ANNUAL REPORT

1 April 2016 – 31 March 2017

INDEPENDENT CASE EXAMINER

For the Department for Work and Pensions

Independent Case Examiner

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 referee 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.

CUSTOMER SERVICE EXCELLENCE
UK
The Government Standard
bsi.

Contents

Independent Case Examiner's foreword 4

Introduction 6

Casework statistics 8

Casework 11
Working Age Benefits 12
Disability Benefits 17
Pensions 22
Debt Management 24
Contracted Provision 28
Child Maintenance Service 31
Child Support Agency 34

The ICE Office 36
Standards of Service 37
Complaints about our service/investigations 38
Findings of the Parliamentary Ombudsman 38
Continuous improvement 38

Independent Case Examiner's foreword

I am delighted to write the foreword for my annual report on the work of the ICE office, which again gives a welcome chance to overview our case work and reflect on what we do.

Whilst we are not consumer advocates, we have an important role in levelling up what can feel to be an unequal balance of power for our complainants between them and the vast DWP organisation. When cases go wrong it is clear complainants can feel they are small and unheard, so a critical part of our work is to make sure that every complainant is sure their concerns have been fully listened to, fully researched and fully answered. We get feedback on how much complainants appreciate this and our explanation of what has happened, in detail, in their case – sometimes despite my final decision not being in their favour.

The complaint themes I am choosing to highlight this year both reflect aspects of this power imbalance, with continuing issues about the **handling of complaints against staff** and a troubling number of cases in which the **premature destruction of records** by DWP has been a hindering factor.

I am disappointed to raise shortcomings in the handling of complaints against staff again, for a third year in succession and although I am aware DWP have taken steps to improve the handling of these complaints prompted by my previous reports, it remains an area of concern. This feels like a balance of power issue for complainants, as the organisation appears to close ranks when a complaint is made about a member of staff. As in previous years I have most often found that complaints have been investigated, but not fully and not in line with all the DWP's own guidelines; on top of that communication to the complainant isn't always completed as it should be.

I have also raised for the first time the theme of incorrect destruction of records which has been a factor in a number of complex cases of significant financial value to the complainant. If evidence that should be available to me has been destroyed prematurely I then have to make my findings on

'the balance of probability' – or my assessment of what is most likely to have happened, when a definitive answer might otherwise have been possible. Such decisions can never feel as sound and can leave any party to the complaint feeling aggrieved when evidence that should have been available, such as an original signed claim form, would have avoided that. I am also aware that complainants may have understandable worries that evidence has been destroyed deliberately; the power issue again. I have raised this as a theme as whilst DWP have clear data retention policies it is becoming apparent from my cases that staff are not always observing them, or more worryingly have misunderstood them.

Aside from these themes I have also raised a larger than usual number of systemic recommendations this year. These are letters I write when cases conclude, outlining the opportunities for the DWP business to learn from an error, or a near miss, and prevent similar issues arising again. There have been a higher number of these as there have been more new benefits or policy/process changes in the cases I have seen. I always consider the systemic recommendations we make to be the positive opportunity for good to come from a poor experience for a complainant and for a learning to come from our work to understand that. I am pleased that all those I have made have been wholly welcomed and carefully considered by the DWP businesses.

Finally, on the theme of change, this has also been the first full year of a change in the way in which my office colleagues go about researching and drafting the reports that I adjudicate upon. In this we have to balance getting a timely report and decision for the complainant with the overriding need for accuracy; I am often struck by the fact that the findings in a case can turn on one or two facts which may not have been apparent on the first or even second examination of it. I am grateful to all our staff who go the extra mile to find answers to sometimes repeated questions about a case – without which I could never be sure that our findings were sound; I sincerely thank the staff in the office for the commitment they share with me to producing the very best decisions we can.

I am delighted that you are reading my report; please do get in touch with any feedback.

Joanna Wallace
Independent Case Examiner

Introduction

In our twentieth anniversary year we have again accepted over 1000 complaints for investigation – these complaints cover the breadth of services delivered to customers of DWP and highlight where things can go wrong. In cases where errors have occurred, customers can lose faith in the Department and in such instances the independent review provided by this office can help all parties understand what has happened and why.

Although we deal with a wide range of complaints we have identified some common themes which have threaded through the areas of business. The handling of complaints about staff has been an on-going feature in our caseload for the last few years, and despite there being clear guidance in place for dealing with such complaints, we continue to see cases in which the Department has failed to adhere to the guidance in full.

Complaints with document retention issues as an underpinning factor have also emerged as a theme this year. Despite there being clear guidance about the timescales for retaining information, failure to follow this guidance has led to evidence being destroyed prematurely, which in turn has on occasion severely hindered our ability to conduct a thorough investigation. In the absence of all the information that should be available, it falls to the Independent Case Examiner to determine what is most likely to have happened in a particular scenario.

On the whole, the complaints we investigate continue to be complex and challenging and require us to analyse a wealth of information. Despite this we continue to make every effort to try and resolve or settle complaints to the complainant's satisfaction, without the need for an investigation report, since this generally represents the quickest solution for the complainant. During the 2016/17 reporting year, we resolved or settled almost a quarter of the cases we cleared.

Whilst complaints can understandably be perceived as negative, it's pleasing to note that some twenty years on from the establishment of this office, we continue to gain insight and identify learning from the complaints we examine, which allows the Department opportunities for improvement, proving that learning from complaints can and does make a positive contribution. Such opportunities for improvements often arise from complaints about new benefits and systems. During the reporting year, we raised 15 systemic recommendations with the Department, all of which were well received and led to changes in operations. Examples of these can be found within the case examples in this report.

Some of the more contentious cases that we examined this year remind everyone that there can be serious consequences to individuals where the business have failed to get things right, and that, small mistakes can escalate and have a much bigger impact. In our day to day role of investigating complaints, we are mindful not to lose sight of the fact that for those people who bring their complaint to us, the outcome of our examination can have a significant impact on their lives, as the following quote demonstrates:

> *Thank you again it's good to know that the little person has someone like you and your office on their side. It was very daunting in the beginning complaining against the CSA government agency, but after speaking to you on a couple of occasions you did put me at ease and I had every confidence in you.*
>
> *I was very happy with the outcome and my children will enjoy some treats from the monies I will be receiving, after all it was always about them.*"

Casework Statistics

The data and figures included in this report are based on casework in the twelve month period between 1 April 2016 and 31 March 2017.

