



Independent  
Case Examiner



INDEPENDENT CASE EXAMINER  
For the Department for Work and Pensions

# Annual Report

1 April 2021 - 31 March 2022



CUSTOMER  
SERVICE  
EXCELLENCE



## **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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# ICE foreword and introduction



My report last year explained how DWP ‘maladministration’, or not handling things as their procedures and processes say they should, can have significant impact for a customer. I acknowledged DWP’s genuine challenge in ‘simply’ ensuring things happen as they should in such a large organisation, dealing with complex benefits for customers who are often vulnerable. Building on that, I am turning this year to focus on how quickly and successfully, from the cases that I see, DWP address and resolve things for customers, when they have gone wrong.

I have chosen case examples which tell the stories of customers trying to get their concerns resolved. As I noted last year, no case is accepted for review by my office that hasn’t been through the entire DWP complaints process first - we expect therefore to see only the most complex and contentious complaints, or perhaps clusters of cases arising from new processes or procedures. We also see cases in which DWP have acknowledged things went wrong, but customers still don’t believe that has been understood or recognised fully, or perhaps that the impact has not been appreciated. My office share with DWP the wish to resolve things as soon as possible for a customer, and the case examples I have chosen from across all strands of DWP’s work show where this has been successful and where there is still more work to do. We have structured the report this year in line with the stages at which my own office has been able to resolve a customer’s complaint and we also explain our own case processes in more detail. There is a summary of the numbers of cases we saw last year and the outcomes of them by business area, at page 23.

A feature of our reporting year was the 17% increase in customers approaching the ICE office and the significant 68% increase in the number of complaints we accepted for our review. Aside from the impact of the Women Against State Pension Inequality (WASPI) campaign, my office has not experienced referrals or intake at this level for at least the last decade. In terms of output, the ICE office resolved, settled, or produced full reports on almost 17% more cases than the year before, but nonetheless our intake was still greater than



our output by just over 300 cases. It is already a concern that cases with my office take far longer to be brought into investigation than I am happy with, and a sustained increase in cases coming to us such as we have seen this year, will only make that position worse.

In trying to resolve issues for customers as soon as possible, we will continue to work with DWP to understand what is driving this increase in unresolved complaints being brought to us, and to see how that might be stemmed. There has been recent instability, as for many businesses, with essential changes in working during the pandemic still affecting the content and handling of cases coming to my office, and DWP are also currently embedding a single-tier complaints process, initiated in 2020, replacing a two-tier approach. My office will be working with DWP in the coming year to learn from the evidence in the cases we receive and ensure that the process overall is yielding the intended service improvement and resolving things for customers more easily, with the volume and profile of the complaints referred onwards to my office being one measure of that.

Each year I thank the staff in my office for the energy, determination, and professionalism they show in working to help our customers at every stage of their ICE office journey, and we have again quoted some of the feedback we have received from customers throughout the report.

It is extremely rewarding when the skills, effort, and empathy of the staff in my office are recognised by our customers. I make the point to new staff who join us that our findings and my final adjudication are entirely reliant on the work of building the case during our investigations, piece by piece, from the sometimes significant volume of evidence we receive. Any oversight or misrepresentation in that can skew a finding and I am proud of our track record for quality, as demonstrated by 4 more Compliance Plus ratings being awarded from the Customer Service Excellence accreditation process (bringing our total to 17), and that the Parliamentary and Health Service Ombudsman (PHSO) upheld no complaints against the ICE office this year. That we secured those external quality validations whilst also driving the volume of work we completed upwards, was a fantastic achievement. I thank the ICE office staff for all their work towards that, but particularly this year recognise the leadership that our previous Head of Office Kathy Hoerty gave in achieving this. Her expertise, drive to find ever-better ways to do things, and exacting standards were deeply respected – we wish her well in her move to the Home Office, where she is setting up a similar office.

I end with thanks for reading my report and welcome any feedback you may have.














Joanna Wallace  
Independent Case Examiner



# Reporting Period and our Work at a Glance

The data and figures included in this report are based on DWP casework for the twelve month period between 1 April 2021 and 31 March 2022. The figures do not include Northern Ireland cases and the Pension Protection Fund which I report on separately.

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 customer. We have included some complex cases, some with more routine administrative errors or poor complaint handling in them, and others which highlight opportunities for service improvements and learning beyond individual cases.

	Reporting year	<b>2021/22</b>
	Complaints received	<b>4,903*</b>
	Complaints accepted for examination	<b>1,708</b>
	Total case clearances (of which):	<b>1,397</b>
	Withdrawn**	<b>25</b>
	Resolved	<b>312</b>
	Settled	<b>60</b>
	ICE investigation reports	<b>1000</b>
	Of those complaints investigated % of fully upheld <sup>1</sup>	<b>23% (231)</b>
	Of those complaints investigated % partially upheld*** <sup>1</sup>	<b>37% (366)</b>
	Of those complaints investigated % of cases not upheld****	<b>40% (403)</b>

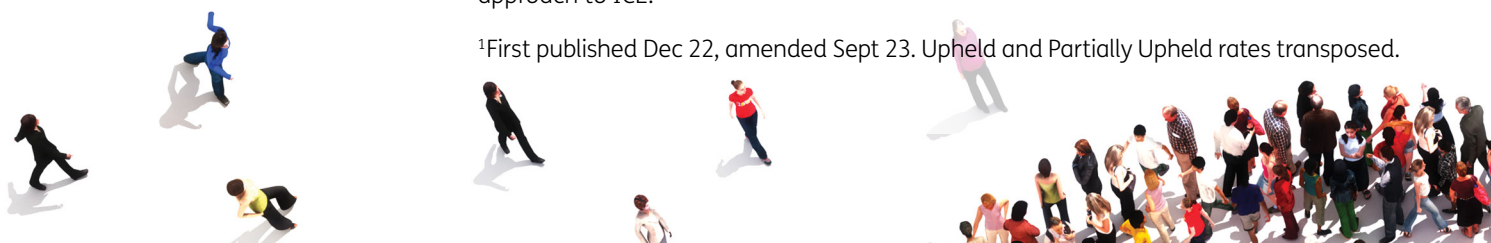
\*The received cases include 244 cases which failed to specify which benefit strand they wanted to complain about.

