



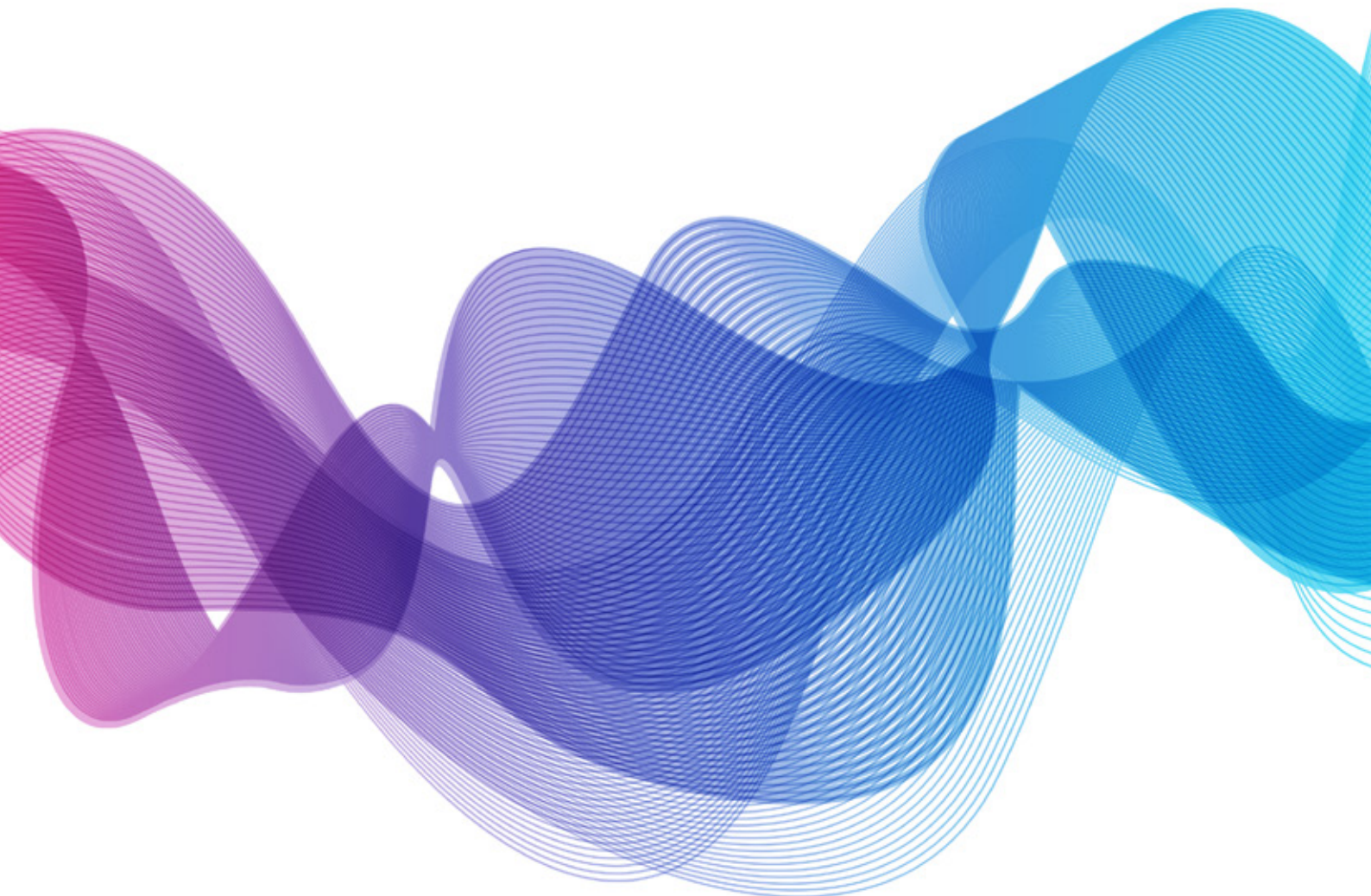
Independent
Case Examiner



INDEPENDENT CASE EXAMINER
For the Department for Work and Pensions

Annual Report

1 April 2019 - 31 March 2020



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 and Introduction



I am pleased to share a summary of my work this year, including short case studies to illustrate the kinds of issues my office has seen in 2019/20.

I focused last year on DWP's handling of vulnerability, which is an enduring challenge; this year I am focusing on Universal Credit (UC) and the range of issues I am seeing in those cases.

I first saw cases arising from UC in 2015/16 and commented in my report last year that we are receiving more complaints about it, as the number of people claiming that benefit grows. This year, as the UC roll out continues, it has constituted 32% of the cases for Working Age benefit customers that we have either resolved, settled or for whom reports have been completed, and included complaints with a wide range of underpinning issues, including housing benefit and tax credits which weren't managed by DWP under the old 'legacy' benefits that UC has replaced. I have included a larger number of UC case examples in my report this year to give a flavour of the cases I am seeing.

Some of the complaints I see arise quite literally from a customer's move to UC, including misadvice and misdirection clearly caused simply by DWP staff being unfamiliar with the provisions of UC and how it works. This has included customers being advised to claim UC to their detriment, when staying on tax credits would have been better for them, and other errors in transferring customers who have been on ESA to UC with the unintended loss of their work capability premiums.

Other errors in administering UC have led to overpayments, and the approach to recovery of overpayments arising from official error under UC is again different. In the past these overpayments were generally written off, to a customer's advantage, whilst under UC such overpayments must be collected. Whilst DWP's approach to carrying this through has been amended during the course of the year, it does still mean that I see customers who are effectively 'in debt' to DWP through no fault of their own, and as such the impact of such overpayment errors is now much greater from my perspective than before.