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, or that their complaint does not relate to maladministration. 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

We try to resolve complaints with the agreement of the complainant and the business, without the need to call for and consider the evidence, as this generally represents a quicker and more satisfactory result for both.

Settled cases

We try to reach settlement of complaints following an examination of the evidence, by reaching agreement between the business and 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.

Findings

Detailed below are the findings the Independent Case Examiner can reach:

- **Upheld:** If there is evidence of maladministration in relation to the complaint which was not remedied prior to our involvement, the complaint is upheld.
- **Partially upheld:** If only some aspects of the complaint are upheld, but others are not, the complaint is partially upheld.
- **Not upheld:** If there is no evidence of maladministration in relation to the complaint, the complaint is not upheld.

- **Justified:** Although the complaint may have merit, the business has taken all necessary action to remedy it 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 redress, such as an apology, corrective action or financial redress.

Referrals to the ICE Office – at a glance

Reporting Year	**2016/17**
Received	**2918**
Accepted	**1126**
Total case clearances (of which):	**887**
Withdrawn	**32**
Resolved by agreement between the parties	**84**
Settled by agreement between the parties having considered the evidence	**125**
Investigated	**646**
Of those complaints investigated % partially upheld	**43% (276)**
Of those complaints investigated % of fully upheld	**25% (164)**
*Of those complaints investigated % of cases not upheld	**32% (206)**

*This includes cases which we deem justified, because although the complaints have merit, the business have taken all necessary action to remedy them prior to the complainant's approach to ICE.

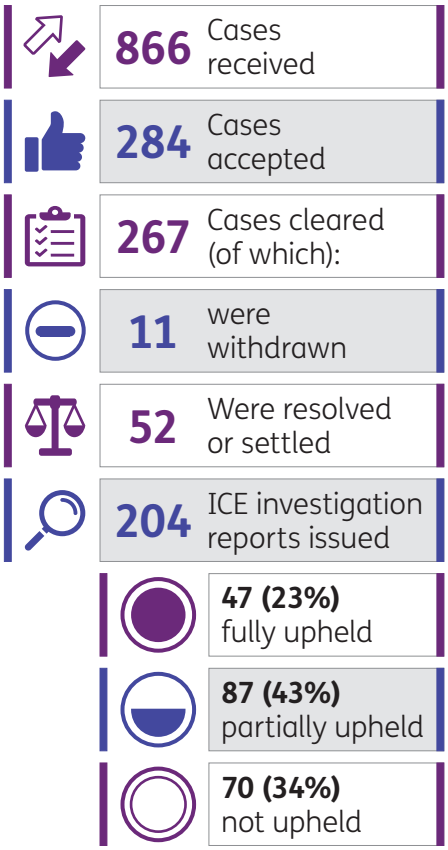
Subsequent chapters provide more detail of the workload originating from the Department's constituent parts, the outcomes of our investigations and examples of the work we do and the outcomes we achieve.

Since we have chosen to highlight themes regarding the handling of complaints about staff, issues associated with data retention and those cases which have led to recommendations for systemic change, the examples we have provided tend to focus on those complaints which were fully or partially upheld, as they highlight opportunities for learning and service improvement.

The examples included in this report are based on ICE cases and are anonymised to protect the complainant's identity.

CASEWORK

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 unable to work due to illness or incapacity. With the introduction of Universal Credit we expected complaints arising from it to increase, however, that has not been the case and numbers remain low.

However, the on-going theme of the handling of complaints about staff has highlighted that staff are not always adhering to the guidance for dealing with such cases, and the theme of document retention has arisen from cases where evidence has been destroyed prematurely. We have included examples which illustrate these themes.

COMPLAINTS ABOUT STAFF

Case study one

Mr A complained that Jobcentre Plus had failed to conduct an investigation in line with their procedures, following the complaint he made about Officer A who had conducted two interviews with his mother. At the first interview Mr A's mother was accompanied by Mr A's father, at the second she was accompanied by both Mr A and his father.

I found that either Officer A didn't make a record of the meetings held with Mr A's mother as they should have, or Jobcentre Plus failed to retain them. This hindered Jobcentre Plus' subsequent investigation, as they were unable to refer to any actual account taken at the time and were left only with differing recollections, provided by both Mr A and Officer A, some time later.

Mr A raised concerns about Officer A's manner and claimed that other Jobcentre Plus staff had offered their apologies after witnessing how

his parents had been treated – JCP failed to respond. Contact from Mr A's MP prompted an investigation of some sorts, but I found no record of Officer A having been interviewed although they did complete a written statement of events which contradicted that of Mr A. While both agreed that a Customer Care Officer had been present for part of the second interview, that Officer had since left JCP. In response a Complaints Resolution Manager claimed that Officer A had been interviewed and concluded that the correct procedures had been followed.

Mr A continued to raise concerns and was told that during the investigation as many witnesses as possible had been sought, that the Customer Care Officer was no longer available to speak to and Mr A's complaint against Officer A remained not upheld. However no effort had been made to obtain a statement from other witnesses to the interviews. I upheld Mr A's complaint and recommended that Jobcentre Plus apologise and award a £75 consolatory payment.

Case study two

Mrs B complained that Jobcentre Plus had failed to fully investigate the complaints she had made about two Work Coaches she met with during appointments.

Mrs B raised a complaint about Work Coach B. The information she provided should have formed the basis of an investigation and the manager dealing with the complaint should have gathered statements, including from Work Coach B. Furthermore, paperwork associated with that investigation should have been retained, in accordance with standard DWP data retention requirements.

An investigation did take place, although the specifics of it are unknown as Jobcentre Plus failed to retain any associated paperwork. A Complaints Resolution Manager told Mrs B that they had found no evidence of her claims; but she was not told whether the complaint had been upheld. Mrs B was dissatisfied with their response and escalated her complaint.