\*\*Complaints may be withdrawn for several reasons; some when we explain the appeal route for legislative decisions or because DWP has taken action to address concerns after we accepted the case for examination.

\*\*\*Partially upheld - some aspects of the complaint are upheld, but others are not.

\*\*\*\*This includes cases we deem justified, because although the complaint had merit, the business had taken all necessary actions to remedy matters prior to the customer approach to ICE.

<sup>1</sup>First published Dec 22, amended Sept 23. Upheld and Partially Upheld rates transposed.



# The ICE process and case examples

“

*Everybody I came in to contact with in ICE was brilliant.”*

## 1. Initial Action in the ICE Office

When a customer contacts us with a complaint, we first check whether we can accept it; the complaint must be about DWP maladministration (service failure) and the customer must have had a final response to the complaint from DWP within the last six months.

Each year many customers come to my office prematurely without having completed DWP’s complaint process, or sometimes without having started it. Our Initial Action Team are the first contact point and when a complaint is received, they explain that if a customer hasn’t received a final response from the relevant DWP business they need to return to them before our office can accept it. In this reporting year we were approached with 4,903 complaints of which we were unable to accept 3,195.

Customers are sometimes reluctant to return to DWP; they often tell us they are frustrated with the overall process or feel they have faced an uphill struggle trying to get them to address their complaint promptly.

### Case Example 1

Customer A contacted my office and told us that they had been trying to progress a complaint about CMS since 2019 and had only just received a final response by phone, signposting to my office. My office contacted CMS who confirmed that final response call had been made that month, and that customer A had initially raised a complaint with CMS in October 2019 but there had been delay in replying. My office accepted the complaint.

## 2. Resolution

Once we have established we can accept a case, we agree the elements of complaint with the customer to ensure our investigation is focussed and that we can address the heart of their concerns. In doing this we also consider whether there is scope for securing a resolution without the need to call for evidence and fully investigate the complaint, as if a resolution can be reached it is the quickest route to a satisfactory outcome for the customer.



It is expected that the relevant part of DWP or a private provider should have explored all options for resolution prior to a customer being referred to my office. In this reporting year we resolved 312 cases, which is an increase of 88% from the 166 cases the year before and a marked increase from previous years. We need to go back as far as the 2013/14 ICE reporting year to see this level of resolution activity.

If a case can be resolved without any detailed evidence or review from ICE it does raise the question as to why it hasn't been resolved before. We have been proactive in working with DWP to highlight these cases including delivering ICE awareness sessions, highlighting the importance of exploring a full range of remedies before closing a complaint and signposting customers to my office. As the operational changes DWP have introduced to deliver their single tier complaints process bed in, we would expect to see a sharp reduction in the number of referrals to my office that offer scope for resolution.

## Case example 2

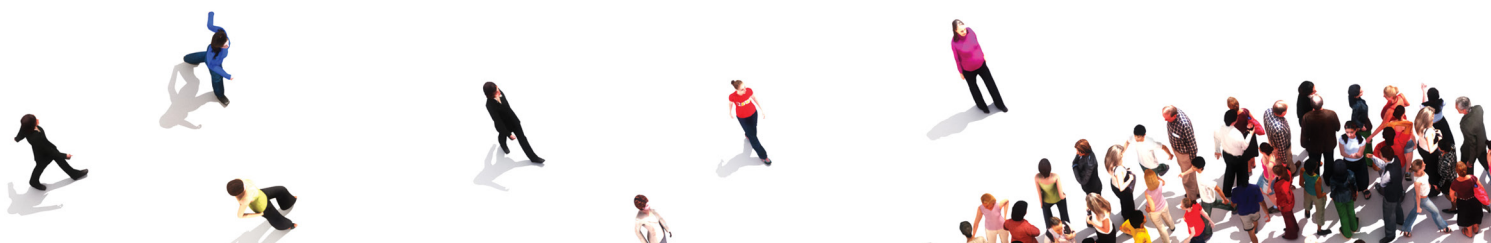
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Customer B's MP wrote to my office to say that B was unhappy they had been asked to pay more than £23,000 in child maintenance arrears that B did not agree were owed, and that they had received threatening letters from CMS demanding payment. In their response to B's complaints CMS agreed that a mistake had been made and not only did B not owe any child maintenance, but they were in fact due a refund as they had overpaid nearly £3,000. CMS had apologised and reimbursed the money and made a consolatory payment of £50 but B was unhappy with that. After representations by my office CMS agreed to make a further apology and an additional consolatory payment of £150 and B agreed that the action taken had resolved the complaint.

## Case example 3

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Customer C contacted my office to complain that CMS acted inappropriately when they encouraged the Paying Parent to contact Customer C even though they were aware of historic serious domestic violence, and failed to follow the correct complaints procedure.



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*For the first time in  
this sorry saga,  
I felt listened to.”*

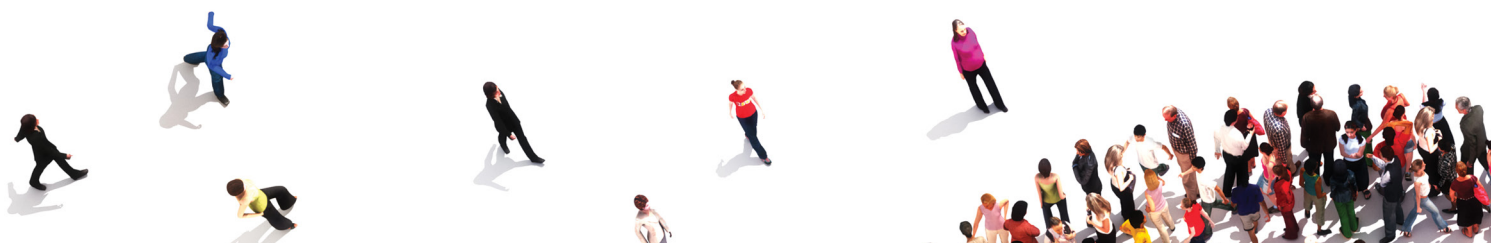
C attached a copy of CMS's response to the complaint. CMS's letter said that C had contacted them to ask why the payment for that month was for around £80.00 less than C was expecting. CMS explained that the paying parent had overpaid the month before as they had not been sent an updated payment schedule. CMS apologised that this was not explained to C before the payment was made but said that as the case was direct pay any difference in payment would normally be discussed between C and the paying parent; as this was not possible in C's case CMS should have contacted C to advise the payment would be for less.