I have also seen a number of complaints from landlords about administrative failures in making payments for the UC housing cost element directly to them. Of note in these cases, the rental contract is between the tenant and the landlord, so it is the tenant who always remains responsible for their rent, although DWP administrative errors affecting this can be recognised.

Whilst UC cases are rising, a large proportion of my workload is on other matters. The volume of cases for pension age customers is relatively small but there are important cases in that; three of my systemic recommendations (see below) this year related to this area. I also review cases about disability benefits and I continue to see those arising from the transition from DLA to PIP, relating to the health assessments with DWP's provider companies. I also see Child Maintenance complaints, including many with issues arising from the transition from the old Child Support Agency administered schemes to the current scheme managed by Child Maintenance Services. I have included examples from all these areas to illustrate the kinds of concerns I review.

As well as adjudicating on individual cases to try to resolve them for customers, I also have a role in feeding back my observations from the cases I see to DWP. I do this in various ways beyond this report, including written systemic recommendations arising from cases in which I see an issue (or a near miss) that could happen again, and also contributing my observations on themes from my cases. I made 14 systemic recommendations this year and I monitor the responses from the Department to each one I make. This year, following ICE systemic recommendations, we have been told of numerous changes, including: creating a vulnerable customers strategy proposal; changes to operational instructions and guidance; training; and

reviews of benefit claim packs, decision notifications and call scripts.

My longstanding concern about the delay in cases coming into investigation in the ICE office was addressed this year by a DWP work study review, which has in turn led to the commitment of additional staff to the ICE office. I am optimistic that the organisational changes that the ICE office team have already been put in place, augmented by additional staff, will help us to shorten the time it takes to resolve concerns for our customers.

I write this, though, as my office's working practices have been changed in response to the Covid-19 pandemic, as has been the case for DWP and for all our customers. I am, as ever, grateful to and proud of the ICE office staff - they have kept working throughout this crisis wherever and however possible. Some volunteered to help DWP deal with the urgent need to process new claims and others have doubled down at home or in our office, maintaining focus on our case work and working to recruit and train new colleagues. We remain committed to the quality of our work; that PHSO find merit in so very few of the complaints made to them about ICE decisions is due in no small part to my team's diligence and energy in getting to the heart of what happened in all the cases that we see. I am proud of the work that we do and always pleased when feedback from customers notes the ICE team's skill, commitment and kindness. Again, a sincere thanks for reading my report; I welcome any feedback you may have.



Joanna Wallace
Independent Case Examiner

Reporting Period

The data and figures included in this report are based on casework in the twelve month period between 1 April 2019 and 31 March 2020.

Our approach to casework

When we get a new complaint referral we initially establish if we can accept the complaint for examination, which means the complaint must be about maladministration (service failure) and the complainant must have had a final response to their complaint from the relevant business within the last six months.

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

When we accept a complaint for examination we see if there is opportunity 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”. This generally represents a quicker and more satisfactory result for both.

Settled cases

If we can't resolve the complaint, the evidence will be requested and the case will await allocation to an Investigation Case Manager. Cases are dealt with by dedicated teams and are usually brought into investigation in strict date order. The majority of the complaints we accept for examination are complex and require a full investigation.

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.



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

ICE Report

If we are unable to settle the complaint, the Independent Case Examiner will adjudicate on its merits and issue a letter or report. 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.



Referrals to the ICE Office at a glance

	Reporting year	2019/20
	Complaints received	3,835*
	Complaints accepted for examination	1,132
	Total case clearances (of which):	1,269
	Withdrawn	41
	Resolved	176
	Settled	228
	ICE investigation reports	824
	Of those complaints investigated % partially upheld	37% (304)
	Of those complaints investigated % of fully upheld	18% (152)
	*Of those complaints investigated % of cases not upheld**	45% (368)

*The received cases include 142 cases which failed to specify which benefit strand they wanted to complain about.

**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 or poor complaint handling in them, and others which highlighted opportunities for learning or wider systemic service improvements.

Working Age Benefits

 **1,160** Cases received
506 related to UC


 **320** Cases accepted
168 related to UC


 **418** Cases cleared
135 related to UC,
of which:


 **14** Withdrawn
5 related to UC

 **109** Resolved or settled
42 related to UC

 **295** ICE investigation
reports issued
88 related to UC

 **70 (24%)**
Fully upheld
23 (26%) UC

 **131 (44%)**
Partially upheld
42 (48%) UC

 **94 (32%)**
Not upheld
23 (26%) UC

Working Age benefits are administered by Jobcentre Plus and are primarily claimed by individuals who are trying to find work, or who are of working age but unable to do so due to illness or incapacity. During the year, more than half of the Working Age complaints we accepted were from UC claimants; including those from third parties (landlords) who had been affected by UC service issues in respect of the payment of housing costs.

UC was introduced from April 2013 starting with a small number of locations across England, Scotland and Wales. Since then, UC has been rolled out across Great Britain. The remaining customers on the preceding (or 'legacy' benefits) will then move to UC between July 2019 and March 2022.

UC replaced a number of legacy benefits, not all of which were administered by DWP, including Child Tax Credit, Working Tax Credit, Housing Benefit and Income Related Employment and Support Allowance (ESA). The examples we have selected give a flavour of how problems can occur when claimants move from these legacy benefits to UC, showing where things can go wrong during this transition, including overpayments and allegations of misadvice. We have also included examples of other problems we commonly see such as failure to respond to entries made in the UC journal.

