – (I can almost hear the complainants saying ‘...and another thing’ as they add it to their list of grievances). There have also been complaints raised about difficulties in feeling able to register a complaint specifically within CMS, which we have raised directly with that team; we have been reassured they will be working to ensure that is not something their customers feel in future. Whilst it is regrettable that any administrative errors happen, making a call back when it is promised or taking a complaint when someone wishes to make one seem to be service matters that DWP could be getting right.

When a complaint comes to the ICE office we want to sort out matters for the complainant as soon as possible, so we look for opportunities to resolve or settle the matter to the complainant’s satisfaction without the need for full investigation and adjudication. Opportunities for this are limited though, which I think is a positive reflection on the complaint handling that precedes referral to the ICE office, but does mean that the vast majority of the cases that

come through to us are complex and need detailed review. We see cases with decades of evidence and others in which there is cross over between different parts of DWP, or between DWP and other Government Agencies such as Her Majesty's Revenue and Customs (HMRC). The complexity of casework, this year coupled with the substantial increase in complaints from the WASPI campaign, has impacted on the time it takes to bring some ICE complaints into investigation and so for a decision then to be made. I regret that we are unable to conclude cases more quickly if we are to look at cases in the detail that we must.

Finally, as ever, I want to thank the ICE office staff for their support, energy and attention to detail. It is a privilege for me to have this role and whilst sometimes a case decision may be apparent from its history, reaching my decisions can often involve many discussions with the team, further questions of the DWP business or complainant and numerous redrafts. I appreciate the ICE staff's energy and intellect, and am proud of the commitment and drive that they share with me to reach the best decisions we can.

Thank you for looking at this report – please do get in touch with us if you have any feedback as we would welcome it.

A handwritten signature in black ink that reads "Joanna Wallace". The signature is written in a cursive style with a long horizontal stroke at the end.

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 2017 and 31 March 2018.

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 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 apology, corrective action or financial redress.

Referrals to the ICE Office – at a glance

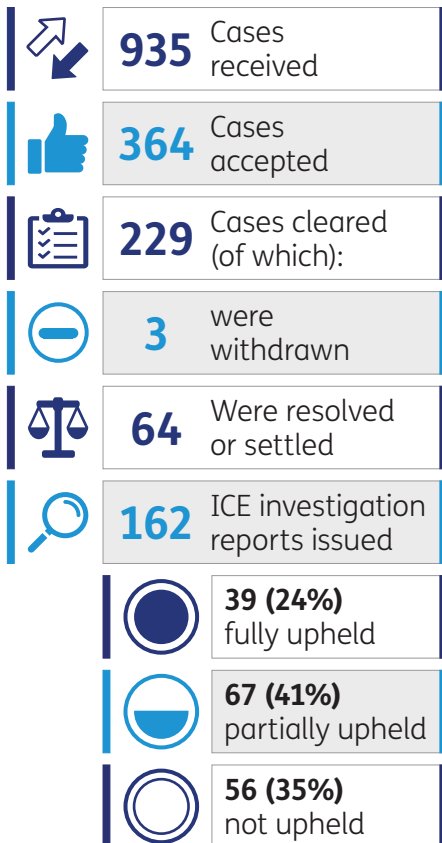
	Reporting Year	2017/18
	Received	5845
	Accepted	2779
	Total case clearances (of which):	945
	Withdrawn	33
	Resolved	83
	Settled	141
	Investigated	688
	Of those complaints investigated % partially upheld	39% (272)
	Of those complaints investigated % of fully upheld	23% (156)
	*Of those complaints investigated % of cases not upheld	38% (260)

*This includes cases which we deem justified, because although the complaints have merit, the business have taken all necessary actions to remedy them 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. As well as highlighting the complexity of some of the cases we examined, it includes examples of more routine administrative error (such as cases in which promised call backs have not been made), 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 a limited number of investigations into complaints from Universal Credit claimants; they were notably more complex than the majority of working age benefit complaints we have seen.

We also considered a number of New Enterprise Allowance (NEA) cases in which we identified inconsistencies in the timing and amount of information given to claimants about the scheme.

We have also included case examples that explain about the more general theme of failure to make promised calls backs.

CASE STUDY 1

Mr A complained that when he made a telephone claim for ESA, he was incorrectly advised that he could continue to receive Working Tax Credit as this would be deducted in full from his ESA. Jobcentre Plus had failed to keep a recording of the call as they should, so it was not possible for me to conclusively determine whether Mr A had been misadvised. This was acknowledged by DWP when they made him a £100 consolatory payment. I considered this appropriate redress and therefore found Mr A's complaint in respect of mis-advice to be justified.

Nonetheless, Mr A also said that the error resulted in an overpayment of Working Tax Credit, in excess of £2,000. It was evident that Jobcentre Plus had been aware of Mr A's Working Tax Credits but had failed to ensure HMRC were aware of the change as they should, so he continued to receive payments for much longer than the maximum four week allowable period. Mr A's ESA was also paid at a reduced rate to take account of his Tax Credits until then; as Jobcentre Plus had

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*Thank you tremendously
for the excellent,
painstaking and
exhaustive investigation
and detailed outcome
report.”*

directly contributed to the overpayment I upheld this element of his complaint.