C told my office that “I feel my issue remains unaddressed and that this hasn't been resolved. I feel the letter I have received acknowledges part of my complaint but with no remedy or explanation of how this will be addressed for now and moving forwards.”

Following representations by my office CMS accepted that they hadn't followed procedure in this case. It was acknowledged that, in future communications, CMS should contact the Receiving Parent to discuss changes in payments rather than asking the Paying Parent to contact C directly. CMS agreed to apologise and make a consolatory payment of £100 and C agreed that this had resolved the complaint.

### **Case example 4**

Customer D contacted my office and said that DWP failed to fully investigate their complaint that a member of staff was responsible for their Universal Credit (UC) claim being incorrect which led to an underpayment of UC. The final response from DWP had explained that when D claimed UC they had declared they earned additional income which was deducted from their UC entitlement. D queried this with DWP, and it was later established that D did not earn any additional income and as a result D had been underpaid £138.26 over two assessment periods; as D had outstanding debt owed to DWP this money was then offset against that debt rather than being paid to them. In response to D contacting my office we asked DWP to award D a consolatory payment of £50 noting that DWP had delayed in responding to D's enquiries about the UC payments and then given an incorrect explanation. DWP agreed to that and D agreed this resolved their complaint.



“

*At last somebody listened to me. CMS fobbed me off for years. They tied me up in knots and I began to think I was imagining things. CAB told me to try ICE and I'm glad I did. It's scary to think how many people out there just give up.”*

### 3. Investigation

If we are unable to agree early resolution of the complaint it moves to investigation, based on evidence from the business and the customer. Investigations are thorough and my office undertakes a detailed examination of all the evidence we receive, as well as analysis of DWP's processes and procedures to identify what should have happened and what (if anything) went wrong. We often find 'the devil is in the detail' in cases and findings can turn on very small issues of timing or advice; we do this work carefully and as such it is not a speedy process.

On occasion our detailed investigation of the facts of a case clearly points to the possibility of a solution or 'settlement' of a complaint without the entire report being completed and formal findings being reached. Again, to try to resolve things for the customer as soon as possible we try to secure a settlement if we can.

#### Case example 5

Customer E told my office that DWP had failed to process their UC claim correctly, provided E with incorrect information and made inappropriate information requests of them. My office established that E claimed UC for themselves and three children, and that they had special guardianship of one of those children (F), for whom E received a guardianship allowance from the Local Authority. Customers can receive a child element with UC for any child that lives with them as part of a formal caring arrangement, which includes a special guardianship. DWP should have requested further details at the start of the claim about the guardianship of F but failed to do so and instead E was incorrectly told that as they received an allowance for F from the Local Authority, they would not be entitled to the child element for them; moreover E was also told to declare on their UC claim that F did not live with them but was in Local Authority care. E did as instructed, and UC was processed and paid for E and the other two children, but E had reservations about what they had been told and requested a Mandatory Reconsideration. They were then incorrectly told by DWP that a Mandatory Reconsideration was not possible as it was not a 'formal' decision. E contacted a Welfare Rights Advisor who made a complaint to DWP on E's behalf and in response



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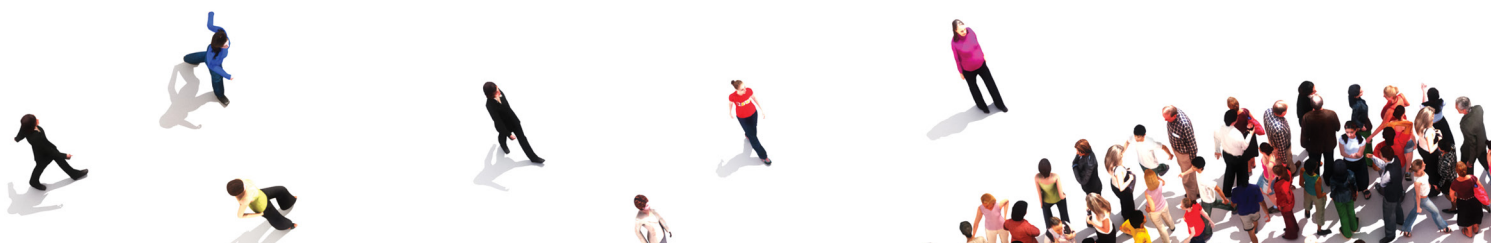
*Showed CMS that they can't get away with treating people like dirt. I will recommend your service to others.”*

DWP discovered the error and that the child element should have been paid for F from the start of the claim. E was paid arrears of over £1,000 and DWP wrote and apologised for their error. In discussions with my office E said that they were unhappy DWP had not acknowledged they had misinformed E nor the upset caused by being asked to ‘falsify’ their records to progress the UC claim. Having understood the events of the case my office contacted DWP who agreed to make a further apology and an additional consolatory payment of £100. E was happy this would address their complaint and settlement was agreed.

If settlement isn't possible a full investigation report is produced, which includes a case history of all relevant evidence we have seen, and our findings, or adjudication, which explains why and if the complaint is upheld, not upheld or justified. If we find that DWP got things wrong the ICE will then make a recommendation to put matters right. This could include an apology and/or financial redress and/or actions to correct an error.

An ICE investigation is not a ‘quick fix’ to a complaint which may have spanned several years before reaching our office. The thoroughness of our investigation maximises the chance of us being able to draw a line under those events for both the customer and the business, whilst providing important feedback to DWP to help avoid similar issues in the future, and from some cases insights which can inform wider service improvements.

We highlight a range of examples from this year's casework which speak to shortcomings in carrying out DWP's operational processes and procedures, and which have hindered DWP in resolving things for customers sooner.



## Failure to retain records

DWP have procedures to prevent the destruction of evidence when a complaint is live. When those aren't followed and evidence is destroyed prematurely, it undermines a customer's trust that the Department want to establish what happened and set things right. It also complicates adjudication, creating unnecessary doubt about what actually took place. Occasionally I have been prevented from reaching any finding on a complaint simply because the evidence to support my work had been incorrectly destroyed.