Case study 1: UC misadvice and delayed payments

Mrs A complained that DWP failed to fully consider her circumstances when advising her to claim UC and delayed in paying her UC. Mrs A's claim for JSA ended when she secured temporary employment and when that ended she claimed UC on the advice of her Work Coach. At that time the Jobcentre where she claimed were operating UC Live service and of significance to Mrs A there was a flaw in the claim process, meaning she was not asked an important question as to

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Thank you all; Joanna and everyone at ICE who have been professional, considerate, balanced and kind at all times and at every communication. You are a credit to yourselves and the department.”

whether she had a non-dependent child in her household. Had it been identified that Mrs A had a son in the Armed Forces who lived with her, the UC claim would not have continued and she would have been invited to claim JSA instead. That didn't happen and the UC claim continued but was subject to delays and service failures and as a result Mrs A was underpaid UC for three months. Mrs A complained to DWP about that and they apologised for the delays in paying her and awarded a consolatory payment of £100. However, in investigating the complaint I found that DWP had ignored Mrs A's complaint about being misadvised to claim UC in the first place and that she had ended up in receipt of a benefit that she was not entitled to at all; had she claimed JSA she would likely not have experienced the same delays. I also found that DWP delayed in responding to her request for backdating. I recommended that DWP pay her a further consolatory payment of £150.

Case study 2: Misadvice leading to loss of Housing Element

Ms B complained that DWP had provided her with conflicting and incorrect information and advice regarding her entitlement to Housing Benefit. Following the disallowance of her ESA claim, Ms B appealed that and claimed UC – once payment of UC started she was no longer able to claim Housing Benefit again, even if she closed her claim for UC at a later date and reclaimed another benefit. Ms B won her appeal and DWP incorrectly gave her the choice of whether she wanted to be paid ESA or UC; as Ms B had already claimed UC her payments of that benefit should have continued (with an additional component to reflect that she was unfit for work) and she would have been paid Housing Element.

Ms B opted to close her UC claim and reopen her ESA claim and DWP failed to explain that having already claimed UC she would no longer be able to claim Housing Benefit again.

Although she later reclaimed UC, by that time she had lost out on any housing payments for the four months she was receiving ESA,

amounting to more than £1,200. DWP took no action to put this right despite Ms B complaining to them, and she continued to receive UC but without the Housing Element.

I upheld Ms B's complaint about this and recommended that DWP apologise to her, make a consolatory payment, pay her the Housing Element of her UC and an appropriate payment to put right the housing payments she had been without.

Case study 3: Direct payment to landlord under Universal Credit

Mr C said that DWP had delayed in progressing his request to have his tenant's housing cost element of UC paid directly to him instead of his tenant, and failed to consider his request for reimbursement for the financial loss of rent arrears that had accrued due to this not being implemented.

It was clear that DWP did delay in taking the correct action to progress the request; however I noted that DWP had already apologised for this error and had awarded a consolatory payment of £100, which I considered was reasonable redress. Despite this delay, I did not conclude that Mr C had incurred a financial loss, as the tenant remained liable for the rent arrears, and the opportunity to recover them was not conclusively lost. I did not uphold Mr C's complaint.

Overpayments

Overpayments arising from official error are routinely recovered under UC, though they weren't under many legacy benefits. The policy of recovery means that the impact of such errors in the cases that I see can be markedly increased for customers. Given the complexity of UC calculations, a claimant may well receive monies they are unaware have been paid in error, and if a mistake goes uncorrected for a significant period, the claimant faces the prospect of repayments being recovered from their benefit over an extended period, which may place them in financial difficulty.

DWP senior managers have told me that they are focusing on reducing official errors and endeavour to ensure that the recovery of any such overpayments is managed in a sustainable way – the amounts that can be deducted for the recovery of an overpayment are set out in legislation, with the maximum for an overpayment arising through official error being 15% of the claimant’s standard allowance, rising to 25% if they are in receipt of Universal Credit and in work.

Case study 4: UC claim closure and incorrect overpayment recovery

Although this was not a specific complaint that Mr D brought to my office, our investigation highlighted an important issue. Following the incorrect closure of a previous UC claim, Mr D made a further claim to UC in July 2016, and was told in January 2017 that he had been overpaid more than £800 because of Housing Benefit that had been paid, when he had also been receiving the housing cost element of UC. That overpayment was subsequently recovered in full from his benefit payments.

DWP have been unable to confirm how they reached the overpayment decision or whether Housing Benefit had actually been in payment. In view of this, DWP told my office that they believe the overpayment was incorrect and should be revised to nil.

I recommended that DWP contact Mr D and let him know how they will repay him the overpayment that was incorrectly recouped from him. I also recommended that DWP apologise to him for this, along with a number of other service failures and make a total consolatory payment of £500.



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I feel somewhat vindicated in the knowledge that you have identified failings on behalf of the DWP. It is hoped that lessons can be learned to prevent a recurrence of these events. I am encouraged to read that these failings may be highlighted to departmental Management going forward.”

Case study 5: Tax Credits overpayment

Ms E made a joint claim to UC with her partner and complained, amongst other things, that DWP delayed in arranging an initial appointment for her resulting in a Tax Credit overpayment and in informing HMRC that her Tax Credits should stop.