Jobcentre Plus are unable to backdate payment of ESA in cases where Working Tax Credit has been paid for the same period; however as a result of our investigation DWP contacted HMRC who agreed that the overpayment was not recoverable from Mr A. I recommended that Jobcentre Plus apologise and make Mr A an additional £200 consolatory payment.

CASE STUDY 2

Miss B said that when she applied for Jobseekers Allowance in October 2012 she was incorrectly told not to worry about her continuing payments of Working Tax Credit as they would run on for a while before she switched fully to Jobseekers Allowance.

A claimant may continue to receive Working Tax Credit for a maximum of four weeks after making a claim for Jobseekers Allowance. There was no record of the discussion that took place in October 2012 so I could not conclusively determine whether she had been misadvised; however I considered it more likely than not that she was told about the maximum four week period.

It was clear that Jobcentre Plus were aware of Miss B's claim for Working Tax Credit when she made her application for benefit - they have a responsibility to ensure HMRC are aware of a change to a claimant's circumstances - this did not happen. Miss B's Working Tax Credit continued until she told HMRC herself that she was no longer working in June 2013; her Jobseekers Allowance was also paid at a reduced rate (to take account of her tax credit payments) until then.

Jobcentre Plus directly contributed to the tax credit overpayment of approximately £1,400 so I upheld Miss B's complaint. I noted that Jobcentre Plus had, in error, paid Miss B Jobseeker's Allowance arrears for the period covered by the Working Tax Credit overpayment, despite there being no provision in legislation for them to do so - they assured

me that this would not be recovered from her. I recommended an apology and £125 consolatory payment.

CASE STUDY 3

Ms C said that DWP took inappropriate action and gave incorrect advice when she advised them that she was starting a university course, and provided HMRC with an incorrect start date for her Tax Credits.

When Ms C contacted DWP about her university course and explained she had applied for student finance, DWP said that her entitlement to Universal Credit would end; in doing so they had failed to recognise that, as a lone parent, Ms C's Universal Credit claim could continue – she should have been asked for details of her course and finance to recalculate her entitlement.

The DWP then delayed closing the claim, which hindered Ms C's ability to claim Tax Credits and housing benefit and resulted in an overpayment of Universal Credit. The claim was subsequently closed from an incorrect date and, while this was later corrected, DWP failed to update their Customer Information System, meaning HMRC did not have accurate information to allow it to process her claim for Tax Credits.

Given that Ms C received Universal Credit for a period following the claim closure I did not agree that recovery of the overpayment was inappropriate. However I upheld her other complaints; while DWP had already apologised for the delays in closing the claim and made a £75 consolatory payment I found that they had failed to fully acknowledge their failings and the impact they had on Ms C - I recommended she receive an additional apology and a £325 consolatory payment.

CASE STUDY 4

Mr D complained that he was not made aware of NEA when discussing his self-employment ideas with his Work Coach. When later asked, the Work Coach claimed that they had discussed the NEA in detail, but the notes made by the Work Coach on the day made no reference to any such discussion – had the NEA been such a focus I would have expected it to be documented.

On balance, I found it more likely that Mr D was not told about the NEA and I upheld his complaint. Mr D suggested that he had lost out financially as a result of the Work Coach's failure; however I was not persuaded that this was the case - there was insufficient evidence to show that he would have satisfied the various requirements to secure NEA funding. I did, however, recommend an apology and £100 consolatory payment in recognition of the service failures in his case.

This case, coupled with others I had seen, prompted me to raise a systemic recommendation with DWP as there appeared to be a lack of clarity about what information should be given to a claimant about NEA and when. In response DWP said that they were working to ensure Work Coaches were aware of the correct process and the support available.

CASE STUDY 5

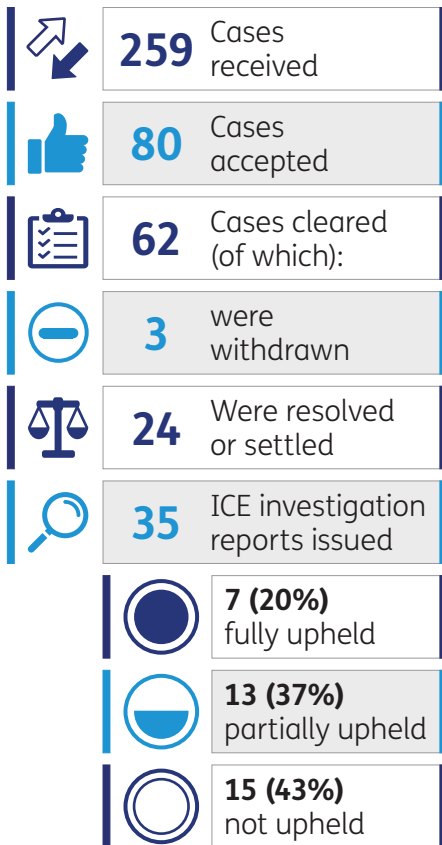
Mr E said that Jobcentre Plus had failed to provide full responses to his complaints and didn't take account of the consequences of their maladministration when awarding him financial redress. Because of errors on Jobcentre Plus' part, there was a delay in arranging Mr E's Work Capability Assessment after he made a claim for Employment and Support Allowance (ESA).