### Case Example 6

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Customer G said that CMS had incorrectly told them they owed unpaid maintenance of nearly £10,000. When we accepted G's complaint for investigation, we contacted CMS to ask for the case evidence. CMS told my office that the evidence had been prematurely and incorrectly deleted from their computer system. This severely impacted our ability to investigate as we had very little information about what was communicated to G regarding the unpaid maintenance balance. From the limited information we did have, my office established that the receiving parent (H) made an application for child maintenance to the Child Support Agency (the Agency) several years earlier and although there was a court order in place at the time, G was in receipt of a prescribed benefit which overruled any existing court order. G didn't complete a maintenance enquiry form initially so the Agency decided to impose an Interim Maintenance Assessment (IMA). However, despite being told of the IMA and being asked to make payments to the Agency, for the next five years G continued to pay H directly under the terms of the court order, which was less than the child maintenance assessment. Following that, G completed a maintenance enquiry form and in recognition of G's co-operation, the IMA arrears were suspended. It appears from what G told my office that they believed the arrears had been written off – but that wasn't the case as legislation did not allow that at the time. In 2018 the Agency case was closed and the unpaid maintenance, including the previously suspended debt was transferred to CMS, as H had asked them to collect it. However, following a complaint made by G and G's MP, CMS decided to write off the IMA debt (following a change in legislation) - that is an entirely discretionary decision and does not



“

*I wish to pass on my thanks to both the investigation team and the ICE for their hard work on my behalf and the fact that the elements of complaint were upheld has made me feel justified in pursuing the complaint through your process.”*

mean that CMS were wrong to have pursued G for it in the first place. I didn't uphold the complaint as I found the action taken by CMS was correct, but I recommended that they make G a consolatory payment of £100 recognising the premature deletion of the files and the additional upset this had caused.

### **Case Example 7**

Customer J told my office that they had been misadvised about claiming UC when furloughed in the Covid pandemic, during which DWP had used the services of Capita to handle calls. When Capita's contract with DWP ended in April 2021, Capita were no longer required to retain telephone call recordings in line with DWP's documents retention policy, and they were all destroyed. This meant recordings of any calls made by the customer were not available to my office by the time the complaint was accepted. Customer J had claimed UC but was not entitled to it as they were still receiving wages from their employer whilst furloughed and their wages exceeded entitlement. J was then made redundant six months later, at which point they were correctly advised to claim Jobseekers Allowance (JSA). J complained to DWP following that, saying they had been told to claim the wrong benefit while furloughed. DWP responded to the complaint about mis-advice but as they had introduced their one tier complaints process, they should have signposted on to my office but failed to do so, and also failed to investigate a staff complaint J had made. They then failed to respond when J tried to escalate the complaint. On examining the complaint, I found that even though there were no call records to confirm what was discussed with J about claiming UC, I was able to make a decision on the balance of probabilities about what was most likely to have happened during the call. Given J's circumstances and the fact that UC can be claimed whilst still working and receiving earnings, it would not have been unreasonable for DWP to have suggested J claim UC while furloughed. I therefore didn't uphold the part of J's complaint about being misadvised. However, I recommended that DWP make a consolatory payment of £75 for failing to follow the complaint process and failing to investigate the staff complaint.



## Case Example 8

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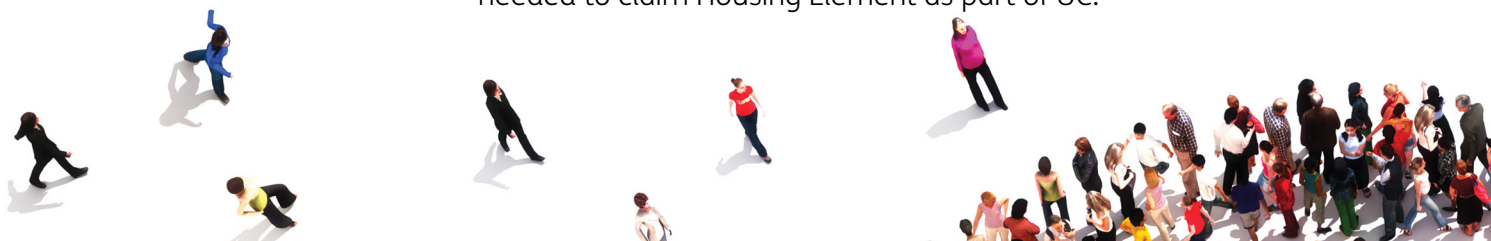
Customer K said that the Agency and CMS failed to take appropriate action to recover unpaid maintenance of over £36,000 from the paying parent's estate. Having accepted the complaint for investigation, my office was told all CSA and CMS records had been prematurely deleted. From the limited records available we established that K had a case with the Agency for a decade from the mid 1990s, when it was closed due to the age of the qualifying child. There were no records to confirm how much was owed by the paying parent at that time, only that they made monthly payments from then for several years, until the paying parent passed away. A referral was then made to DWP's Recovery from Estates Team and it was noted that the amount owed was over £36,000 - there were no records available to confirm what, if any, action was taken for the next two years. Two years later, the Agency case was closed in line with legislation and the full unpaid maintenance balance was transferred to CMS who then wrote the balance off two months later. K then complained to CMS about the write off and said that more should have been done to recover the unpaid maintenance.

In response to the complaint, CMS explained the Recovery from Estates Team had been unable to identify an estate to allow a claim to be made and it had been over two years since the paying parent's death, so no further action was possible. I was unable to reach any finding on the complaint as there was insufficient evidence to allow me to determine if there were any service failures on the part of the Agency or CMS. However, I recommended that CMS apologise and make K a consolatory payment of £250 recognising their failure to retain records.

## Case Example 9

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Customer L said that DWP had failed to consider all the maladministration in the handling of their UC claim when they refused to make an additional consolatory payment. When L initially claimed UC, they lived in supported accommodation and so were still entitled to Housing Benefit, which was paid directly to the Local Council. However, a year later the tenancy changed to unsupported accommodation and L was no longer entitled to Housing Benefit but needed to claim Housing Element as part of UC.



