

Independent Case Examiner for the Department for Communities (NI): annual report 1 April 2020 to 31 March 2021

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Our Purpose

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

We have two primary objectives:

- to act as an independent 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.

1. Overview

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

2. Our approach to Casework

On receipt of a new complaint referral our initial action focuses on establishing 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Withdrawn cases

Complaints may be withdrawn for several reasons.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 will initially attempt to broker a solution between the complainant and the business without having to request evidence to inform an investigation. 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 to "settle" the complaint, if agreement can be reached on actions that satisfy 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.

ICE Report

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

3. Northern Ireland Social Security Benefits

Context

The Department for Communities administers and provides guidance on a range of social security benefits and pensions to the people of Northern Ireland and has contracts with private organisations to deliver some services on their behalf, most notably health assessments. These organisations have responsibility for responding to complaints about their services, but in the event that the complainant is dissatisfied, Department for Communities will provide a final response, and then the customer can bring their complaint to my office.

This financial year, the majority of not upheld benefit cases related to health assessment providers; most usually as complainants were dissatisfied with the

assessment report as it has led to an unfavourable benefit decision. We often find that it is only when they have received the benefit decision that they complain about the provider.

Statistical Information 1 April 2020 to 31 March 2021

Complaints Received

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

Received	16
Accepted	4

Case Clearances

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

Resolution	0
Settlement	0
Investigation Report from the ICE	12
Withdrawn	1
Total	13

Outcomes

ICE investigation report findings are detailed below:

Fully upheld	2
Partially upheld	1
Not upheld	9
Total	12*

*most of the cases cleared were accepted in a previous reporting period

Live caseload

As at 31 March 2021 there were 12 cases outstanding, (some from a previous reporting period) of those:

- 3 were awaiting a gateway decision
- 1 was awaiting investigation
- 8 were under investigation

Case examples

Case Study 1

Mr A complained that the Disability Assessor from Capita who conducted a Personal Independence Payment (PIP) Assessment, produced a report that was not a true reflection of the assessment that took place, and failed to provide the Department for Communities with the full facts to allow an informed PIP decision to be made.

In those cases where there is a difference of opinion about the content of an assessment report, and no evidence of the discussion, it is difficult to reconcile the differing accounts. However, we were satisfied that Capita had investigated the issues Mr A raised, and they found the report was fit for purpose. In addition, the Department for Communities correctly told Mr A that the Mandatory Reconsideration and Appeal route should be followed to dispute the benefit decision. I did not uphold Mr A's complaint.

Case Study 2

Mr B complained that Department for Communities failed to take the appropriate action when he asserted that he had been receiving incorrect sums of benefit payments from July 2010.

Our investigation established benefit claims Mr B had made since 2010, and also various loans that had been paid to him since that time, which had been deducted from his benefit, but due to the passage of time it was not possible to reconcile the information he had provided with Department for Communities' benefit records. Whilst we were satisfied that Department for Communities had attempted to explain his benefit entitlement, and the loans that had been made which had in part been recovered from his benefit payments, they failed to send a breakdown of payments to him, as promised, and it took them until September 2018 to recognise that he was owed a substantial amount of arrears of Severe Disability Premium - despite assuring him in earlier responses that his payments were correct. I upheld Mr B's complaint to that extent, and recommended that Department for Communities apologise to him and make a consolatory payment of £150 in recognition of those service failures.

4. Child Maintenance Service

Context

The Child Maintenance Service (CMS) (formerly known as the Child Support Agency and latterly the Child Maintenance and Enforcement Division) operates within the same legislative framework as the Child Maintenance Group in other parts of the United Kingdom. It also administers Child Support applications originating from some parts of England. For ease of reference, for the purpose of this report, we will refer to them only as CMS.

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

The number of cases received at ICE from Northern Ireland is particularly low this year; we only accepted one new case and produced reports for only three.

Statistical Information 1 April 2020 to 31 March 2021

Complaints Received

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

	Legacy cases	2012 Scheme cases
Received	1	1
Accepted	0	1

Case Clearances

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

	Legacy cases	2012 Scheme cases
Resolution	0	0
Settlement	0	0
Investigation Report from the ICE	1	2
Total	1	2

Outcomes

ICE investigation report findings are detailed below.

	Legacy cases	2012 cases
Fully upheld	0	0
Partially upheld	0	2
Not upheld	1	0
Total	1	2*

*some of the cases cleared were accepted in a previous reporting period

Live caseload:

As at 31 March 2021, there were 3 outstanding cases (from a previous reporting period) of those:

- 1 was awaiting investigation
- 2 were under investigation

Case example

Case study

Mr C had nine elements of complaint – he complained, amongst other things, that CMS continued to contact him by telephone during work hours when he had continually asked them not to, and, failed to consider his enquiries about why they calculated his income with a different figure than his P60.

Our investigation found that despite Mr C asking CMS not to contact him during working hours, they did so several more times, and even after he had complained about this – his telephone number was subsequently removed from their records.

We also found that although CMS told Mr C that they could not accept a P60 as evidence of current income, they failed to address his concerns as to why they had provided a different figure to his P60. Our investigation explained to him that the figure quoted on his P60 included his company car.

I upheld both of these elements of complaint, but didn't uphold the other seven. I recommended that Department for Communities apologise and make a consolatory payment of £100.00 for those service failures.