Meanwhile, Mrs B attended another appointment with Work Coach C – on the same day she raised a complaint about that Work Coach. Jobcentre Plus assured her that they would investigate that complaint while also reconsidering their reply about Work Coach B. Again, it was unclear what was actually investigated and, although the subsequent reply alluded to the complaint not being upheld, Mrs B was not specifically told this. Jobcentre Plus assured Mrs B that all staff complaints were thoroughly investigated, but were unable to provide us with the evidence to demonstrate that they had done so in accordance with DWP guidance. I upheld the complaint, recommending Jobcentre Plus apologise and award Mrs B a £125 consolatory payment in recognition of those failings and other matters.

Case study three

Mrs C complained that during an appointment an adviser acted unprofessionally when he made derogatory and condescending comments about a different adviser she had seen the previous week and that Jobcentre Plus failed to respond to her complaints about this.

Having received Mrs C's complaint no action was taken to investigate and Mrs C received no reply. It was only after her MP intervened that the complaints team asked the Jobcentre Plus Manager to investigate Mrs C's concerns. The Manager investigated the matter and concluded that the complaint was not upheld.

When the Complaints Team wrote to Mrs C's MP later that month, they failed to say that the complaint had not been upheld or to acknowledge that they had failed to act immediately on receipt of the staff complaint. Their finding was not relayed to Mrs C until several months after the investigation.

In the absence of a full record of the discussion between Mrs C and the adviser I was unable to reach a finding in respect of the claims made by Mrs C. However, Jobcentre Plus failed to provide timely and appropriate responses to Mrs C's concerns. I partially upheld the

complaint and recommended Jobcentre Plus apologise and make a £100 consolatory payment.

DATA RETENTION

Case study four

Ms D's representative complained that Jobcentre Plus failed to retain or record information regarding her mental health problems.

Ms D made a telephone claim to Employment and Support Allowance in 2013, when she would have completed a customer statement. Jobcentre Plus recorded some detail of her mental health problems on their computer system, setting a flag to ensure the necessary safeguards when processing the claim. Jobcentre Plus' data retention policy requires data to be kept while a claim remains live and for 14 months after a claim has ended.

The claim was referred to Atos Healthcare and when Ms D failed to attend the medical examination or respond to Atos' communications, it was returned to Jobcentre Plus. At this point Jobcentre Plus had regard to Ms D's mental health problems as, rather than disallow the claim, they made attempts to speak to her by telephone before arranging a home visit. Having exhausted those lines of enquiry, without success, the claim was disallowed in July 2014. However the decision was reconsidered in January 2015 after concerns raised by Ms D's representative in December 2014 – the information relating to the claim that had been disallowed in July 2014 should still have been available.

While Jobcentre Plus clearly recorded information on their computer system about Ms D's health problems, they failed to keep a copy of the customer statement as they should have done, so I was unable to determine whether they fully captured the details of her problems from it. To that extent I upheld Ms D's complaint and recommended Jobcentre Plus apologise for their failure to adhere to their document retention policy.

"I wanted to say thank you for the service I have received from the ICE office. Staff have been exemplary throughout the investigation, even when I have been less than amicable, the attitude of staff was very positive.

I may disagree with the report however I am completely satisfied with the ICE service. The investigation was extremely thorough and I could see just how thorough after receiving my SAR. I am taking my complaint to the ombudsman but I wanted to be clear about how I felt about the ICE service."

Case study five

Ms E complained that Jobcentre Plus repeatedly failed to advise her and her partner (Mr Y) of the correct application process for financial assistance in Mr Y attending a mandatory Gas Safe course.

Ms E said that during an appointment at a Jobcentre Plus office, a Work Coach advised that Mr Y could apply for a Gas Safety course and that those costs could be reimbursed by Jobcentre Plus. She said that based on that advice, Mr Y enrolled on the course and paid fees of around £2000, only to later find that Jobcentre Plus were unable to reimburse the costs as the correct process had not been followed. Training costs must first be agreed with and paid by Jobcentre Plus before booking onto a course.

Jobcentre Plus held no records of any appointments with Ms E and Mr Y during the period in question. However, given Ms E's detailed recollection of the events that took place, and taking account of their circumstances at the time, I considered it likely that some conversation about Mr Y attending a Gas Safety course did take place at that time.

However, in the absence of a full record of events I considered it unlikely that Ms E and Mr Y were explicitly advised by a Work Coach to enrol on the course and then claim back their costs from Jobcentre Plus as I found it highly unlikely that a Work Coach would tell them something in direct contradiction to the procedure. I considered it more likely that a conversation took place about Jobcentre Plus potentially being able to fund this course, which Ms E and Mr Y misconstrued. Whilst I did not uphold Ms E's complaint, I was critical of Jobcentre Plus' failure to keep better records.

Disability Benefits

249	Cases received
78	Cases accepted
63	Cases cleared (of which):
4	were withdrawn
17	Were resolved or settled
42	ICE investigation reports issued
7 (17%)	fully upheld
12 (28%)	partially upheld
23 (55%)	not upheld

DWP are responsible for paying benefits to those who have a disability or long term illness. We are still seeing complaints about delays in the transition from Disability Living Allowance (DLA) to Personal Independence Payment (PIP) – we have included some examples to illustrate this and the wider theme across DWP in respect of data retention.

DATA RETENTION

Case study one

Ms F complained that DWP had acted inappropriately when they destroyed a form she had sent in July 2014 confirming the bank account details for her arrears payment.

In July 2014 DWP sent Ms F a form asking her to provide bank details. Later that month they made two payments totalling more than £4k into a bank account with a sort code different to Ms F's and she contacted them shortly after, chasing payment. The adviser failed to ask her to verify the account she had asked the payment to be made in to; had they done so it's likely the error would have been identified. Instead Ms F was told to check with her bank again. When she and her representative continued to question this, they were told the arrears had been paid using the bank details she had provided but no attempt was made to verify them.

In December 2014 Ms F telephoned DWP to raise a complaint about the missing arrears payment. Two days after Ms F had raised her complaint, DWP inappropriately destroyed her case file, which appears to have included the bank details form. When responding to the subsequent complaint, DWP assured Ms F that a thorough investigation had taken place and they were not at fault for issuing the payment into the wrong account; however as the bank details form would have been destroyed at the time their complaint

investigations allegedly took place, it raised some doubt as to how thorough their enquiries could have been.