“

*Thank you for taking the time to investigate this complaint and provide such a detailed report, I really appreciate it.”*

The Local Council should have told L to claim Housing Element from DWP, but L didn't notify UC of that change, so their records continued to show that L was in supported accommodation. However, a month later L told DWP that they had moved into Council accommodation, and this was recorded as a change of address. In fact, L hadn't moved address, only the terms of their tenancy had changed.

A claim for Housing Element was made and L asked for that to be paid directly to their landlord. The payment should have been made to the landlord for the next assessment period but due to a mix up with banking instructions it wasn't paid at all. L contacted DWP about that and clarified the details of their tenancy at the start of the UC claim, explaining that they hadn't moved address. DWP failed to take any action to investigate for several months, at which point they correctly identified that L's landlord was entitled to two further months of Housing Element. DWP made L a consolatory payment of £125 recognising the delay in paying the Housing Element to the landlord but L was unhappy with that and in response DWP agreed to review it, but no further award was made. DWP did not keep a record of the paperwork used for that review or record the information considered and as such I was unable to determine what maladministration was considered or the impact of it on L. I upheld the complaint based on the information I had considered and recommended an additional consolatory payment of £175.

## Identifying customers' vulnerabilities

DWP has recently put in place more effective ways to provide additional support for customers who need that, for example the introduction in 2019 of a Vulnerable Claimants' Champions (VCC) Team. While this is a positive development, we investigated some cases during the reporting year which may well have been resolved sooner, and avoided referral to my office, had DWP also recognised the additional support customers required when considering their complaints.



“

*I have read through every single paragraph of your report and would like to thank you for your time and consideration of my complaint with the DWP. I am very grateful for you taking the time and I appreciate your findings.”*

### Case Example 10

Customer M said that DWP had failed to adhere to his request for telephone communication only and failed to appoint an independent advocate for their Personal Independence Payment (PIP) and Employment Support Allowance (ESA) claims. M was visually impaired and had a brain injury, they were in receipt of ESA which included Support Group and Enhanced Disability Premium (EDP) and Severe Disability Premium (SDP), the latter was paid on the condition of receiving middle rate care component of Disability Living Allowance (DLA). My investigation found that despite it being noted in DWP's records several years ago that M was blind and unable to respond to written correspondence, DWP failed to have regard to that in processing M's claim for PIP. M was correctly invited to claim PIP as it was being replaced by DLA and made a claim by telephone but was sent a PIP2 form to complete and when they failed to return it, their PIP claim was closed. That closure in turn ended M's entitlement to DLA and so also entitlement to SDP. When M then disputed the loss of SDP this prompted a review of M's ESA entitlement, and M was sent an ESA50 form to complete; when they failed to return that form, ESA was also stopped. ESA was eventually reinstated but not before M had been without any benefit for two months. Meanwhile, M had several telephone calls with DWP staff in which M said they had difficulty completing forms that had been sent to them. No attempt was made to explore alternative formats to help, and M's request that DWP appoint an advocate to assist was also ignored. M made a complaint to DWP and again, instead of exploring reasonable adjustments to assist, DWP became bogged down in repeating in their complaint responses that there was no obligation for them to provide an advocate; missing the point that they could instead explore how they could help M with their specific needs. As part of my recommendations, I asked DWP to place a vulnerable marker on M's case and ensure that M's future dealings with DWP were dealt with by a Vulnerable Customer Champion; I recommended that DWP make M a consolatory payment of £1,500.



## Case Example 11

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Customer N's representative told my office that DWP failed to adhere to N's request that UC payments, in respect of housing costs, should be made directly to N's landlord. N had claimed UC following a change of address, having previously received ESA. Within N's UC claim they said they were in temporary accommodation, which meant that a Housing Element may not be payable and they might still need to claim Housing Benefit. That wasn't checked though and no further action was taken regarding Housing Costs. It wasn't until six months later that N attended Jobcentre Plus as they were in rent arrears. N was awarded Housing Costs from then and asked for a managed payment to Landlord (MPTL) in which the Housing Element is paid directly to the landlord.

N's landlord confirmed N had rent arrears of approximately £2,500 and that they wanted to apply for a MPTL and a separate Third Party Deduction (TPD) for arrears. DWP then failed to follow procedures as they mistakenly selected the option that N was not in more than two months' rent arrears, so no TPDs were taken, and the Housing Element was incorrectly paid into N's bank account, not to the landlord.

Following this, N's representative asked DWP to calculate the Housing Element from the start of the UC claim and to make sure payment was made directly to N's landlord, as N was vulnerable and would likely spend the money irresponsibly. DWP agreed to that, however, they calculated that N had been underpaid from July to September 2019 and again incorrectly paid that directly to N.

N's representative complained; DWP apologised and gave assurances that direct payment to the landlord had been setup, but they explained they could not reissue previous payments to the landlord, as N had received them. I upheld N's complaint and recommended that DWP make a consolatory payment of £300, to be paid directly to N's landlord to offset against the rent arrears, with the representative's agreement to that.



“

*There was a delay before the case officer got the case, but after that it was all good. I'll admit I didn't expect such an in depth investigation, and didn't feel confident that my case would be heard fairly. I'm happy to admit I got it wrong.”*

During the course of our investigation, DWP told my office they would be introducing support measures as recommended by the DWP Serious Case Panel, and which are now in place, to consider a customer's vulnerability in relation to a number of factors including the issuing of large sums of money. That allows DWP to assess whether or not a customer needs support to manage a larger payment or whether it might be more appropriate to make it to an authorised third party.

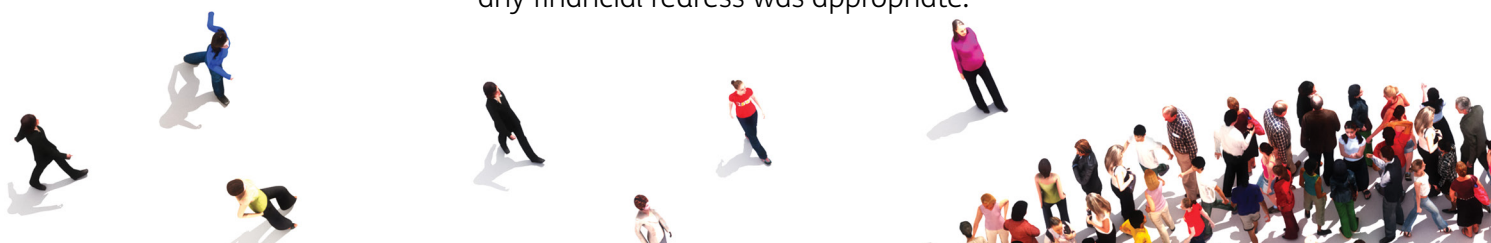
### Case Example 12

Customer O told my office that DWP repeatedly disallowed and then reinstated benefits without explanation. Our investigation found that despite O having a mental health marker on their file DWP had no regard to that when they disallowed O's PIP claim due to O's behaviour at the assessment they were asked to attend. That decision was revised some months later, and the claim re-opened, and PIP was awarded following a paper-based review, but DWP failed to tell O the claim had been re-opened.