Mr E eventually attended an assessment 17 weeks after he had made his claim and when Jobcentre Plus decided that he was not entitled to ESA, this was almost four weeks outside their service standard. During that time, Mr E had contacted Jobcentre Plus several times but

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*Very grateful for your
considerable extensive and
exhaustive valuable time.”*

they failed to make some of their agreed call backs. Jobcentre Plus apologised for the delay in arranging the Work Capability Assessment and made him consolatory payments totalling £150 along with £30 towards the costs he had incurred contacting them. However, I upheld Mr E's complaint as Jobcentre Plus had overlooked the failed call backs and I recommended a further apology and an additional consolatory payment.

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 for claims for Personal Independence Payment (PIP). It is important when completing assessments for PIP that they are done within a reasonable amount of time. The case studies we have included show the impact of processing delays on claimants as well as illustrating the wider theme of failing to return calls.

CASE STUDY 6

Mr F claimed PIP and although DWP referred him to a Medical Services provider to complete an assessment there was a 13 month delay before he was assessed. Following the assessment Mr F's PIP claim was disallowed as he had not scored enough points. Mr F complained to my office that DWP had failed to notify him of the decision, denying him his appeal rights. He also complained about the Medical Services Provider's delay in completing the assessment and that when completing his PIP assessment the Healthcare Professional had not taken into account that it was then 13 months after DWP's referral, by which time Mr F had largely recovered from his illness.

In response to enquiries from my office DWP acknowledged that the Healthcare Professional's report had lacked timely and relevant information and that the DWP Decision Maker should have picked up on this before making the original decision. DWP agreed to award a £100 consolatory payment and review their original decision. Mr F agreed that this settled his complaint.

CASE STUDY 7

Mrs G had been diagnosed with lung cancer and was in receipt of DLA, but three years later her condition deteriorated and she was advised to claim PIP. Under PIP there are special rules for claimants who are

terminally ill (SRTI) and when someone makes a telephone claim for PIP as part of that claim they are asked if they want to claim under SRTI which Mrs G chose not to do. Following her attendance at a medical assessment later that year Mrs G was awarded the enhanced rate of the daily living and care component. Because she was in receipt of DLA, payment of that benefit would continue for a further four weeks before her PIP could begin. However, Mrs G passed away just before her PIP began and at the same time DWP received a letter from someone acting on behalf of Mrs G that said she was terminally ill. A Citizen's Advice case worker subsequently complained on Mrs G's behalf that her PIP claim should have been identified as a SRTI claim and her PIP backdated to the date of claim.

In acknowledging that the events surrounding Mrs G's PIP award must have been particularly difficult for her family, I found no evidence of failure on the part of DWP to recognise that Mrs G was terminally ill when initially processing her claim. As such there was no provision available to allow DWP to award PIP from an earlier period than it had been and that, based on the information available, DWP had dealt with Mrs G's PIP claim in accordance with their procedures.

CASE STUDY 8

Amongst other matters, Mrs H complained that DWP had failed to honour a number of agreed call backs.

There were a number of occasions, during a four month period, when DWP promised to call Mrs H but did not do so; Mrs H's complaint was therefore entirely justified. However, I was content that DWP had acknowledged their failings prior to Mrs H raising her complaint with us, apologised and taken account of this in making her a £100 consolatory payment, which I considered to be appropriate redress in the circumstances.

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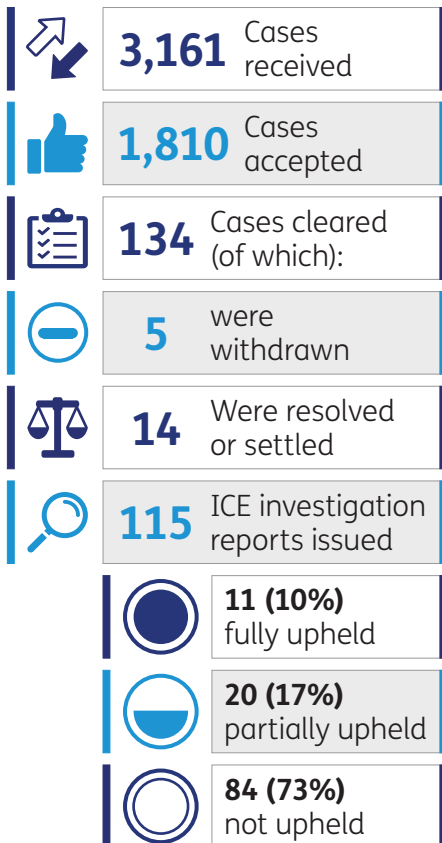
Your efforts are greatly appreciated. I finally have some answers to questions I have been asking for years and a much greater understanding of procedures that should have taken place.”

CASE STUDY 9

Amongst other matters, Ms I said DWP delayed addressing her complaint. It took DWP 11 weeks to respond to Ms I's complaint; well outside of their 15 working day timescale.

Ms I had contacted them in the interim and was promised updates and call backs but those were not honoured. The response to Ms I's escalated complaint was also delayed and I therefore upheld her complaint, taking account of the poor complaint handling and failed call backs, along with other matters, in making my recommendations of an apology and £200 consolatory payment.

Pensions



The Pension strand of DWP provides services and a range of benefits to those approaching or of State Pension age. Cases received and accepted have increased significantly in this area due to the Women Against State Pension Inequality (WASPI) campaign.