Our investigation found that Ms E's partner had provided details of his identity online and arranged an initial evidence-gathering appointment to verify his identity. As it was a joint claim Ms E was also required to verify her identity online before an initial appointment could be arranged to confirm the details she had provided. Ms E delayed in doing this, which in turn delayed the appointment. DWP do not issue a notification to HMRC until a decision has been made on UC entitlement, and because of this overpayments of Tax Credits can occur. We found that DWP had informed HMRC of Ms E's UC entitlement at the earliest opportunity – once they had received all the information they needed from Ms E and her partner. I did not uphold these elements of Ms E's complaint.

Case study 6: Ongoing loss of statutory entitlement to Tax Credits

Ms F complained that DWP had provided her with conflicting information since October 2018 about which benefit she could claim. Ms F made a claim to UC – she told my office that she was advised to do so by DWP so that her National Insurance Contributions could be paid. However, at the time of her claim Ms F was receiving Carers Allowance which paid her contributions, so it was not necessary for her to claim another benefit solely for this purpose. Importantly, she was also receiving Child Tax Credit at that time, and once a person makes a claim to UC, they are no longer eligible to receive or reclaim Child Tax Credit.

There was limited evidence about what Ms F had said to DWP when she claimed UC, however I was satisfied that she had only approached DWP to claim this benefit because of the advice provided

regarding her National Insurance Credits. I found that although this advice was well intentioned, it was misplaced.

I upheld Ms F's complaint, finding that DWP acted prematurely in processing a UC claim without addressing the key point of her enquiry – the perceived lack of NI Credits. The UC claim led to the closure of her Tax Credits claim to her financial detriment. I therefore recommended that DWP apologise to Ms F, make a consolatory payment of £500 and award her ongoing loss of statutory entitlement to Tax Credits from the point at which her Tax Credit claim ended, to the point her child reaches 18, or the point at which her case would naturally have migrated from Tax Credits to UC.

Case study 7: UC payments sanctioned whilst claimant was providing medical certificates

Mr G complained that DWP took inappropriate action to suspend his UC on three occasions.

Our investigation found that numerous sanctions were imposed on Mr G's UC claim, which on the whole, appeared to be reasonable, due to Mr G's reluctance to comply with mandatory activities and the validity of which are anyway not in my remit. However, we did have concerns about how his claim was managed while he was sick and providing DWP with medical certificates. We were unable to find any concrete evidence that DWP took his illness into account in deciding the work related activities he was required to undertake. Furthermore, after a claimant has been ill for more than 28 days, DWP should make a referral for a Work Capability Assessment - it took DWP four months to make this referral. I upheld this element of Mr G's complaint and recommended that DWP apologise to him and make a consolatory payment of £250, for this and other service failures we identified.

Case study 8: Claimant required to claim UC following disallowance of ESA

Ms H complained that DWP acted inappropriately when they stopped her ESA and delayed in dealing with her complaints about this.

Ms H's ESA was disallowed for failing to attend a mandatory appointment and she subsequently appealed this decision. Once an appeal has been accepted DWP can consider reinstating ESA at the assessment rate pending the outcome of the appeal; however this is not the case where it has been disallowed due to failure to attend. As such, Ms H claimed UC while waiting for her appeal to be heard, however, once a claimant has moved to this benefit they are no longer able to go back on their previous benefit. When Ms H later won her appeal against the disallowance, she was unable therefore to go back to receiving ESA.

We found that DWP had delayed in dealing with Ms H's complaint, however they acknowledged this, apologised to her and made her a consolatory payment of £50. They also explained to her why she was no longer able to receive ESA. I found Ms H's complaints to be justified as the action DWP had taken to address her complaint was appropriate.










Case study 9: UC identity check, complaint resolved

Mr I complained that DWP had caused him unnecessary disruption when he changed bank account, insisting that he attend an appointment at the Jobcentre to confirm his bank details, when his UC had already been paid into his new account before the appointment. He also complained that they hadn't confirmed his identity or reimbursed his travel costs for the unnecessary appointment.

We found that even though a payment of benefit had been made into his bank account, Mr I was still required to attend the Jobcentre to confirm his new account details and identity. However, when he attended the Jobcentre, DWP did not complete all the necessary checks they should have done.

We resolved Mr I's complaint to his satisfaction after DWP agreed to apologise to him, refund his travel costs and make him a consolatory payment of £25 for the inconvenience caused.

Disability Benefits

	299	Cases received
	71	Cases accepted
	94	Cases cleared, of which:
	2	Withdrawn
	25	Resolved or settled
	67	ICE investigation reports issued
	13 (19%)	Fully upheld
	30 (45%)	Partially upheld
	24 (36%)	Not upheld

DWP are responsible for paying benefits to those who have a disability or long term illness. The majority of cases I have seen this year are from Personal Independence Payment (PIP) claimants and in the main were about the PIP assessment process and how medical evidence provided to support a claim had been interpreted. My office has also received complaints about PIP payments, and delays and errors in communicating decisions and the case examples I have chosen reflect that.

Case study 10: Error in PIP letter – Resolution

Ms J complained that DWP recorded incorrect information in the PIP notification issued in 2019. The notifications said that she had difficulties with reading and understanding signs, symbols and words and engaging with other people face to face. DWP accepted that there was a mistake in their letter and it should have said that she did not need any help with those things. Following representations by my office DWP agreed to apologise and make her a consolatory payment of £50, and she agreed this resolved her complaint.