I upheld Ms F's complaints that DWP acted inappropriately in destroying the form and recommended they apologise and award her a £100 consolatory payment. With regard to the payment of arrears, I considered whether it was most likely that Ms F had provided incorrect sort code details or whether DWP had input it incorrectly. Had we had a copy of the form, our investigation would have answered that, but as it has been destroyed there was no way of knowing. In response to my report, DWP agreed, in recognition of the maladministration, to regard this matter as an official error, and accepted my recommendation to send a duplicate arrears payment to Ms F's correct bank account.

Case study two

Mrs G said that DWP delayed until October 2014 in informing her that her claim for PIP had failed due to residency.

Mrs G made a telephone claim in October 2013, two days after she had returned to the UK. When processing a telephone claim, staff should follow a script which includes asking information about whether the claimant has been abroad for more than four weeks at a time within the last three years, to identify whether a decision on entitlement is needed.

As the audio recording of the call with Mrs G had been deleted in error, we were unable to establish exactly what was discussed with regard to Mrs G's residency. However it was apparent that some information was gathered during that call and the case should have been transferred to a specialist team to make a decision in respect of residency. I found no evidence that this happened.

Had DWP made the correct enquiries at the time, there may have been no need for the Atos Healthcare assessment that took place in May 2014. Indeed it was only after that assessment that DWP made

enquiries about Mrs G's residency; and despite having had sufficient information by June 2014 to make a decision, no action was taken until she raised a complaint around three months later. It was then decided that Mrs G was not eligible for PIP because she had not been in the UK for the qualifying periods.

I found Ms G's complaint to be justified as there was clearly a delay in dealing with her claim for PIP and the issue of residency. However in responding to Mrs G's complaint, DWP had apologised and made her a consolatory payment of £100 which I considered appropriate redress for the delay.

TRANSITION FROM DLA TO PIP

Case study three

Mrs H complained that DWP had delayed in reassessing her DLA transition to PIP following her application in June 2014.

Mrs H had been entitled to DLA since 2002, before reporting changes to her condition and personal care requirements in June 2014. As roll out of PIP had already started in Mrs H's area, an invitation to claim PIP should have been sent to her explaining how she could register a new claim. That did not happen - instead, a DLA change of circumstances form was sent to Mrs H which she completed and returned to DWP. No action was taken to progress Mrs H's case until November 2014 when DWP belatedly issued the invitation to claim PIP.

In May 2015 Mrs H was notified that she had been awarded PIP, effective from June 2015. When she asked about the effective date of her claim, she was told that for those in receipt of DLA any claim to PIP had a future effective date. The response didn't recognise that her claim to PIP had been delayed as a direct result of the failure to issue the correct invitation to claim in June 2014.

This was recognised in July 2015, when a Complaint Resolution Manager responded and explained that a special payment would

be considered. Mrs H was given a £100 consolatory payment in acknowledgement of their maladministration but was told that whilst they had considered making a loss of statutory entitlement payment, on the advice of the DWP's Special Payment Team, they had decided that legislation did not allow for PIP to be backdated.

Whilst the effective date of any PIP claim, for those moving from DLA, is laid down in legislation and always has a future effective date, this case was affected by DWP error. Payment in the form of loss of statutory entitlement to PIP could and should have been paid and I upheld the complaint.

Sadly, Mrs H passed away in 2016 but her son asked us to progress the complaint. I would not ordinarily make recommendations for financial redress in cases where the claimant has died, on the understanding that the opportunity to provide them with redress has been lost. However, in Mrs H's case DWP had correctly identified their error whilst she was still alive and a timely referral was made for consideration of financial redress. The fact that a payment was not made prior to Mrs H's death was as a direct result of the Special Payments Team's failure to fully consider the circumstances of the case and correctly interpret and apply the DWP special payment policy. I recommended that given all this DWP apologise and make a payment to Mrs H's son for that loss of entitlement.

Case study four

Miss I complained that DWP failed to confirm that they held correct bank details before making a payment of over £7,000 in July 2015.

Miss I applied for PIP in Autumn 2013 and provided the Post Office account details of a third party for payment; however, by December 2013 she no longer had access to that account and notified Jobcentre Plus, who administered her claim for Employment and Support Allowance (ESA). She did not notify the team dealing with her PIP claim.

"I received a phone call today from my case examiner telling me that after a 5 year fight the DWP have accepted maladministration of my case. I would just like to say that I am unbelievably grateful for your help and would like to praise my examiner for the most professional and friendly manner throughout what has been a very difficult subject to discuss for me. I am beyond pleased with the outcome and the fact that the DWP are paying back the money that I have given them over the years. Many thanks again for your understanding and excellent work."

Miss I was subsequently awarded PIP and notification of that was issued in July 2015. Miss I was told that arrears totalling over £7,000 would be made to the Post Office account she had provided in her initial application in 2013. At that time there was no requirement for DWP to check the claimant's account details before making payment and as such I did not uphold this element of Miss I's complaint.

However, as it had been 22 months since Miss I had provided those details I considered it would have been good practice for DWP to have checked their accuracy before issuing the PIP arrears payment and suggested they consider making a systemic change in future. In response DWP confirmed they had updated their procedural instructions so that if bank details have been held for more than 12 months, staff should contact the claimant to check the details are accurate before making the first payment.

With regard to the payment, I found that when Miss I contacted the PIP enquiry line it came to light that the account details held had not been updated – had DWP acted immediately and treated Miss I's contact as 'exceptional' as guidance allows there may have been an opportunity to recall the payment. In view of this and other matters identified, I recommended DWP reissue the payment to the correct account along with an apology and £200 consolatory payment.

Pensions

441	Cases received
184	Cases accepted
47	Cases cleared (of which):
4	were withdrawn
9	Were resolved or settled
34	ICE investigation reports issued
8 (24%)	fully upheld
13 (38%)	partially upheld
13 (38%)	not upheld

The Pension strand of DWP provides services and a range of benefits to those approaching and over State Pension age. Cases received and accepted have increased significantly in this area due to the Women Against State Pension Inequality (WASPI) campaign's complaints about communication regarding the changes in State Pension age for women.

Allegations of misdirection about deferring State Pension continue to feature in our caseload, however data retention has also been an issue and has on occasion hindered our investigation, as the following example illustrates:

DATA RETENTION

Case study one

In early 2000 The Pension Service received Mrs J's completed claim form; around two months later they decided she was entitled to £0.07 a week, based on her National Insurance contributions.