There were a few, notable cases which revealed problems with payments for funeral expenses this year, in addition to delays in making those payments. We raised a couple of systemic recommendations identifying aspects of service that might be improved, which are illustrated in the examples detailed below, along with examples of the WASPI cases we have examined.

CASE STUDY 10

Mrs J complained that DWP failed to ask her relevant questions or provide appropriate information when she made a telephone application for a funeral payment via the Bereavement Service for her daughter's funeral costs. The call handler failed to correctly record details of Mrs J's grandson on the application form or ask if he was receiving a qualifying benefit, despite Mrs J mentioning him several times during the call. Those details were crucial in determining her eligibility to a funeral payment, which was refused six weeks later on the grounds that there was another close relative of her late daughter who could take responsibility for the costs. I upheld Mrs J's complaint as I found that DWP raised her expectations, at a difficult and distressing time. I recommended that they apologise to her and make her a consolatory payment of £200.

I also raised a systemic issue with DWP to highlight that there seemed to be no process steps between the taking of the claim soon after bereavement and a final decision, most often some time after the funeral in question had been held. In response DWP said they were reviewing their process for funeral payment applications.

CASE STUDY 11

Mrs K made a telephone claim in respect of her late husband's funeral expenses. On the claim form Mrs K declared that there was an insurance policy available to pay towards the funeral expenses. When DWP calculated that Mrs K was entitled to a Funeral Expenses Payment they failed to take account of the insurance policy. It was only after that award had been notified to Mrs K that DWP realised their error and substantially reduced the award, which reduced the payment issued to the funeral director. However, DWP failed to inform Mrs K of the reduction to the award and she only became aware of it when the funeral director contacted her to request payment of the outstanding balance.

A complaint was not registered on Mrs K's behalf until after she had passed away. In responding to the complaint DWP acknowledged their errors and apologised for any distress they had caused. Whilst DWP were clearly responsible for having failed to calculate and communicate an accurate amount of allowable funeral costs in the first instance, or to communicate the revised decisions to Mrs K - the additional funeral costs were not, nor should they ever have been, the responsibility of DWP.

I raised a systemic issue with DWP regarding the point at which claimants are notified of the funeral expense payment decision, as it seemed logical to me that both the claimant and the funeral director should only be informed of the amount of the Funeral Expenses payment once the award has been checked and agreed.

CASE STUDY 12

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 had no commitment to communicate changes to State Pension age to all those individuals affected by a change, but accurate information was available to her on request – which included a personalised State Pension forecast. Mrs L also complained that

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Thank you for your help & understanding, it was a truthful investigation.”

since 2010 The Pension Service had failed to provide her with timely and appropriate information relating to the change in qualifying years required to obtain a full state pension. Similarly I also found that DWP had no automatic requirement to proactively communicate changes about qualifying years, however, Mrs L had sent an email to DWP on 30 June 2016, and said - amongst other things - that she believed that the number of qualifying years she needed had risen from 30 to 35 and that she had not been notified of this. DWP should have taken the opportunity to provide information about changes in qualifying years when they replied to her, but they failed to do so. I recommended that DWP apologise to her and pay her a consolatory payment of £35.

CASE STUDY 13

Mr M complained that The Pension Service failed to investigate and provide a full response to his complaint that he had been given misleading advice about Winter Fuel Payments (WFP). Mr M was eligible for a WFP in the winter of 2015/16, when the DWP sent a letter to him in the summer of 2015, inviting him to make a claim. The letter stated that if you were born on or after 5 January 1953, and that in the qualifying week you received a qualifying benefit, then you should qualify for an automatic WFP. The letter went on to say ‘If you think you will not qualify for an automatic payment and you would like to make a claim, the easiest way to do this is by phone.’ Mr M did not make a claim for WFP until April 2016, which was after the deadline for claims and his claim could not be accepted. Mr M telephoned to complain and despite doing so on three occasions, the Pension Service failed to take his complaint over the telephone and incorrectly told him that he had complaint in writing. He was also incorrectly told to appeal the decision not to accept the late claim.

Mr M subsequently complained that the wording of the letter implied he would not qualify for a WFP if he did not receive benefits, and therefore he had not made a claim. I agreed with that and upheld Mr M’s complaint noting that since his complaint had been accepted by my office, The Pension Service had changed the wording in their letters. I recommended that DWP apologise and make Mr M a consolatory payment of £200.

CASE STUDY 14

Ms N complained that DWP failed to provide her with an appropriate response to the complaints she made regarding the late payment of her Christmas Bonus.

Ms N was in receipt of Income Support, Disability Living Allowance (DLA) and Carer's Allowance (CA). CA and DLA are both qualifying benefits for entitlement to a Christmas Bonus payment. Benefits are placed in a hierarchical order and the team who manages the benefit with the highest ranking position has the responsibility for arranging payment of the Bonus. CA is placed higher than DLA, so when both benefits are in payment the Carers Allowance Unit (CAU) are responsible for making the payment.

Ms N had previously received her Christmas Bonus through the CAU; however in December 2015 her CA claim was suspended pending a retrospective decision about her entitlement so she was not paid her Christmas bonus by CAU that year.

Because Ms N was in receipt of DLA payments at this time, she would still have qualified for the Christmas Bonus which should have been paid by the Disability Living Allowance Unit (DLAU). However, DLAU did not do that as their system showed that she had CA entitlement, which was the higher ranking benefit; they could not see whether a CA claim was in payment or not. Ms N contacted DWP about her Christmas Bonus payment and DLAU issued the Christmas Bonus to her in the following January.