Case study 11: PIP suspension error – Settlement

Mr K complained that DWP took inappropriate action in stopping his PIP payments after he notified them that he was in hospital. Following an investigation by my office DWP agreed that the suspension of Mr K's PIP claim in November 2018 was inappropriate, as his hospital admission was for two nights only. DWP also failed to tell Mr K about the suspension and delayed in lifting it until February 2019. Prior to the complaint being accepted by my office DWP had apologised and made Mr K a consolatory payment of £50 but following representations by my office they agreed to pay him an additional consolatory payment of £50. Mr K agreed that this settled his complaint.

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I would like to finish by offering my gratitude to ICE. Throughout my dealings I have received exceptional service. I understand the backlog & delays are in no way a reflection of your work but a consequence of demand outstripping assets... I found this to be exceptional service and I wish to thank both the team and also the individual (my apologies for not recalling his name) for this magnificent consideration.”

Case study 12: Evidence considered in PIP claim

Ms L had been in receipt of the higher rate mobility and care component of Disability Living Allowance (DLA) when she was invited to claim PIP in 2016 as part of the rolling transfer of existing DLA claims to PIP. Ms L returned a completed PIP claim in November 2016 on which she listed 25 medical conditions and provided 28 supporting documents, following which she attended a face to face assessment with Atos who completed an assessment report.

The information was forwarded to a PIP Case Manager who in January 2017 decided that Ms L was entitled to the standard rate of daily living and mobility. Ms L requested a mandatory reconsideration of that decision but it was not changed. She also made a complaint about the accuracy of the Atos report and that DWP had not considered all of the medical evidence she had provided and had failed to consider evidence from her DLA claim. In investigating her complaint, I found that DWP Case Managers are not routinely required to look at evidence from earlier claims unless requested to do so by the claimant and there was no evidence that Ms L had requested that. I also found that DWP had considered the medical evidence she had provided and whilst it was her view that the Atos report was not fit for purpose, the DWP Case Manager did not share her view and had appropriately exercised their discretion in considering there was sufficient information available to inform their decision. I did not uphold Ms L's complaint.

Retirement Services

	261	Cases received
	35	Cases accepted
	69	Cases cleared, of which:
	2	Withdrawn
	17	Resolved or settled
	50	ICE investigation reports issued
	14 (28%)	Fully upheld
	15 (30%)	Partially upheld
	21 (42%)	Not upheld

This section reports on cases I have seen arising from the range of benefits DWP administers for those approaching or at State Pension age. During the reporting year we saw a few notable cases involving large overpayments of Pension Credit and the way in which this was communicated to the pensioner, and some cases regarding payments being made into incorrect bank accounts.

Case study 13: Pension Credit overpayment

Ms M complained that DWP took inappropriate action to start recovery of a Pension Credit overpayment, and failed to give full consideration to her request for financial redress to cover the legal costs she had to pay to progress her complaint.

DWP incorrectly pursued Ms M for an overpayment of almost £20K – they failed to follow their safeguarding procedures for making her aware of the overpayment and incorrectly deducted six payments from her State Pension in respect of it. DWP had an opportunity to put matters right but failed to do so until six months later, when they stopped deductions and reimbursed what they had taken from her. Although DWP went some way to acknowledge they got things wrong by apologising and making her a consolatory payment of £150, I wasn't content that they fully recognised the impact their failures had on her.

I found that Ms M had tried to resolve matters herself when she was first notified of the overpayment – she gave DWP ample time to correct their mistakes, despite which they started recovery action. Citizen's Advice also attempted to resolve matters on her behalf without success, so I could see why Ms M thought it necessary to use a solicitor.

I upheld Ms M's complaints and I recommended that DWP apologise, make her an additional consolatory payment of £100 and reimburse her solicitor's fees.

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It is evident that my complaint has been afforded the highest level of both care and dedication, which is demonstrated by the comprehensive response I have received. Please allow me to extend my heartfelt thanks to all individuals involved in this matter. Whilst your efforts cannot undo the considerable stress and anxiety this situation has caused to me, I assure you, it is very much appreciated.”

I also raised this matter with DWP senior managers as an example of a case in which procedures that are in place to safeguard vulnerable customers, were repeatedly ignored. I asked them to consider the robustness of these processes, particularly where a large overpayment has occurred – DWP have confirmed they are looking into this.

Case study 14: State Pension paid into incorrect bank account










Ms N complained that DWP had failed to help her recover State Pension payments that were paid into the wrong bank account, after she inadvertently provided them with incorrect bank details.

When Ms N made a claim to State Pension she provided incorrect bank details, however she failed to tell DWP this until six months later when she said that she hadn't received any pension payments. Our investigation found that in a situation like this, the onus is on the customer to liaise with the bank directly – it is not the responsibility of DWP to replace the funds.

Ms N contacted her bank and they requested that DWP register a Credit Payment Request (CPR) with them, which she asked them to do as soon as possible. DWP didn't do this, despite further requests, and it wasn't until my office became involved that DWP eventually registered a CPR, some two years after this had first been requested.

To the extent that DWP delayed in taking this action I upheld Ms N's complaint, and I recommended that DWP apologise to her and make her a consolatory payment of £500 for this and other service failures. However, in doing so I acknowledged that the root cause of the difficulties she experienced stemmed from her own error in providing incorrect bank details. I also explained to Ms N that even if the CPR had been registered at the outset there was no guarantee that her bank would have had any more success in recovering her payments.