Mrs J's representative complained that The Pension Service failed to acknowledge that Mrs J was divorced when processing her State Pension claim and so should have investigated whether her State Pension could be improved based on her ex-husband's National Insurance contributions. However, The Pension Service had destroyed her claim form 14 months after the entitlement decision was made; despite the fact that supporting documents should be retained until 14 months after a State Pension claim ends.

Had the claim form been available, it would have shown the information Mrs J provided in January 2000. In its absence, I needed to decide, on the balance of probability, whether it was more likely

than not that Mrs J told The Pension Service that she was divorced. Mrs J's recollection of events was unclear given the passage of time. She was unable to provide accurate details of the contact she had with The Pension Service over the years and, although the claim form that she would have completed in 2000, asked whether she was divorced and requested her decree absolute, she said on more than one occasion that she was not asked to provide that information.

The Pension Service confirmed that, in the event that a claimant uses the title "Mrs" on their claim form, but does not then provide any information about their marital status, they would contact the claimant to make enquiries. Mrs J said she had referred to herself as 'Mrs' since her marriage and copies of letters she received from The Pension Service in 2008 and 2011 addressed her in that way. Mrs J's computer records showed her marital status as divorced but there was no evidence to show the date that information was recorded.

I was persuaded that it was more likely than not that Mrs J indicated she was divorced on her State Pension claim form, and since it is The Pension Service's aim to try and give a claimant the best rate, they should have investigated whether her entitlement could be improved using her ex-husband's National Insurance record. There was no evidence that they did, and in response to my report, The Pension Service agreed, in recognition of the maladministration, to regard this matter as official error. I upheld the complaint, recommending that The Pension Service make payment of the pension entitlement she should have received with interest, along with an apology and £250 consolatory payment. Following the issue of my report, Mrs J's State Pension entitlement was reviewed and revised to reflect her ex-husband's National Insurance contributions dating back to November 1999; resulting in the payment of arrears, in excess of £47,000.

Debt Management

67	Cases received
29	Cases accepted
22	Cases cleared (of which):
1	were withdrawn
4	Were resolved or settled
17	ICE investigation reports issued
3 (18%)	fully upheld
5 (29%)	partially upheld
9 (53%)	not upheld

Debt Management is the part of DWP responsible for managing and recovering claimant debt, including benefit overpayments and Social Fund loans.

The Debt Management complaints examined during this reporting period have largely arisen because Debt Management has been "mining" old debt. This has resulted in complaints concerning delays in starting recovery action and complaints that Debt Management have failed to demonstrate that the debt was owed in the first instance. As with other areas of DWP, our investigation of Debt Management complaints has on occasion been hindered by failure to retain records associated with the debt they are seeking to recover, as the following examples illustrate:

DATA RETENTION

Case study one

Mr K complained that Debt Management failed to progress the appeal he made in February 2012. He was also dissatisfied with recovery action taken in 2015, despite his outstanding dispute.

Having decided that Mr K had received an overpayment of Jobseeker's Allowance in 2009, Jobcentre Plus referred the matter to Debt Management in early 2011. Debt Management sent several letters about this to Mr K but as his address had changed, it was August 2011 before he was made aware that Debt Management were seeking recovery. Later that month Mr K wrote to them querying the basis of the overpayment and its calculation, as well as disputing that it should be recovered – Jobcentre Plus should have already notified Mr K that an overpayment had occurred, providing explanation of how this had happened along with his dispute and appeal rights; there was no evidence that they had.

Debt Management failed to forward Mr K's letter to Jobcentre Plus, so Jobcentre Plus were not given the opportunity to review the

overpayment decision. Disappointingly there was a delay of more than five months before Debt Management reconsidered their recovery decision - they decided it remained the same, following which Mr K appealed later that month. Recovery action was put on hold pending the outcome of the appeal, but we found no evidence that the appeal was either submitted by DWP or received by Her Majesty's Courts and Tribunals Service.

In April 2012 Debt Management recorded that the appeal had been rejected, but due to the passage of time and failure to retain any documentation, I was unable to determine whether it was DWP's internal Appeal Team or HMCTS who were responsible for the rejection or clarify why that decision was made. Given that the appeal was made within the prescribed timescale it was unclear why it would have been rejected had it been received by HMCTS.

In July 2015 Debt Management wrote to Mr K reminding him that the overpayment remained recoverable and Mr K reiterated his concerns. It was only at this late stage that he was told to contact Jobcentre Plus and when they eventually considered his concerns, they agreed to send him another appeal form – then failed to do so.

Lack of evidence clearly hindered our investigation but I considered Mr K had been denied access to the proper dispute and appeal process due to failings on the part of both Debt Management and Jobcentre Plus. I upheld this part of Mr K's complaint. In turn, whilst I found that Debt Management were correct to start recovery action, Mr K's concerns should have been immediately considered and to that extent I upheld Mr K's complaint in respect of the recovery action.

I recommended Debt Management apologise and award Mr K a £100 consolatory payment. Also, as a result of our investigation, Jobcentre Plus decided that, due to the limited information available in relation to how the debt occurred, the overpayment should be treated as non recoverable.

DELAYS IN TAKING RECOVERY ACTION

Case study two

Ms L complained that Debt Management were pursuing alleged debt that she had already repaid and that they had failed to fully investigate her complaint.

DWP records show that Ms L received a loan in 1993 and that weekly repayments had been set, but there was no evidence that they received any payments from her. There was no record of any recovery action being taken until Central Recovery Group wrote to Ms L in 1998. It was then recorded that a Direct Debit had been arranged with payments to start from February 2000; when no payments were received Debt Management wrote to remind her. She made no payments but during the following 12 years there was little action taken by Debt Management.

In 2012 Debt Management wrote to remind Ms L of the debt and in response she said she had already repaid the loan in full; she was asked to provide evidence, but there is no record that she did. Debt Management recorded that Jobcentre Plus would investigate but we found no evidence that an investigation took place. In late 2013 Ms L agreed to pay the debt by Direct Debit but Debt Management cancelled her Direct Debit before any payments were received, telling Ms L that Jobcentre Plus were to investigate her concerns.