I upheld Ms N's complaint as I found that the CAU complaint responses failed to address her concerns about not receiving the Christmas Bonus payment on time. I recommended that DWP apologise and make her a consolatory payment of £75. I also raised a systemic issue with DWP that there seemed to be no process in place between CAU and DLAU to prevent a similar problem happening again.

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 action and complaints that Debt Management have failed to demonstrate that the debt was owed in the first instance. The complaints we investigated were recorded as being about Debt Management, as they were made at the point that Debt Management began taking action on the outstanding debt. However, in some cases our investigation found that the cause of the delayed recovery action lay with other parts of DWP. Our investigation of Debt Management complaints has on occasion been hindered by a failure to retain records associated with the debt they are seeking to recover, as the following examples illustrate:

CASE STUDY 15

Mrs O complained that DWP delayed recovering an overpayment of Pension Credit after she informed them that her mother had passed away.

Mrs O's mother had been repaying an overpayment before she passed away; Mrs O had been managing her mother's affairs for some time and was aware of that overpayment. When Mrs O contacted DWP's 'Tell Us Once' line to inform them that her mother had passed away she was told that DWP would write to her if there were any arrears or overpayment. Unfortunately an incorrect date of death was recorded on their computer system which prevented the details being passed to Debt Management.

It was only when Debt Management realised the repayment plan had fallen into arrears, some four months after Mrs O's contact, that they became aware of her mother's death. They promptly wrote to Mrs O, as Executor of the estate to recover the remaining balance which stood at around £4,000, but by this time the estate had been settled. While I acknowledged DWP's delay, I did not uphold Mrs O's complaint recognising that she had a responsibility as Executor to identify and settle any debts before finalising the estate. Once Debt Management became aware that Mrs O's mother had passed away they acted promptly in attempting to recover the debt.

CASE STUDY 16

Mr P disputed receiving a crisis loan of approximately £300, said DWP had failed to provide evidence of it being paid to him and therefore disagreed with the recovery action.

DWP were not obliged to retain copies of the original documentation in respect of the loan and this had been appropriately explained to Mr P. I was satisfied that the screen prints sent to Mr P provided sufficient evidence of that loan and I did not uphold Mr P's complaints.

CASE STUDY 17

Mr Q said that Debt Management delayed in contacting him about a Social Fund Budgeting loan for nearly five years and didn't provide a full response to his complaints.

In 2010 Mr Q received a Budgeting Loan of approximately £350 and although the Social Fund team decided deductions would be taken from his pension, they failed to implement this for over four years. While I appreciated the inconvenience this would have caused, Mr Q hadn't questioned why the deductions hadn't started. According to DWP Operational Instructions, there is no time limit for pursuing recovery of a Social Fund Loan and I did not uphold that element of Mr Q's complaint.

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I was extremely impressed with the detail in the report and the work that has obviously gone into investigating the complainant. The staff involved ought to be congratulated on their efforts in achieving the outcome.”

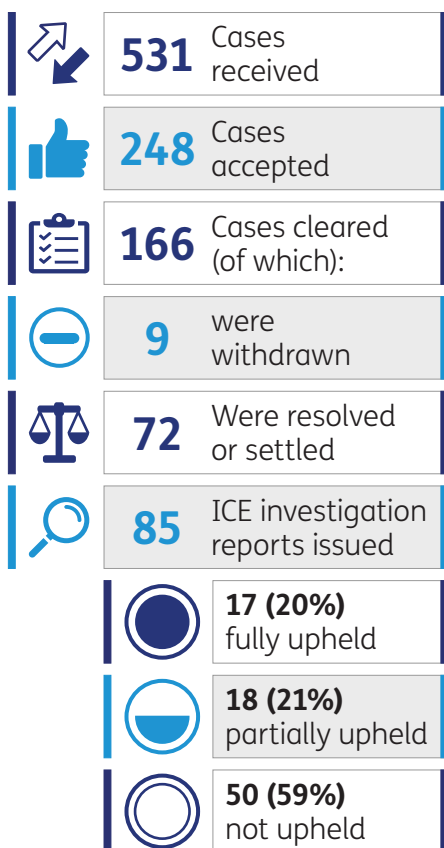
However there were some failings in DWP’s handling of Mr Q’s complaints; they provided confusing and incorrect information and on one occasion failed to signpost him to the next tier of the process, delaying the progression of his complaint. To that extent I upheld Mr Q’s other complaint and recommended DWP apologise and make Mr Q a £25 consolatory payment.

CASE STUDY 18

HMP Prison Service incorrectly informed DWP that Mr R had been in custody for a period during which he had been in receipt of benefit, which prompted DWP to decide that Mr R had been overpaid. DWP delayed in contacting Mr R to pursue him for the overpayment but when they did he disputed the allegation and the recovery action. DWP failed to ask Mr R for any evidence that he was not in prison and made deductions from his benefit for a short time until his claim ended - they then continued to write to him asking for repayment. Five years after Mr R’s dispute, DWP eventually made more enquiries and established that Mr R had not in fact been in prison at the time; despite which the overpayment decision wasn’t revised for a further three years - in the interim they had contacted him again about that overpayment.