Debt Management

	93	Cases received
	25	Cases accepted
	27	Cases cleared, of which:
	0	Withdrawn
	9	Resolved or settled
	18	ICE investigation reports issued
	3 (17%)	Fully upheld
	4 (22%)	Partially upheld
	11 (61%)	Not upheld

Debt Management is the part of DWP responsible for managing and recovering claimant debt, including benefit overpayments and Social Fund loans. Following the rollout of UC, Debt Management is also responsible for recovering overpayments of tax credits, that have arisen after a customer has claimed UC.

Complaints about Debt Management were low again this year. Of the complaints examined during this period, I have continued to see historic complaints about social fund loans, where no action was taken to recover them until years after they were taken, which often leads to a dispute about the existence of the loan itself or whether it has previously been recovered. I have also seen several complaints about recovery of overpayments where Debt Management have either increased the rate at which the repayment is being recovered, changed the method of repayment to Deduction from Earnings Attachment or been asked to reduce their repayments but taken no action.

Case study 15: Historic social fund loan

Mr O complained that DWP failed to provide evidence that a social fund loan was paid to him in 1991. DWP records showed that a social fund loan application was made in Mr O's name in 1991. DWP provided my office with the loan application form, and a signed declaration with Mr O's signature and records of a giro cheque sent to Mr O's address. Mr O stopped claiming benefit in 1991 and other than some letters sent to him in 1993 and 1994 no action was taken to recover the loan, though it still remained recoverable.

In November 2014 recovery of the loan was passed to a private debt collection agency - this prompted Mr O to dispute the existence of the loan and in June 2015 DWP sent him copies of the evidence that they held. Mr O disputed that the signature on the signed declaration

was his and said the claim was fraudulent. Mr O was asked to provide evidence to support his allegation but was unable to do so, and the loan was fully recovered. I did not uphold the complaint as I was satisfied that DWP had provided sufficient evidence that Mr O applied for the loan and he was given the opportunity to provide evidence to dispute it.

Case study 16: Deduction from Earnings Attachment issued and increased repayment

Ms P approached my office with several complaints about the actions of Debt Management in recovering an overpayment of Carer's Allowance of nearly £7,000 from 2010. Ms P had agreed to a repayment plan of £40 a month which she began paying by Direct Debit in 2011.

Every year Debt Management reviewed Ms P's repayment agreement and as part of that they contacted her to ask her to increase her repayments. When she refused no further action was taken and she continued to pay £40 a month. However in 2017 Ms P agreed to increase her repayments to £100 a month, but then changed her mind and wanted to continue paying £40 a month. In the meantime Debt Management cancelled her Direct Debit and sent her a Letter Before Action warning her about a Direct Earnings Attachment. Ms P contacted them about that, but despite apologising that the Letter Before Action was inappropriate they still went ahead and issued the attachment.

I upheld some of Ms P's complaints and recommended a consolatory of £150 be paid to her for the incorrect issue of the Direct Earnings Attachment and for giving her incorrect and misleading advice during telephone calls, and a failure to investigate some of her complaints.










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The simple statement that you uphold my complaint has given me a great deal of relief, it is a step towards finalising the whole, if you'll pardon the word, ordeal. I felt that my case was just & valid but to hear someone with the expertise and knowledge plus access to the relevant data confirm it is a great relief to my mental state.”

Case study 17: Repayments, complaint resolved

Mr Q complained that Debt Management had continued to take deductions from his UC in excess of those agreed. Mr Q had an agreement in place with Debt Management that they would recover a Tax Credit overpayment from him at the rate of £10 a month, until April 2020. On an unknown date Debt Management deducted an amount greater than that from his UC. Debt Management apologised in response to his complaint and offered to consider a consolatory payment but he heard nothing further about the matter. Following representations made by my office Debt Management awarded him a consolatory payment of £85. Mr Q agreed that this resolved his complaint.

Contracted Provision

	550 Cases received
	297 Cases accepted
	378 Cases cleared, of which:
	18 Withdrawn
	154 Resolved or settled
	206 ICE investigation reports issued
	13 (6%) Fully upheld
	31 (15%) Partially upheld
	162 (79%) Not upheld

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

Most of the Health Assessment Provider complaints we receive are about the assessment that has been carried out or the report written about that for DWP, and many follow an unfavourable benefit entitlement decision. In others in which an appeal is subsequently upheld I often explain that this doesn't mean the original decision was maladministrative. Typical complaints about the assessment process include dissatisfaction that a paper based review wasn't deemed appropriate, issues about home visit decisions and complaints about audio recordings of the assessment. The majority of complaints are about the content of the assessment report, usually about perceived errors and inaccuracies. However on the whole, such complaints generally stem from a difference of opinion with the Healthcare Professional writing the report, and don't change the outcome of the assessment. We received very few complaints about the providers delivering Work Programme, and those we did receive were most often that the Programme failed to meet the claimant's expectations.

COMPLAINTS ABOUT HEALTH ASSESSMENT PROVIDERS

Case study 18: Audio recording

Ms R complained that the Health Assessment Providers failed to listen to the recordings that she sent them of the PIP assessment and delayed in returning her recording equipment to her. I found that the provider had listened to the recordings at each stage of their

complaint process – I explained to Ms R that the assessment report is not meant to be a verbatim account of everything that is discussed during an assessment, and the fact that the report did not include every detail contained in the audio recording, did not mean that the findings were not reasonable or justified. I did not uphold this element of complaint, however I went on to find that although the provider had returned the recording to her promptly when she first requested it, she sent it to them a second time. Confusion then arose as to whether they still had the recording, and they informed her that they no longer had it, which delayed them returning it to her. I upheld this element of Ms R's complaint and asked the provider to apologise to her and make a consolatory payment of £50.