No further action was taken until early 2015, when Debt Management wrote to Ms L telling her that they were again seeking recovery. Ms L later said that, given the amount of time that had lapsed, she was having difficulties obtaining the necessary evidence to support her claim. Debt Management offered to reimburse any costs she incurred in obtaining proof of payments, but in the meantime the debt was passed to a private collection company. Ms L told us that, as she had changed banks, she was unable to access historic bank statements to verify the payment.

"I would like to take this opportunity to thank you and your team for such a detailed and thorough investigation, I now understand why the timeframe was substantial."

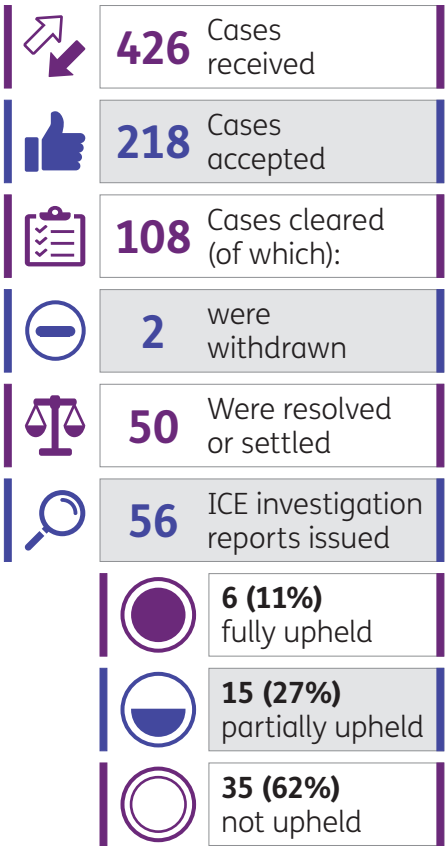
Debt Management clearly delayed taking recovery action and had they acted more quickly Ms L might have been in a better position to challenge their claim and provide evidence to show it had been paid. Whilst I was satisfied that Debt Management had investigated her claims and established that there was no record of her having made a payment, the burden of proof rested with her to prove that she had repaid the loan, as such I did not uphold her complaint. However, having considered the extent to which Ms L had been disadvantaged by Debt Management's delays I recommended she receive a consolatory payment of £120.

Case study three

Mrs M complained that Debt Management failed to consider her circumstances when recovering an overpayment of benefit from her. She said they handled her request for a reconsideration of their decision to stop her benefit incorrectly, gave misleading information about the reconsideration process and didn't suspend recovery, despite agreeing to do so.

Our examination of the evidence in this case showed that the Debt Management decision maker had failed to check that the child benefit records were in her name before benefit was awarded and we asked Jobcentre Plus to consider whether the overpayment was the result of departmental error. DWP decided that as an error had occurred, the overpayment would not be recovered and the monies already collected would be refunded to Mrs M. Mrs M agreed that this, along with a consolatory payment, had settled her complaint.

Contracted Provision



The DWP have contracts with private and voluntary sector organisations to deliver some services on their behalf, most notably the Work Programme and Health Assessments.

These organisations have responsibility for responding to complaints about their services themselves – but in the event that the complainant is dissatisfied with the final response, they can bring their complaint to our office.

The number of complaints we receive about the Work Programme – which is currently being phased out - has decreased significantly and those that we did receive were generally from claimants who did not want to participate in the programme and were unhappy that they were required to do so.

The majority of the complaints we receive about Health Assessments concern perceived errors or failures associated with the reports produced by medical assessors. Such complaints often follow receipt of an unfavourable benefit entitlement decision from a DWP decision maker.

The organisations who deal with contracted provision have been keen to attempt to resolve complaints at the earliest opportunity, and the rate at which cases have been settled by agreement between the parties has almost doubled in comparison to the previous financial year.

Below are some examples of the type of cases we have examined:

WORK PROGRAMME PROVIDERS

Case study one

Mr N complained that his Work Programme Provider had incorrectly told him that it was compulsory to sign three forms presented to him

at an induction meeting, and that they had acted inappropriately in notifying Jobcentre Plus that he had failed to participate in the Work Programme.

We found that at the induction meeting an adviser recorded that Mr N had refused to participate or sign any paperwork and walked out before the meeting ended. Mr N said that the adviser suggested he should leave because he had declined to sign any forms.

It was difficult to reach a judgement in respect of the precise nature of the conversation between Mr N and the adviser as there was no real evidence, not least because by the time Mr N raised concerns some seven months after the event, the adviser no longer worked there. It turned out that DWP had delayed responding to Mr N's request for an explanation of the sanction decision that arose from the incident and it was only when he got it that Mr N decided to raise his concerns with the provider.

I was also unable to establish whether Mr N was told that his participation on the Work Programme would not be affected by refusing to sign the forms. Mr N said that the adviser had told him as he left the induction that he would be sanctioned; in fact it would have been for DWP to decide whether a sanction was appropriate, not the adviser.

We established that it was not compulsory for the documentation provided at a Work Programme induction to be signed by the participant – but the relevant forms should be appropriately annotated. We also found nothing to support Mr N's assertion that he was told signatures were compulsory, and in fact some of the documentation presented at the initial induction made it clear that signatures were voluntary. When Mr N walked out before the session was over, the adviser deemed he had failed to participate as he had not fully completed the induction process, which they were contractually obliged to report to DWP. DWP subsequently decided that a sanction was appropriate (although this decision was later overturned when Mr N raised a dispute). I did not uphold Mr N's complaints.

COMPLAINTS ABOUT MEDICAL SERVICES

"I am very grateful for the investigation that has taken place, which for the first time exposes comprehensively, the sequence of events and the relevant procedures used by DWP."

Case study two

Shortly after she was notified by DWP that she was not entitled to PIP in July 2015, Mrs O complained about the conduct of the Health Care Professional (HCP) who conducted the assessment at her home the previous month.

When Mrs O escalated her complaint to my office, amongst other things she went on to say that the HCP had made an inappropriate remark when she asked if the HCP would mind if she had a cigarette at her doorway as the HCP said they had asthma and that, if she smoked, they would walk out of the assessment and report that she was not complying. I found no evidence that Mrs O had previously raised this aspect of complaint with the Medical Service provider, and they had not therefore been given the opportunity to investigate or provide a response to this matter.