A review of O's ESA then became due and DWP went on to disallow ESA as O failed to attend two medical assessments; again no regard was given to O's mental health marker. O disputed that decision and also provided new medical evidence, resulting in the disallowance decision being overturned and O was again awarded ESA with the Support Group component.

O then asked for a PIP assessment, but again PIP was disallowed as O failed to attend the assessment, with no regard being taken of their mental health marker. Losing PIP meant that O also lost entitlement to SDP and O was not informed of that. O disputed the disallowance and DWP decided that they had been wrong to complete another assessment; DWP overturned the disallowance and O was paid arrears of over £1,000.

O was then admitted to hospital and so lost entitlement to PIP and although O was informed of the PIP decision DWP again failed to inform them that SDP would also stop. PIP was reinstated when O was discharged from hospital, but DWP failed to backdate it to the date of discharge. In response to O's complaint DWP said they did not consider any financial redress was appropriate.



However, I upheld O's complaint and recommended DWP make a consolatory payment of £500 taking into account the periods without benefit – I also recommended that DWP review the dates that they had reinstated O's PIP and SDP payments as they appeared incorrect.

## Delay in agreeing ICE recommendations

At the end of our investigation we share the report with the relevant business area and ask them to agree that the recommendations will be implemented. Delays in doing so lead to customers waiting even longer to get their valid complaints resolved.

### Case Example 13

Customer P complained to my office that DWP failed to follow the correct process when processing their ESA, DLA and PIP claims. Our investigation found that P was in receipt of DLA and ESA with the Support Group component and was also receiving EDP and SDP component. P was invited to claim PIP which was replacing DLA but failed to attend the PIP assessment and PIP was disallowed, ending P's DLA claim. As P had lost entitlement to DLA their SDP component paid with ESA should have stopped, but instead DWP stopped paying ESA entirely for nine months, after which ESA was reinstated for a further two years. However, when P failed to attend an ESA assessment, their ESA was disallowed but we found no evidence that P was notified of that decision. Further, although P had a severe mental health condition, there was no mental health marker on their claim. Had a mental health marker been in place, DWP would have arranged a home visit to P before disallowing their ESA claim. I recommended that DWP refer P to their Advanced Customer Support Senior Leaders to identify what could be done to help P's future engagement with DWP run more smoothly. I also recommended that DWP make P a consolatory payment of £800 in recognition of the hardship and injustice of not having their claims dealt with properly. My final report was shared with DWP in December 2021, highlighting that the customer was vulnerable, and they were asked to agree the recommendations. DWP said they needed to investigate the customer's circumstances further; they didn't agree my final recommendations until February 2022.



## Service Improvement Observations

In addition to investigating case-specific complaints of maladministration (service failure), we also have a role to play in identifying wider Service Improvement Observations (SIOs), which if addressed will limit the scope for future service failures and improve the service provided to customers.

In this reporting year my office wrote to DWP highlighting 16 SIOs (10 DWP and 6 CMS) - some examples are below. These included some CMS cases which dealt with concerns for receiving parents about potential coercive control or intimidation by paying parents and CMS' ability to respond to that. Discussion with CMS established that there was no provision for CMS to apply discretion to refuse an otherwise valid Direct Pay request, in such circumstances. I wrote to DWP expressing my concern that this appeared to fetter CMS' ability to apply a more contemporary understanding of domestic violence, in particular in regard to coercive control, which I felt reflected poorly on the business.

I also use the SIO mechanism to raise more general observations from the cases I see, and this year, I drew DWP's attention to an aspect of their handling of the IB to ESA transition of customers, starting in 2011. Many customers were put on to contributions-based ESA, when they would have been better off on Income-Related ESA. That was remedied from 2014 onwards, and after Judicial Review in 2018 an exercise was undertaken to pay arrears of benefit to customers who transitioned between 2011 and 2014 and lost out. At the time, Ministers made what has since been described as a 'policy' decision that arrears would be paid, but included no further financial redress. I wrote to raise my discomfort with the use of the word 'policy' to that Ministerial decision, which served to prevent any customer in this group, regardless of the circumstances of their case, accessing the complaints process.



“

*...may I thank you  
and your team  
for independently  
investigating my case.  
I am grateful for the time  
and effort that you have  
provided over the course  
of my investigation.”*

### Case Example 14

Customer Q complained to my office that CMS failed to take appropriate action when Q told them that they didn't want to provide their bank details to the paying parent or to progress Q's child maintenance application. My investigation found that Q applied for child maintenance in January, but CMS delayed in completing the maintenance calculation until June as they were waiting for further information about the paying parent's income. However, they failed to explain that to Q at the time and only took action after Q contacted them. I upheld that part of Q's complaint. Q's child maintenance case was set as Direct Pay but Q did not wish to divulge their bank details to the paying parent. After discussing with CMS, Q opted to use PayPal; an accepted alternative method of payment. Unfortunately, the paying parent reported issues with making payments by that method. CMS are not obliged to intervene in resolving any issues a customer may have in these circumstances as such companies are independent of CMS. That is partly explained in the 'About Child Maintenance' leaflet which is sent to both parties at the application stage. Therefore, whilst Q believed CMS should have done more to assist with this I found that was not the case and I did not uphold that part of Q's complaint.

However, I made a recommendation for a £50 consolatory payment in recognition that CMS delayed in addressing Q's enquiries and complaints and they didn't make it clear to the paying parent that they should contact PayPal when they reported problems. I also wrote to DWP about this case and asked them to consider how it could be better explained to customers that, should any issues arise as a result of their decision to use an alternative payment method such as PayPal, then the responsibility to resolve that rests with them and that they should contact the company directly. This should allow them to make informed decisions about the method of payment they wish to use.



