

## **Annex**

### **The Independent Case Examiner (ICE) Service**

#### **Our Purpose**

We provide an independent review service for customers of the Department for Communities (DfC) and organisations delivering contracted DfC services (for example those providing work programmes or health assessments). Our main objectives are:

- to deliver a tailored service to people bringing complaints to us and make fair evidence-based decisions; and
- to influence DfC service improvements by providing valuable insight from what we see.

#### **Our Mission**

To investigate complaints thoroughly ensuring rules, guidance, and standards have been applied correctly and fairly, based on evidence from both sides. We explain things clearly, so people understand our decisions.

#### **Our Vision**

To continue delivering a high-quality complaint handling service which adapts and improves and which shapes DfC services improvements by helping them learn from complaints.

## 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 customer 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### Withdrawn cases

Complaints may be withdrawn for several reasons.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 customers 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 customer 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.

Following a review of the evidence it may be possible to "settle" the complaint, if agreement can be reached on actions that satisfy the customer. This approach avoids the need for the ICE to adjudicate on the merits of the complaint and issue an investigation report.

### ICE Report

If we are unable to settle the complaint, the ICE will adjudicate on its merits and issue a report.

Where we find a complaint has no merit or the business has already provided or offered appropriate remedy to the customer, the ICE may adjudicate on it earlier in the process.

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 customers 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. In the event that the customer 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 4 cases we investigated, 2 related to staff complaints and 2 were about misinformation/misdirection.

### Statistical Information 1 April 2022 to 31 March 2023

#### Complaints Received

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

<b>Received</b>	12
<b>Accepted</b>	7

#### Case Clearances

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

<b>Resolution</b>	1
<b>Settlement</b>	0
<b>Investigation Report from the ICE</b>	4
<b>Withdrawn</b>	0
<b>Total</b>	<b>5</b>

#### Outcomes

ICE investigation report findings are detailed below:

<b>Fully upheld</b>	1
<b>Partially upheld</b>	0
<b>Not upheld</b>	3
<b>Total</b>	<b>4*</b>

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

## Live caseload

As at 31 March 2023 there were 6 cases outstanding, of those:

- 2 were awaiting a gateway decision
- 2 were awaiting investigation
- 1 was at the resolution stage
- 1 was under investigation

## Case examples

### **Case Study 1**

Mrs A complained that DfC had failed to take appropriate action to investigate her complaint about the conduct of a member of staff following a telephone call in October 2019.

Our investigation found that Mrs A didn't complain about the call that took place in October 2019, until 12 months later. DfC conducted a search of the telephone recording systems, but there were no calls found from Mrs A's telephone number in October 2019. There were also no written records to show a call had taken place.

I found that there was nothing further for DfC to investigate and I did not uphold the complaint.

### **Case Study 2**

Mr B complained that DfC failed to provide him with the appropriate benefit advice.

Our investigation found that Mr B was in receipt of Housing Benefit and Rate Relief. During a telephone call with DfC, Mr B asked if he was entitled to Pension Credit following a change in his wife's employment. Mr B was told he wasn't eligible for Pension Credit but could make a claim for Universal Credit (UC). I would have expected DfC to have signposted Mr B to the online benefit calculators to help him make the decision about what to claim. Instead, Mr B was told that making a UC claim would do 'no harm' and with his wife's income going down there was a chance his Rate Relief would go up. This advice was incorrect as once a person makes a claim for UC, they are no longer eligible to go back to receive Housing Benefit and Rate Relief even if the UC claim is later withdrawn or disallowed. Mr B had no entitlement to UC, which would have been clear had he been signposted to the benefit calculators, and he would have continued to receive Housing Benefit and Rate Relief until his wife reached State Pension age.

I also found that DfC failed to follow their process for investigating misadvice claims as I have seen no evidence of statements being taken from Mr B or the advisor he spoke to, and the audio recording was not listened to.

I concluded that Mr B had been misdirected to claim UC, rather than being directed to the benefit calculators as the process states and I upheld the complaint.

I recommended that DfC considered Mr B's entitlement to Housing Benefit and Rate Relief and award him ongoing loss of statutory entitlement, together with any relevant payment for the loss of use of any sums awarded. I also recommended that DfC apologise and make a consolatory payment of £300 to Mr B for failing to complete a misdirection investigation.

### 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.

This financial year, we investigated 2 cases of varying nature, which included failures in case management, complaint handling and conflicting information.

#### Statistical Information 1 April 2022 to 31 March 2023

##### 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	1	1
Total	0	1	1

## Outcomes

ICE investigation report findings are detailed below.

	<b>Legacy cases</b>	<b>2012 cases</b>	<b>Legacy and 2012</b>
<b>Fully upheld</b>	0	0	0
<b>Partially upheld</b>	0	0	2
<b>Not upheld</b>	0	1	1
<b>Total</b>	<b>0</b>	<b>1*</b>	<b>1*</b>

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

## Live caseload:

As at 31 March 2023, there was 1 case outstanding which was at the resolution stage.

## Case example

### **Case study**

Mr C complained that CMS delayed in completing a mandatory reconsideration and failed to remove the backdated collection fees that accrued as a result.

Our investigation found that whilst there was a delay in considering the change Mr C reported in November 2020 until June 2021; Mr C didn't follow this up until March 2021 and didn't provide evidence of his income until May 2021. CMS apologised for the delay and offered Mr C a £50 consolatory payment and £100 in relation to his mortgage application fees which he explained had been impacted by CMS' delay – I was satisfied that this provided appropriate redress. I also found that despite the delay, further collection fees were due as a result of Mr C's increased liability and backdated charges which Mr C was responsible for paying and I did not uphold that element of his complaint.