I did not uphold Mrs O's other complaints and was satisfied that the Medical Service provider had appropriately investigated and addressed the matters that had been brought to their attention.

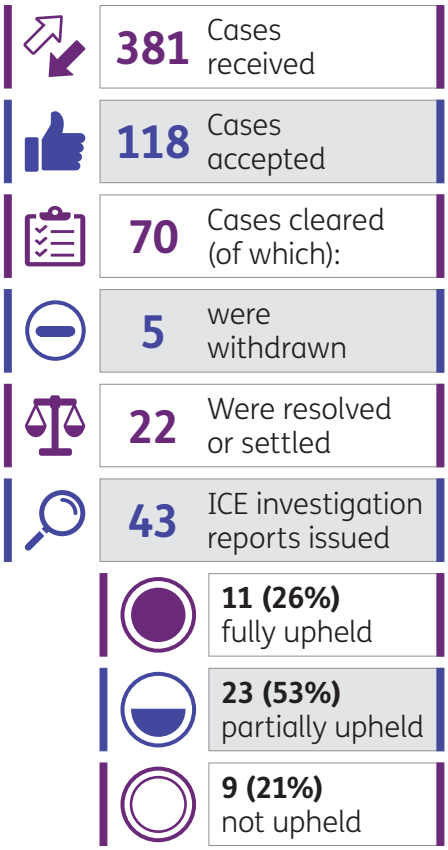
Case study three

Mr P said that the Medical Service provider had failed to address the complaint he had raised about the distance he was expected to travel to attend the PIP assessment.

In January 2015 Mr P attended a PIP assessment, but it was only after DWP notified him that he was not entitled to PIP later that month, that he questioned the location of the assessment centre. In response, the Medical Service provider explained that their scheduling system had assigned him to the nearest geographical assessment centre and guidance ensures that travel time to any assessment does not exceed 90 minutes each way by public transport.

As I was satisfied that the Medical Service provider fully investigated and appropriately responded to Mr P's complaints I did not uphold his complaint.

Child Maintenance Service



The Child Maintenance Service (CMS) was introduced in November 2013 to replace the Child Support Agency and carries out similar work. They are responsible for calculating how much maintenance should be paid for the financial support of any child whose parents do not live together and can also collect that maintenance.

However, there are differences in the administration of the new Child Maintenance scheme, most notably the introduction of charges if the collection service is used – paying parents pay in addition to their maintenance liability and receiving parents receive reduced maintenance to cover these charges.

Any changes to a scheme that is responsible for calculating, collecting and enforcing Child Maintenance will bring teething problems and we have continued to raise systemic recommendations with CMS about a number of issues, including child maintenance statements and applying criminal sanctions for failing to provide the required information. CMS have been extremely positive in making changes to avoid problems for other customers, as the following examples demonstrate:

Case study one

Mr Q complained that CMS incorrectly told him that they did not fine receiving parents for failing to report changes in their circumstances. Whilst I didn't find any evidence of CMS telling Mr Q that, they failed to provide him with copies of the legislation surrounding this issue, as they said they would. I upheld his complaint to that extent and recommended that CMS apologise and award a £100 consolatory payment for this and other issues in the case.

This case also prompted me to raise a systemic recommendation with CMS. During the examination of Mr Q's complaints we identified

that whilst calculation letters do tell paying parents it is a criminal offence to fail to provide information along with notifying them of the possibility of fines, parents who receive maintenance are not informed of this. I suggested to CMS that they consider whether the information contained in the calculation notices needed to be reviewed, to make it clear that criminal sanctions apply to both parties. In response CMS confirmed that they intend to amend their correspondence to make this point clear.

Case study two

A law firm acting on behalf of Mr R complained that since spring 2014 CMS had failed to engage with them, despite the firm having provided signed authority from Mr R that they should.

In 2014 the law firm wrote to CMS telling them they were representing Mr R, but it took four months before CMS wrote to the law firm explaining that, in order to communicate with them as Mr R's representative, they needed a form to be completed. CMS sent this to Mr R and it was returned undelivered but this did not prompt CMS to investigate Mr R's circumstances.

This complaint highlighted an apparent procedural inconsistency. Whilst there was nothing on record to allow the law firm to act as Mr R's representative, a letter from the law firm, enclosing a signed declaration of authority from Mr R entitled 'SAR/Form of Authority', was sufficient to allow Subject Access Request (SAR) documents to be issued to them. Despite checking that this was correct, CMS staff issued the SAR to Mr R's home address, suggesting to me that they felt uncomfortable with the guidance surrounding the level of authority required. I suggested that CMS consider whether the procedures regarding representatives should be reviewed, so that the requirements for disclosing a SAR are comparable to those for acting as a representative. In response, CMS confirmed that they have revised their procedures.

Case study three

Mr S raised concerns about information contained within the child maintenance statement and accompanying leaflet he received in summer 2014. He was concerned that CMS had failed to explain all the entries in the statement – I agreed and upheld Mr S' complaints about this, recommending that CMS apologise and, in view of this and other issues, make Mr S a £125 consolatory payment.

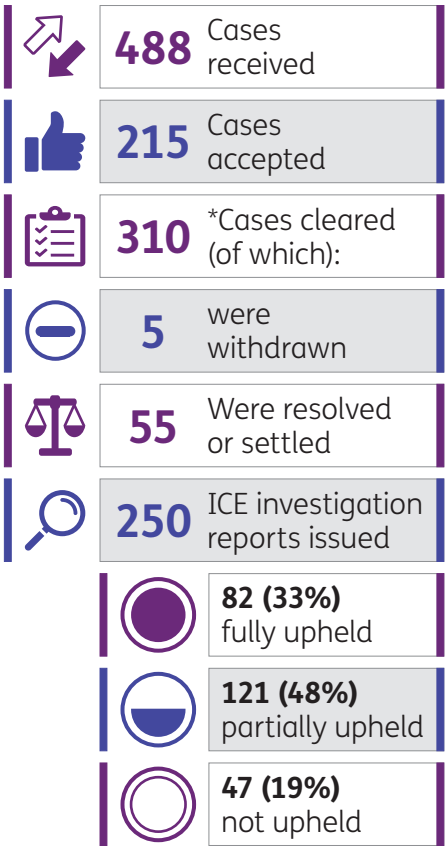
I also raised a systemic matter with CMS, expressing concern about the potentially confusing information contained within their account statements and the accompanying leaflet. As a consequence, they have identified further issues with the leaflet which accompanies the client statement and have stopped issuing it. CMS have since introduced a revised payment statement and also confirmed that their leaflet was being reviewed.