## Case Example 15

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Customer R had a Tax Credits claim with HMRC, and due to language and learning difficulties, reasonable adjustments were in place for R to communicate with them. However, when the Tax Credit debt was referred to DWP, Debt Management were unaware of the reasonable adjustments R previously had in place with HMRC, which led to R making a complaint.

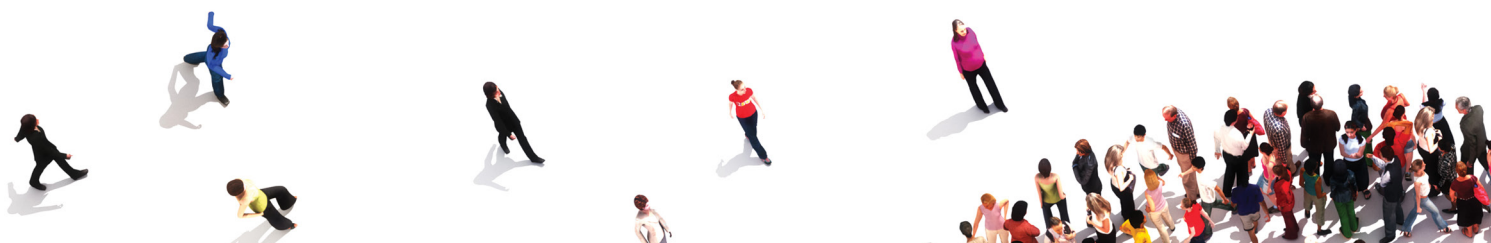
In view of this, I wrote to DWP suggesting that they may wish to explore the potential for introducing a process to allow HMRC to share information with DWP about any reasonable adjustments that have been agreed with HMRC at the point Tax Credit debt is transferred for collection by Debt Management. They have agreed to that.

## Case Example 16

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Customers S and T were a married couple who were both students receiving student finance loans for living costs; they had two children and along with the Child Tax Credits which they received throughout the year, they had, in the past, claimed JSA during the summer months when they were not studying. In July 2019, UC had replaced JSA in their area and S and T made an online UC claim; meaning the opportunity to reclaim any legacy benefits, including Child Tax Credits, ended.

As a result, S and T were significantly worse off financially when they returned to their studies, as Tax Credits were no longer in payment and UC wasn't payable due to the student finance they were receiving. I wrote to DWP about this case as UC Policy design means that this couple's only way to continue to receive Child Tax Credits would have been to not make any claim during the summer months, as they could have done with legacy benefits, leaving them with no means of financial support as a family between academic years. I was concerned this may have been an unintended consequence of unusual circumstances but which could have wider impact for other students with children.




# Summary of ICE cases and findings by Business Area

 **1,553** Cases received  
**885** related to **UC**


 **436** Cases accepted  
**271** related to **UC**


 **409** Cases cleared  
**247** related to **UC**,  
of which:


 **7** Withdrawn  
**5** related to **UC**

 **83** Resolved or settled  
**63** related to **UC**

 **319** ICE investigation  
reports issued  
**179** related to **UC**

 **65 (21%)**  
Fully upheld  
**39 (22%) UC**

 **129 (40%)**  
Partially upheld  
**66 (37%) UC**

 **125 (39%)**  
Not upheld  
**74 (41%) UC**

## 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 of working age but unable to do so due to illness or incapacity. For the second year, **more than half** of the Working Age complaints we accepted were from UC customers, as UC continues to roll out across Great Britain for new claims, or for customers who have had a change of circumstances leading to a change in their requirements.

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). Crucially, those customers that do claim UC, find they can no longer return to claiming legacy benefits. Again, we found that confusion or a lack of knowledge on the part of staff resulted in customers making inappropriate claims in error in particular with the treatment of students and income they received from loans during the academic year.



**425** Cases received**104** Cases accepted**98** Cases cleared,  
of which:**5** Withdrawn**25** Resolved or settled  
to the customer's  
satisfaction**68** ICE investigation  
reports issued**19 (28%)**  
Fully upheld**28 (41%)**  
Partially upheld**21 (31%)**  
Not upheld

## Disability benefits

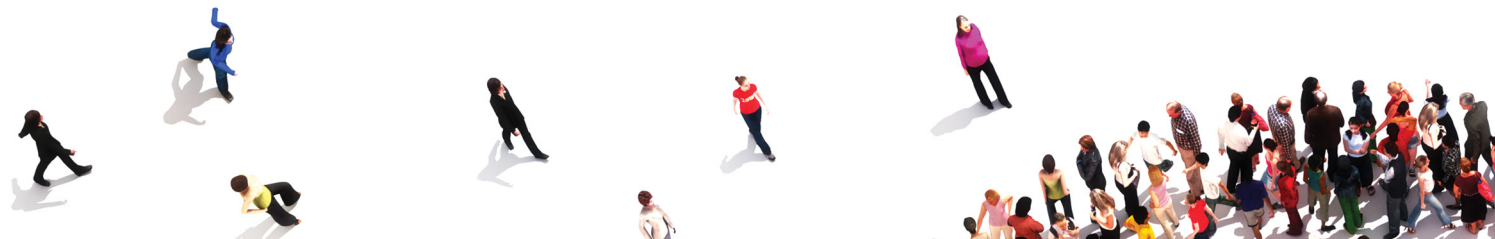
DWP are responsible for paying benefits to those who have a disability or long term illness. The majority of cases I have seen this year are from Personal Independence Payment (PIP) customers, which has largely now replaced Disability Living Allowance (DLA) since it was introduced in 2013 for people aged 16 to 64. In the main the complaints my office received concern the PIP assessment process and how medical evidence provided to support a claim had been interpreted. However, my office has also seen complaints about payment delay, and misadvice. In many of the cases I examined PIP was not the only benefit being claimed and this impacted on entitlement to other benefits such as ESA and Carers Allowance.