Case study 19: Assessment report

Mr S complained that the report produced following his PIP assessment was not an accurate reflection of his responses at the assessment. I found that the Health Assessment Provider had fully investigated Mr S's concerns and that they had clearly explained to him at each complaint stage that the report was an accurate reflection of the assessment. Furthermore, my office had listened to an audio recording of the assessment and we were satisfied that the report reflected the responses that he gave. I did not uphold Mr S complaint.

Case study 20: Assessment report & CCTV footage

Ms T complained, amongst other things, that the Health Assessment Provider had produced a report that was not an accurate reflection of the assessment that took place and that the Healthcare Professional adopted a confusing questioning style. I found that Ms T had asked the provider from the outset to check CCTV footage in order to reconcile some of the discrepancies she had raised about the assessment, in particular regarding what she was wearing. At the time of her request the provider would have been able to request this from the assessment centre, however because they delayed in dealing with this the footage had been destroyed. I also found that the provider had taken nearly seven months to reply to Ms T's escalated complaint.










The provider agreed to apologise to Ms T for the delays and make a total consolatory payment of £150.00 to her, which she agreed settled her complaint with my office.

WORK PROGRAMME PROVIDERS

Case study 21: Reasonable adjustments / relevant training

Mr U complained that the Work Programme provider had failed to apply reasonable adjustments and failed to refer him for relevant training to help him gain employment. I found that the provider was mindful of his needs and was patient and lenient with him despite his poor timekeeping and his failure to attend numerous appointments. Mr U did not make the provider aware of any specific adjustments he required. I also found that the provider arranged several training courses and initiatives for Mr U in accordance with their minimum standards to help him gain employment. I did not uphold Mr U's complaint.

Child Maintenance Service

	890	Cases received
	196	Cases accepted
	123	Cases cleared, of which:
	2	Withdrawn
	48	Resolved or settled
	73	ICE investigation reports issued
	16 (22%)	Fully upheld
	39 (53%)	Partially upheld
	18 (25%)	Not upheld

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.

A key feature of the complaints we have seen this year is the transfer of arrears to CMS from the Child Support Agency. Problems occur when the arrears amount is queried by the paying parent and CMS are unable to confirm with any certainty whether the arrears figure is correct due to poor Agency accounting. We have also seen a number of cases where things go wrong when the method of payment is changed from paying directly to payment through CMS. The way that CMS presents their accounts information causes confusion and we have seen complaints about contradictory and inaccurate accounts information.

Case study 22: Failure to enforce

Ms V complained that CMS had failed to collect regular payments of maintenance since April 2018 and failed to take enforcement action or call her back when promised. As a result of the involvement of my office, CMS agreed to refer the case for enforcement action and secure a Liability Order for unpaid maintenance from her previous Agency case, and for her CMS case, ensure that a Deduction from Earnings Order flag be set so that any change in the paying parent's employer would be notified to CMS and apologise for the service received and make a consolatory payment of £50. Ms V confirmed that these agreed actions resolved her complaint.

“

You have done more than we expected, the result is fantastic.”

Case study 23: Failure to enforce

Mrs W complained that CMS failed to take enforcement action on her case and didn't escalate her complaint when she asked them to. Mrs W's CMS case started in September 2014 and right from the start the paying parent didn't make any payments. CMS obtained a lump sum deduction order of £936.75 from the paying parent's bank in 2014 and then a Liability Order for the rest of the unpaid maintenance in 2016. There was then an eight-month delay in taking any further follow up enforcement action when the case was referred to bailiffs. In the meantime, Mrs W had made several complaints to CMS and even involved her MP and there were delays in replying to her complaints.

Before coming to my office, CMS had awarded Mrs W a £50 consolatory payment for failing to escalate her complaint and delayed enforcement action. I upheld both of her complaints as I considered that the £50 awarded was not sufficient in the circumstances of the case, and recommended that they make her a further consolatory payment of £75 which included a further four month delay between in responding to Mrs W's complaint.

Case study 24: Confusing accounts and payment plans

Mr X complained that CMS had failed to fully investigate his complaints. In investigating the complaint I found the Mr X had complained to CMS in January 2017 that he believed he had not received the correct payments from the paying parent since 2014 as CMS had made an error in inputting her wages. Mr X also complained that there was a delay in dealing with his request for a mandatory reconsideration and he had not been notified of the decision. In replying to the complaint CMS found that there was an error in the paying parent's wages and when this was corrected in March 2017 the maintenance calculation increased by around £35 a week effective from February 2015. In responding to the complaint in May 2017 CMS said they had taken corrective action and awarded him a consolatory payment of £100 for the delays and errors on his case. I upheld the

complaint as I was not content that CMS had fully addressed the concerns that Mr X had raised, as their response only told him that corrective action had been taken. They did not provide any details as to what that entailed, did not explain the service failures that had occurred nor did they provide answers to the questions that Mr X had asked. I recommended that CMS make Mr X an additional consolatory payment of £75.00.

Case study 25: Confusing accounts and payment plans

Ms Y had a previous case with the CSA in which she had been receiving regular maintenance and arrears and when that case was closed she made a new application to CMS in 2016. It was a further six months before the unpaid maintenance on the CSA case of nearly £5,000 was transferred to CMS and it was not until August 2016 that the paying parent was asked to pay anything towards the CSA arrears.

Ms Y complained that CMS had failed to explain how the amount of her monthly payments were calculated and why they were less than the amount she had received with CSA, she also said CMS had provided confusing information on payment plans about her payments and additional fees that had been added to her account. I found that CMS made several accounting errors on the payment plans they sent to Ms Y and because of that the unpaid maintenance balance they included was wrong.

