

Annex

The Independent Case Examiner (ICE) Service

Our Purpose

We provide a free independent complaints review service for the DfC.

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. 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Withdrawn cases

Complaints may be withdrawn for several reasons.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. Occasionally 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 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 Investigator. 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 ICE 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 ICE will adjudicate on its merits and issue a report. Detailed below are the findings the ICE 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 my 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 my office.

Redress

If the complaint is upheld or partially upheld, the ICE will make recommendations for action to put matters right, which may include an explanation, an apology, corrective action or financial redress. The ICE office considers 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. Northern Ireland Social Security Benefits

Context

The DfC 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, the DfC will provide a final response, and then the customer can bring their complaint to my office.

This financial year, of the 7 cases we investigated, 4 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 2021 to 31 March 2022

Complaints Received

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

Received	12
Accepted	0

Case Clearances

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

Resolution	0
Settlement	0
Investigation Report from the ICE	7
Withdrawn	0
Total	7

Outcomes

ICE investigation report findings are detailed below:

Fully upheld	1
Partially upheld	2
Not upheld	4
Total	7*

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

Live caseload

As at 31 March 2022 there were 5 cases outstanding, (some from a previous reporting period) of those:

- 3 were awaiting a gateway decision
- 2 were under investigation

Case examples

Case Study 1

Mr A complained that the DfC had failed to fully investigate or recognise his concerns that the Capita Healthcare Professional who carried out his Personal Independent Payment assessment failed to produce a report that was reflective of the assessment, and that the assessment was conducted in an unprofessional manner.

In those cases where there is a difference of opinion about the content of an assessment report and there is no evidence of the discussion, it is difficult to reconcile the differing accounts. It is the responsibility of Capita to investigate and respond to complaints regarding their service and in doing so they reviewed the assessment report and medical evidence, as well as interviewing the Healthcare

Professional, albeit they were unable to recall specific details of the assessment. DfC were satisfied that Capita had investigated the issues Mr A raised. The DfC also acted appropriately by reviewing all of the information available as part of a Mandatory Reconsideration of Mr A's benefit claim and provided Mr A with appeal rights. I was satisfied that DfC sufficiently investigated Mr A's complaints **and I did not uphold** them.

Case Study 2

Mrs B complained that the DfC delayed in adhering to her request for a new Work Coach and delayed in providing her with the outcome of her Mandatory Reconsideration. Mrs B also complained that the DfC inappropriately started 'Failed to Attend' action when she didn't attend a Jobcentre appointment and also failed to provide sufficient customer service.

Our investigation found that there was no delay in DfC granting Mrs B's request to be seen by a different Work Coach. We did however, find that there was an unreasonable delay in completing the Mandatory Reconsideration of the benefit decision and that the referral which was sent to a Decision Maker following Mrs B's 'Failure to Attend' the Jobcentre for a Work Search appointment should have been cancelled when she provided a Fit Note. The DfC also failed to fully investigate Mrs B's complaint.

I upheld these three elements of complaint **but didn't uphold** the first. I recommended that the DfC apologise and make a consolatory payment of £100 for those service failures.

3. 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.

The 2012 Child Maintenance scheme was introduced in November 2013 – there are differences in the administration of this scheme to earlier versions, 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.

ICE didn't receive any new cases from Northern Ireland this year and produced a report for only two from a previous reporting period, both of which were for the same customer.

Statistical Information 1 April 2021 to 31 March 2022

Complaints Received

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

	Legacy cases	2012 Scheme cases	Legacy and 2012
Received	0	1	0
Accepted	0	1	0

Case Clearances

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

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

Outcomes

ICE investigation report findings are detailed below.

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

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

Live caseload:

As at 31 March 2022, there were 2 cases outstanding (one of which was from a previous reporting year) of those:

- 1 was under investigation
- 1 was awaiting investigation

Case example

Case study

Mr C had seven elements of complaint dating back to 1996. He complained amongst other things, that the Child Support Agency delayed in completing reviews on numerous occasions and failed to fully investigate and respond in a timely manner to his dispute of the arrears resulting in a Deduction from Earnings Order being imposed. Mr C also complained that CMS failed to provide a full response to his complaints and queries within the appropriate timescales and failed to consider the circumstances of the case when they awarded a consolatory payment.

Our investigation found that there was a prolonged delay on the part of the Child Support Agency in completing a periodic review which they failed to acknowledge in their complaint response. The Child Support Agency and CMS also failed to respond to Mr C's enquiries and failed to fully review the case which led to the inappropriate imposition of the Deduction from Earnings Order. We also found that CMS failed to identify that maintenance had been collected after the arrears had already been paid in full.

CMS originally offered a consolatory payment of £75, which was later increased to £150, but I was not satisfied that this provided reasonable redress given that they failed to fully consider the impact the Agency's service failures had on Mr C, which resulted in deductions incorrectly being taken from his earnings over several months and the requirement for Mr C to engage legal representation to address the matter (at a court hearing) when his own attempts to sort things out went unanswered.

I **upheld** five of the elements of complaint but **didn't uphold** the other two. I recommended that CMS make a refund to Mr C of £704.39 which included the amounts that were incorrectly collected after the arrears had been repaid, the Deduction from Earnings Order payments that were inappropriately collected, postage costs, travel costs and lost earnings (these costs were incurred trying to resolve the case and travelling to court). I also recommended that CMS apologise and make Mr C a consolatory payment of £250 (which replaced the previous offer of £150).