DWP went some way to resolving the issue by refunding the deductions made from Mr R’s benefit and making him a £200 consolatory payment. However I was not satisfied that they had fully accounted for the distress their actions caused him over a prolonged period of time. DWP should have done more to investigate Mr R’s concerns at the earliest opportunity and I upheld his complaint and recommended an apology and an additional £150 consolatory payment.

Contracted Provision



The DWP have contracts with private and voluntary sector organisations to deliver some services on their behalf, most notably the Work Programme 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.

The number of complaints we receive about the Work Programme – which is coming to an end - has decreased significantly and those that 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 receipt of an unfavourable benefit entitlement decision from a DWP decision maker or an unsuccessful appeal.

The organisations who deal with contracted provision have been keen to attempt to resolve complaints at the earliest opportunity. On occasion this has resulted in generous offers of financial redress in their attempts to settle the complaint without the need for an investigation report. Where the complainant declines to accept such an offer and the case comes for ICE adjudication it then falls to me to make recommendations for redress, which I do in line with what I would recommend in other similar cases I see – this may be a smaller consolatory payment than the amount declined.

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

WORK PROGRAMME PROVIDERS: CASE STUDY 19

Miss S made several complaints about the way she was treated by two Work Programme Provider staff members – adviser A and adviser B. She said that she had been addressed by an incorrect name, asked inappropriate questions about her personal circumstances and adviser A had leaked her personal information, resulting in her receiving ‘spam’ emails and calls from a third party.

By the time Miss S’s complaints were raised adviser A and B were no longer employed there and could not be interviewed about her allegations. However, Miss S was invited to a meeting with the Provider’s Area Manager to discuss her concerns who explained that they had found no evidence to support her allegations.

Around the same time Miss S stopped attending appointments with the Work Programme Provider whilst her complaint was being investigated. Such appointments are mandatory and failed attendance may result in a sanction being imposed. However, in this case the Provider discussed Miss S’s participation with DWP and agreed that she should be treated as a vulnerable customer and not be ‘mandated’ to attend.

I found that the Work Programme Provider did as much as they could to investigate Miss S’s complaints and put matters right and I did not uphold her complaint.

CASE STUDY 20

Mr T complained that the Work Programme Provider failed to provide adequate support during his time on Work Programme. Overall I found that the Work Programme Provider offered appropriate and adequate support in accordance with the guidance they had in place with Jobcentre Plus. However, I found Mr T was given conflicting and contradictory information about funding for a training course. I also found that the Work Programme Provider had delayed in calling him

for pre-arranged telephone interviews and delayed in responding to his complaints. Prior to my office completing our investigation the Work Programme Provider offered Mr T a payment of £300 to provide redress for any service failures on their part, which he declined. At the end of our investigation I concluded the amount offered exceeded what I would suggest in similar cases and I recommended that the Work Programme Provider apologise to Mr T and make a consolatory payment of £150.

CASE STUDY 21

Mr U was referred to a Provider for a Community Work Placement and made several complaints about them, including their failure to provide adequate training, staff falsifying time sheets about his attendance, failure to pay his travel expenses and failure to investigate a staff complaint. In response to Mr U's complaint my office asked the Work Provider to complete a review of his complaints, which they agreed to do, then accepted that there had been shortcomings in the service provided to him. To address the complaint they offered to apologise to Mr U and make him a payment of £500, to cover both the upset and inconvenience and his travel expenses. Mr U agreed that that this action settled his complaint.

COMPLAINTS ABOUT MEDICAL SERVICES: CASE STUDY 22

Mrs V said that the Medical Services provider failed to take account of her medical conditions and disabilities when assessing her for PIP. Mrs V requested a face to face assessment take place at her home and provided supporting medical evidence. No consideration was given to that request and an appointment was arranged via an automated system, at an assessment centre nearly 40 miles from her home. Following a further request on her behalf a home assessment was arranged only to then be cancelled at short notice without informing Mrs V. I upheld her complaint and recommended that the Medical Services Provider apologise and make her a consolatory payment of £150.

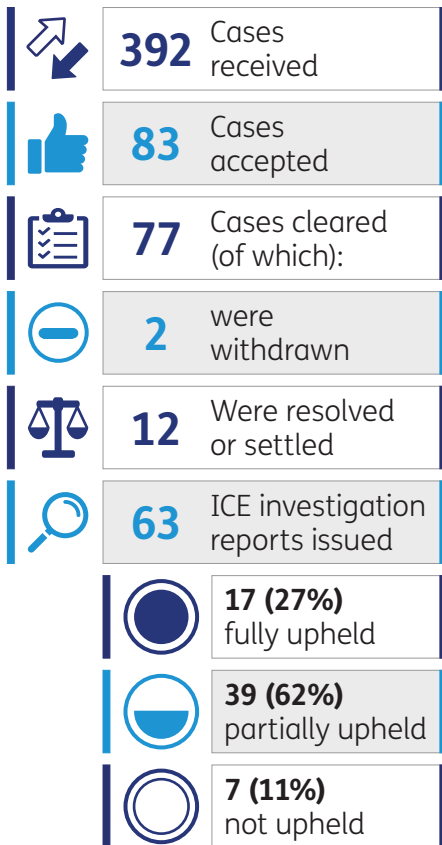
“

I have just read the first cover page as I want to take my time to digest the whole report, but I'm poorly at the moment. However, it is great news and I appreciate the consideration and time that has been put into it. Please thank everyone, including the Independent Case Examiner for all their input.”