The case was closed in December 2016 and the paying parent disputed the unpaid maintenance balance and it took some time for CMS to investigate that and to correct their mistakes. Because of that it was not until April 2017 that Ms Y started receiving any payments towards the CSA unpaid maintenance.

CMS had awarded Ms Y a consolatory payment of £100 which I found to be appropriate financial redress and found two of her complaints to be justified. But I also found that CMS had incorrectly deducted a collection fee of £14.10 from one of Ms Y's payments that they

“
I have now stopped weeping with the relief of completing the long process & have had the opportunity to read the full correspondence. I accept 100% your findings and recommendations.”

later refunded to her and I upheld one of Ms Y's complaints and I recommended that CMS apologise to her for that additional error.

Case study 26: Confusing accounts and payment plans

Mr Z's case with CMS had started in 2014 and he was paying the receiving parent directly. In 2016 Mr Z told CMS that his son was 16 and had left school, but in September 2016 CMS established that Mr Z's son had returned to school and he remained liable to pay child maintenance. They did not tell him that but instead, as the receiving parent had told CMS that Mr Z had missed a payment in July 2016, they changed the case to collect and pay and decided that Mr Z owed unpaid maintenance and collection fees from July 2016 and he was asked to increase his monthly payments.

Mr Z contacted CMS and asked for an explanation of the unpaid maintenance balance. Not only did CMS fail to explain their calculations, but they sent several payment plans each one giving a different unpaid maintenance balance with no explanation. This prompted Mr Z to complain to CMS and then to my office as he believed he had made payments to the receiving parent that had not been included. Although during that period CMS had continued to make adjustments to the unpaid maintenance figure to include some of Mr Z's direct payments, in concluding my findings I could not be sure that the amount provided to Mr Z was correct.

I upheld four out of five of Mr Z's complaints and recommended that CMS complete a full audit of his accounts and send him an account breakdown and pay him a consolatory payment of £100.

Child Support Agency



440 Cases received



188 Cases accepted



160 Cases cleared,
of which:



3 Withdrawn



42 Resolved or settled



115 ICE investigation
reports issued



23 (20%)
Fully upheld



54 (47%)
Partially upheld



38 (33%)
Not upheld

New applications for maintenance through the Child Support Agency stopped in November 2013 since then the Agency have been closing their existing cases. Most of the complaints we continue to receive about the Agency concern maintenance arrears that accrued under that scheme, and problems associated with moving those arrears to CMS for collection.

Case study 27: Delayed communication regarding arrears

Mr AA complained that the CSA delayed until 2019 to contact him about child maintenance he owed from 1996. Following the action taken by my office the CSA agreed to pay Mr AA a consolatory payment of £75 for the 20-year delay in contacting him about the outstanding arrears of £3,956.04. Mr AA agreed that this resolved his complaint.

Case study 28: No action taken to progress maintenance application

Mr AB complained that the CSA had failed to take appropriate action following his application for child maintenance in 2004. I found that when Mr AB applied for child maintenance in October 2004 CSA failed to send an enquiry form to the other parent and instead wrote to Mr AB and told him that they were closing his case. Mr AB said he did not receive that notification, which I found no reason to doubt and when he enquired about his application in June 2005 the CSA said they would try and reopen the case, but failed to take any further action between then and 2009, when the youngest child in the case ceased to be a qualifying child. CSA accepted that their delay had caused Mr AB to lose child maintenance and offered to make him a financial loss payment of £5,132. Mr AB was unhappy with that and following my investigation I upheld Mr AB's complaint and recommended that CSA make Mr AB's a £200 consolatory payment, though I found that payment for loss of maintenance was appropriate.

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 2019/20 reporting year are below:

Initial action

- We told **94%** of complainants the results of our initial checks within our target of 10 working days.

Resolutions

- We cleared **82%** of resolutions within our target of 8 weeks.
- Our average clearance time in those cases that we resolved was **5.29 weeks** from the point the complaint was accepted for examination.

Settlements

- We cleared **89%** settlements within our target of 15 weeks.
- Our average clearance time in those cases that we settled was **7.63 weeks**, from the point the case was allocated to an Investigation Case Manager.

“

What a refreshing change it was to deal with the ICE officer who listened to me and provided replies that I could understand.”

Investigation reports

- We cleared **41%** of ICE Reports within our target of 20 weeks (we make every effort to meet the target but delays may occur which are beyond our control, for example securing agreement to recommendations for redress. We will not compromise the completeness of an investigation to meet the target).
- Our average clearance time in those cases that resulted in an ICE Investigation Reports was **24.21 weeks**, from the point the case was allocated to an Investigation Case Manager.

Complaints about our service

- We responded to **98.9%** of complaints about our service within our target of 15 working days.

Customer satisfaction:

- **83%** of customers were satisfied with the service we provided.

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 226 complaints regarding the service we provided. This represents 6% of the 3,862 cases received by the Office during the reporting year and we upheld 9% of those service complaints. In addition, we received 143 complaints about the outcome of an ICE Investigation and 3 combined complaints about service and outcome. This represents 11% of the 1,277 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 4 investigations concerning the ICE Office, none of which were upheld.

*PHSO's office has yet to publish their data for the 19/20 reporting year.

Continuous improvement

We continue to hold both Customer Service Excellence and British Standards Institute (BSI) accreditation.

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



Department
for Work &
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