Case study four

Mrs T complained that CMS had taken inappropriate action in imposing a Deduction from Earnings Order (DEO) with a £50 implementation charge in order to collect a payment of £10.40, had not notified her of arrears and failed to promptly remove the DEO. She was dissatisfied with CMS's offer of a £50 consolatory payment, which had been made prior to her approach to our office.

Following conversations with CMS and Mrs T, CMS accepted service failings in the handling of her case and agreed to pay her £175; £150 consolatory payment and £25 towards the costs she had incurred contacting them. In addition they addressed some other matters and Mrs T agreed that overall those actions resolved her complaint.

Child Support Agency



*Case clearances can be higher than cases accepted as some cases cleared were accepted in the previous financial year.

The Child Support Agency now deal with legacy cases only. New applications for maintenance through the Agency stopped in November 2013 and are now made through CMS.

Complaints we have received about the Agency during this reporting period continue, on the whole, to be extremely complex, cover a number of years and necessitate us reviewing large amounts of evidence from the Agency and the complainant. Because many of these cases span several different Child Support schemes it is becoming increasingly difficult to form a view as to whether the maintenance accounts appear to be a true reflection of what has happened on the case. We continue to uphold or partially uphold the majority of complaints that we investigate.

The themes identified in legacy cases are largely the same as in previous years. However, an emerging problem appears to be the transition of legacy cases to CMS – particularly delays in transferring legacy arrears. We will continue to monitor this area and will continue, where appropriate, to recommend that the arrears are transferred within a reasonable timescale. The following examples demonstrate some of the issues that are emerging:

Case study one

Mrs U's Child Support Agency case had closed in February 2016 following her application to the 2012 child maintenance scheme administered by CMS, but by July 2016 the arrears owed under her Agency case had still not moved to CMS for collection.

I recommended the Agency take immediate steps to transfer the arrears and contact Mrs U to let her know when she could expect action to collect those arrears. In view of that delay in transferring the arrears and other service failures, I recommended the Agency apologise and make Mrs U a £200 consolatory payment.

"Firstly can I say a huge thank you for getting a resolution to this complaint. It is a relief to know that I was right in what I thought and to have it resolved and to have a hope that future training will ensure that others do not have the same issues in future. Once again thank you and the other people at ICE who assisted to find a resolution. It is much appreciated."

Case study two

Miss V complained that the Agency failed to notify her that her Child Support Agency case was to close in April 2015.

In 2014 the Agency wrote to Miss V to tell her that her existing child maintenance arrangement would end in April 2015, as cases were being selected for closure and moved to the new CMS scheme. Miss V's case was selected at that time because a nil liability was in place, but shortly afterwards the Agency revised the case and a weekly liability became payable. Miss V's MP questioned whether the closure was still appropriate; the Agency confirmed it was, as it had been correctly selected at the time of the nil maintenance calculation.

I did not uphold the complaint as I was satisfied that the Agency notified her of the case closure and did not provide any unclear or conflicting information. I was also content with the Agency's decision to continue with the closure, as it reflected standard procedures in such changed circumstances.

Case study three

Ms W complained that the Agency failed to secure maintenance or take enforcement action since she applied in 2007 and delayed in transferring the arrears owing to her to the new scheme and referred to her daughter incorrectly as her son.

We contacted Ms W to explain that enforcement action was not appropriate as, in the main, payments had been received fairly regularly. That said, there had been several delays in completing reviews and correcting collection schedules. We also explained to Ms W that while the Agency had transferred the arrears within a reasonable timescale, they had not established an accurate account balance before doing so and she had therefore been misled. They had also referred to her daughter as her son.

In recognition of all this the Agency agreed to apologise and make Ms W a £100 consolatory payment, and pay £25 for her communication costs. Ms W was happy that those actions adequately addressed her complaint.

THE ICE OFFICE

Standards of Service

Our published service standards explain how long it should take us to deal with complaints. We keep our service standards under review.

Details of our performance during the 2016/17 reporting year is below:

INITIAL ACTION

We told **97.4%** of complainants the results of our initial checks within 10 working days

RESOLUTION

We cleared **85.7%** of resolutions within 8 weeks

SETTLEMENT AND INVESTIGATION REPORTS

Amount of investigation or settlement cases we cleared:

34% within 15 weeks of the investigation commencing

30% within 16 to 25 weeks of the investigation commencing

25% within 26 to 35 weeks of the investigation commencing

11% over 35 weeks of the investigation commencing

COMPLAINTS ABOUT OUR SERVICE

We have responded to **93.5%** of complaints about our service within 15 working days

CUSTOMER SATISFACTION

84% of customers were satisfied with the service we provided

"Thank you to you and your team for all your hard work – the work you do is so important."

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 258 complaints - 123 regarding the service we provided, 135 about the outcome of an ICE investigation and 3 combined complaints about service and outcome. This represents 8.8% of the 2918 DWP cases received by ICE during the financial year. In 52 of those (33 service complaints and 19 outcome complaints) 258 complaints, we upheld aspects of the complaint.

We use the feedback we receive from service complaints to ensure we continue to provide an excellent service to our customers, and to make service improvements where appropriate.

Findings of the Parliamentary and Health Service Ombudsman (PHSO)

Individuals 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 progress their complaints to the Ombudsman. This reporting year, based on the information we hold*, the Ombudsman found that we could have done more in 5 of the 47 cases investigated by her office. In each of those cases the ICE agreed to meet the Ombudsman's recommendations and accepted those observations as learning opportunities, as we encourage bodies within our jurisdiction to do.

*PHSO's office have yet to publish their data for the 16/17 reporting year.

Continuous Improvement

During the reporting year the ICE Office achieved:

- **Customer Service Excellence** reaccredited for the seventh year.
- **British Standards Institute (BSI)** reaccreditation, in respect of its own complaint handling.

ICE 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 &
Pensions

Published by the
Department for Work and Pensions
Date: September 2017
www.gov.uk/dwp