CASE STUDY 23

Mr W complained that the Medical Services Provider failed to fully investigate his complaints about the way the assessment was conducted and the assessment report contained inaccurate and false statements. Mr W made two claims for PIP, on both occasions following a face to face assessment DWP decided he was not entitled to PIP. Mr W disputed the decisions and subsequently appealed resulting in no change to the decisions. Then twelve months later he complained about the assessments completed by the Medical Services Provider. The Medical Service Provider was unable to investigate Mr W's allegations that the HCP had made false statements and when the complaint was referred to my office we explained that because the two PIP assessments were not audio recorded, it was impossible for my office as a third party to say exactly what was said or not said at them. Furthermore we explained that we could not change the assessment reports, nor could we get involved in the decisions that DWP had made on his two PIP claims. However, in order to try and address his complaint the Medical Services Provider offered apologies and a payment of £250 to recognise errors and delays in handling his initial complaint which Mr W agreed settled his complaint.

Child Maintenance Service



The Child Maintenance Service (CMS) was introduced in November 2013 to replace the Child Support Agency and carries out similar work. They are responsible for calculating how much maintenance should be paid for the financial support of any child whose parents do not live together and can also collect that maintenance. However, fees are charged to both parents where CMS' collect and pay service is subsequently used.

The DWP has a corporate complaint definition, which is defined as any expression of dissatisfaction about the service provided which is not resolved by operational staff as normal business. For its part, CMS has established a process known as 'the dissatisfaction process' for dealing with any initial expressions of dissatisfaction from its customers. This process is intended to identify and address any issues of concern promptly and avoid the need for the customer to have to register a complaint.

Whilst any attempt to resolve dissatisfaction at the earliest opportunity is commendable, in those cases where this cannot be achieved the customer should be promptly signposted to the formal complaints process. The cases we have examined this year show that in some instances, CMS has instead made repeated attempts to re-engage with customers as part of its dissatisfaction process, rather than registering a complaint. I have highlighted this to CMS on two occasions during the reporting year, and have been offered assurances that this practice is an unintended consequence of well intentioned efforts to address the issues of concern. We will be keeping a watching brief on this issue.

CASE STUDY 24

Ms X telephoned CMS to make a complaint about their service (she believed that CMS had incorrectly calculated the non-resident parent's income) and although CMS recorded that this was dealt with as a dissatisfaction, no response was sent to her. Ms X had to call again, and it was not until more than five weeks after the initial issue was raised that CMS registered the complaint with their first tier. A response was provided almost a month later, although CMS did not include any details about how the complaint could be escalated. CMS' failure to adhere to their complaint policy meant that progression of the complaint was prolonged more than it should have been. I upheld Ms X's complaint and recommended that CMS pay her a consolatory payment of £50.00.

CASE STUDY 25

Mr Y's complaint to CMS, which he set out in an email was not registered as a complaint, with the result that he had to contact CMS and my office on several occasions during an eight month period, in an attempt to have his concerns addressed.

Mr Y complained to my office that CMS had failed to reply to a complaint he had sent them. We raised this with CMS and, although they said they would provide Mr Y with a complaint response, they did not do so. CMS' failure to treat Mr Y's continued expressions of dissatisfaction as complaints meant that he had to wait over nine months to receive a final complaint response, which enabled him to escalate his concerns to my office. I recommended that CMS apologise and award him a consolatory payment.

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 stopped in November 2013 and are now made through CMS. However, the Agency still administers some legacy cases and we continue to accept complaints about them.

Complaints we have received about the Agency during this reporting period continue, on the whole, to be extremely complex, cover a number of years and require us to review large amounts of evidence from the Agency and the complainant. Many of these cases span several different Child Support schemes and can include arrears that were offset only to be incorrectly included years later leading to incorrect arrears balances being provided to parents. We continue to uphold or partially uphold the majority of complaints that we investigate.

This year we saw several disputed paternity cases where the Agency had not followed the correct guidance when paternity was initially disputed by the non resident parent, with result that they were treated as the child’s father for a number of years prior to DNA evidence proving otherwise. We also saw cases where the Agency failed to call customers back. The following examples demonstrate.

CASE STUDY 26

Mr Z complained that despite disputing paternity, the Agency had delayed ten years before arranging for a DNA test to be completed, and when he was found to not be the child’s father the Agency failed to reimburse the maintenance payments that he had made in that time.

Mr Z disputed parentage at the very outset of his claim. The Agency wrote to him, and said he would need to provide proof and that they could offer a DNA test. Mr Z telephoned the Agency promptly and while there is no record, it was most likely a discussion about that.

“

I'm especially grateful to your staff for contacting me, trying to understand my concerns and most importantly, treating me with dignity and respect on every occasion.”

However, the Agency decided to presume parentage as Mr Z was married to the child's mother and was named on the child's birth certificate. Prior to the initial maintenance liability being calculated, Mr Z wrote to the Agency and again denied paternity of the qualifying child asking for a DNA test; in doing so he said he was away on active military service. Because of this, his letter was not received by the Agency until after the liability was calculated, and as such was treated differently than if it had been received before the initial maintenance assessment was calculated – this point was critical to my findings.