	<b>453</b>	Cases received
	<b>95</b>	Cases accepted
	<b>46</b>	Cases cleared in the reporting period of which:
	<b>0</b>	Withdrawn
	<b>21</b>	Resolved or settled to the customer's satisfaction
	<b>25</b>	ICE investigation reports issued
	<b>8 (32%)</b>	Fully upheld
	<b>5 (20%)</b>	Partially upheld
	<b>12 (48%)</b>	Not upheld

## Retirement services

The Pension strand of DWP administers a range of benefits to those approaching or of State Pension age. During the reporting year we saw some notable cases involving delays in making State Pension payments and customers saying they had been misadvised about their entitlement to State Pension.



**235** Cases received**47** Cases accepted**40** Cases cleared in the reporting period of which:**0** Withdrawn**19** Resolved or settled to the customer's satisfaction**21** ICE investigation reports issued**2 (9%)**  
Fully upheld**9 (43%)**  
Partially upheld**10 (48%)**  
Not upheld

## Debt management

Debt Management is the part of DWP responsible for managing and recovering claimant debt, including benefit overpayments, Social Fund loans and Tax Credit overpayments from customers who moved onto UC. Complaints about Debt Management continue to be low in number, this year in part as during the Covid Pandemic debt recovery action was suspended.




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 **1153** Cases received

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 **667** Cases accepted


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 **389** Cases cleared in the reporting period of which:

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 **5** Withdrawn

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 **158** Resolved or settled to the customer's satisfaction

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 **226** ICE investigation reports issued


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 **56 (25%)**  
Fully upheld

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 **128 (57%)**  
Partially upheld

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 **42 (18%)**  
Not upheld

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## Child maintenance service

The Child Maintenance Service (CMS) was introduced in November 2013 to replace the Child Support Agency (the Agency). As the Agency closed all their existing cases, parents were invited to apply to CMS for ongoing maintenance, and if they wished, ask for any Agency unpaid maintenance to be transferred to CMS to collect. A key feature of the complaints we have seen this year continues to be the transfer of arrears to CMS from the Agency - in particular where those arrears had previously been disputed with the Agency and were believed by the customer to be incorrect. My office continues to investigate complaints about the Agency as well as CMS, but as highlighted earlier, this has been made more difficult in some cases as the Agency's evidence had been prematurely deleted.

CMS is responsible for the assessment and collection of ongoing child maintenance and complaints often arise when children move out of one parent's household or stop being a qualifying child as they have left full time education. Although CMS has an interface with HMRC who administer payments of Child Benefit, this isn't always being fully utilised, leading to delays in reviewing changes to remove a child from the child maintenance case, which can often result in overpayments.

The data for the Agency is on the following page.



## Child support agency



**676** Cases received



**292** Cases accepted



**212** Cases cleared  
in the reporting  
period of which:



**4** Withdrawn



**38** Resolved or settled  
to the customer's  
satisfaction



**170** ICE investigation  
reports issued



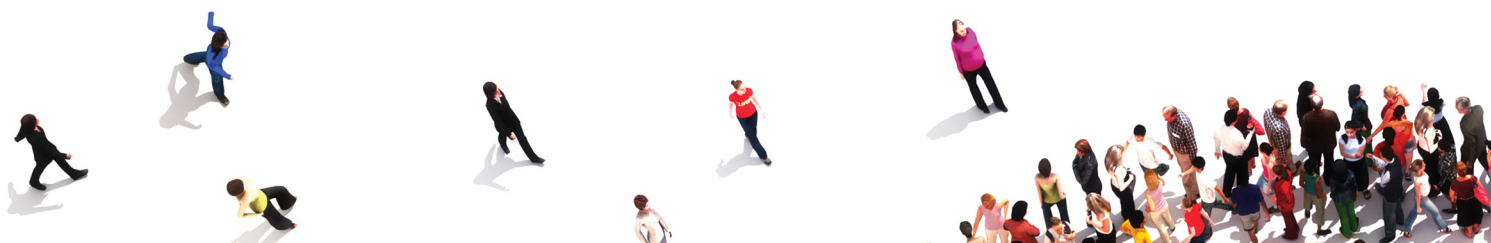
**70 (41%)**  
Fully upheld



**59 (35%)**  
Partially upheld




**41 (24%)**  
Not upheld




 **164** Cases received

 **67** Cases accepted


 **203** Cases cleared in the reporting period of which:


 **4** Withdrawn

 **28** Resolved or settled to the customer's satisfaction

 **171** ICE investigation reports issued

 **11 (6%)**  
Fully upheld

 **8 (5%)**  
Partially upheld

 **152 (89%)**  
Not upheld

## Contracted provision

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

We received very few complaints about employment programmes, and those we did receive were most often that the programme failed to meet the customer's expectations.

Due to the Covid pandemic health assessments were suspended between March 2020 and May 2021 so complaints about them were also low. The complaints that we did receive involved the customer's dissatisfaction with the HCP's opinion of the impact of their condition on their day to day lives, or disagreement with a HCP's view that a face to face assessment was required, rather than a paper based review. Whilst we have no role to play in commenting on such medical opinions, they are often the driver for the complaints that escalate to my office.



# 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 2021/22 reporting year are below:

### Initial Action:

- We told **89%** of customers the results of our initial checks within our target of 10 working days.

### Resolutions:

- We cleared **41%** of resolutions within our target of 8 weeks.
- Our average clearance time in those cases that we resolved was 10.35 weeks from the point the complaint was accepted for examination.

### Settlements:

- We cleared **73%** settlements within our target of 15 weeks.
- Our average clearance time in those cases that we settled was 11.13 weeks from the point the case was allocated to an Investigation Case Manager.

### Investigation Reports:

- We cleared **41%** of ICE Reports within our target of 20 weeks (we make every effort to meet 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 Report was 27.4 weeks, from the point the case was allocated to an Investigation Case Manager.

### Complaints about our service:

- We responded to **96%** of complaints about our service within our target of 15 working days.

### Customer satisfaction:

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



“

*I am grateful for your work and the time you spent on this matter. I hope that your findings are fed back to the appropriate departments and that actions are taken to avoid these things happening to other people in the future.”*

## Findings of the Parliamentary and Health Service Ombudsman Office

Customers 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 (PHSO) Office. PHSO did not conclude any investigations concerning the ICE Office, though they are yet to publish their own figures to confirm this.

## 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 the ICE is a board member of the Ombudsman Association. 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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