A DNA test was not arranged, and for the next ten years Mr Z paid maintenance through a deduction from his military salary. After Mr Z contacted the Agency ten years later in 2014, a DNA test was arranged which established that he was not the child's father, and the case was closed. At the point Mr Z brought his complaint to my office, the Agency had reimbursed the maintenance from the date they accepted he had disputed paternity in 2014. I took a different view and found that Mr Z had made a pre-maintenance calculation request for a DNA test, albeit that its arrival had been delayed until after the calculation was actually made and the Agency should have arranged for a test to have been completed ten years before.

Whilst Mr Z was serving in Her Majesty's Forces overseas, regulations provided for this to be completed by a Senior Medical Officer, action which was not considered by the Agency. I recommended that the Agency reimburse the maintenance paid during that ten year period amounting to £28,000 and make a £250 consolatory payment.

CASE STUDY 27

Mr AA complained that the Agency failed to follow the correct procedures when establishing if he was the father of the qualifying child. Mr AA accepted paternity when the Agency first contacted him in July 2010, and the Agency calculated his maintenance liability. It was only after a Deduction from Earnings Order (DEO) had been imposed to collect payments directly from his wages, that Mr AA disputed paternity.

When a non-resident parent disputes parentage after a maintenance calculation has been put in place, the onus is on them to provide evidence that they are not the child's biological father. The Agency will only offer a DNA test if the NRP provides evidence to cast doubt on parentage and the PWC agrees there may be some doubt. We found no record that the Agency asked Mr AA whether he had information which had made him doubt paternity, nor was the PWC contacted.

Mr AA claimed that he was told by the Agency that it was his responsibility to prove non-parentage through HMCTS. More than five years passed and maintenance of almost £6,000.00 was deducted from Mr AA's wages, before Mr AA instigated DNA testing which proved that he was not the child's biological father. The Agency case was promptly closed but the maintenance he had paid was not reimbursed to him.

In response to Mr AA's complaint, we asked the Agency to reconsider the decision not to reimburse the maintenance paid on the grounds that they had failed to ask Mr AA about his grounds to dispute paternity, and nor had they contacted the parent with care as they should have done. In response, they agreed to reimburse all the maintenance he had paid amounting to £5,954.76. With this payment, Mr AA agreed that his complaint was settled.

CASE STUDY 28

Mrs BB complained that although the Agency agreed in May 2013 to offset arrears she owed to the other parent against arrears she was owed, the Agency had delayed in completing that for three years, as a result of which she was provided with conflicting arrears balances. Mrs BB applied for maintenance and a counter claim was made against her by the other parent (Mr H) three months later. Over the next six years the liabilities in both cases were reviewed on numerous occasions to reflect various changes to both parent's circumstances, and by 2013 the Agency established that Mrs BB was owed arrears (as a PWC) of £1,421.97, and owed arrears (as a NRP) to Mr H of £3,830.74 - the case was referred to consider if the arrears could be offset.

“

I'll always be grateful that you investigated my complaint and for the professionalism extended to me at all times.”

Although the offsetting team decided it was not appropriate, the Agency wrote to Mrs BB and told her that the arrears she was owed had been offset and a new payment schedule was sent to her which she complied with.

Mrs BB's cases as a PWC and an NRP closed two years later. Soon after she was told that she owed arrears of approximately £730.00, which she queried and was then told that the balance was more than £2,100.00 (the offsetting had been overlooked.) The Agency then acknowledged that although they had notionally offset the arrears, they had not completed the process on their computer system. When that was done her arrears were around £550.00.

Although the Agency had apologised for their error and awarded Mrs BB a consolatory payment of £50.00 we identified a further error in the Agency's accounts, and that final arrears figure was incorrect. I upheld Mrs BB's complaints, and recommended that in addition to corrective action, she receive a further consolatory payment of £100.00.

CASE STUDY 29

Mrs CC complained amongst other matters that the Agency had failed to honour call-back requests arranged with her since August 2012. I found evidence of three occasions in 2014 when Mrs CC had telephoned and been promised a call back and that didn't happen. Although the Agency had apologised and made her a consolatory payment of £150, I recommended that they pay her an additional £100 for that and other service failures.

THE ICE OFFICE

Standards of Service

Our published service standards explain how long it should take us to deal with complaints.

Details of our performance during the 2017/18 reporting year are below:



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 301 complaints - 158 regarding the service we provided, 142 about the outcome of an ICE investigation and 1 combined complaint about service and outcome. This represents 5.1% of the 5845 DWP cases received by the Office during the reporting year. In 46 of those (22 service complaints and 24 outcome complaints) 301 complaints, we upheld aspects of the complaint.

We are proactive in identifying learning from complaints about our service, which is used to inform service improvements where appropriate.

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 33 investigations concerning the ICE Office, of which 3 were partially upheld. In 2 of those cases we accepted the recommendations for redress made by the Ombudsman's Office and welcomed their observations as learning opportunities, as we encourage bodies within our jurisdiction to do. In the third case, we requested a review of the finding, the outcome of which has yet to be concluded.

*PHSO's office has yet to publish their data for the 17/18 reporting year.

Continuous Improvement

During the reporting year the ICE Office achieved:

- **Customer Service Excellence** reaccreditation for the eighth year.
- **British Standards Institute (BSI)** reaccreditation for the 12th 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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