

Case reference: C2084847

Complaint about: Department for Work and Pensions (DWP)
Independent Case Examiner (ICE)

Complaint referred by: Rebecca Long-Bailey MP

Decision: Partly Upheld

Complaint about DWP's actions when sanctioning Mrs L: upheld

Complaint about DWP's notification to her local authority: not upheld

Complaint about DWP's complaint handling: upheld

Complaint about ICE's handling: partly upheld

Decision Date: 31 March 2021

Our decision

1. Mrs L complained to us about a sanction decision Job Centre Plus made in February 2015, shortly after she began claiming Job Seekers Allowance (JSA). (Throughout our report we refer to DWP, rather than Job Centre Plus. DWP is responsible for providing the Job Centre Plus service.) She was sanctioned after failing to attend her first appointment at the job centre. The sanction was later overturned by an appeal tribunal.
2. Mrs L also complained to us about the way in which DWP told her local authority about that decision. She said that caused her housing benefit to be stopped. She was also unhappy with the way in which her complaint about these events was considered by DWP and then ICE.
3. We uphold Mrs L's complaint that DWP failed to act in accordance with relevant guidance when it made its sanction decision. In particular, it failed to consider whether Mrs L was vulnerable or her full reasons for not attending the appointment. These events meant Mrs L was treated in a way that caused her ongoing upset and distress. We are therefore likely to uphold this part of Mrs L's complaint.
4. We do not uphold Mrs L's complaint that her housing benefit was stopped because of the way DWP told her local authority about the sanction and the closure of her ESA (employment support allowance) claim.
5. We uphold Mrs L's complaint that DWP failed to investigate her complaint properly. ICE also failed to take relevant considerations into account when looking at her complaint. This poor complaint handling has caused ongoing distress and upset to Mrs L and we are likely to uphold these parts of her complaint.



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6. We have recommended DWP apologises to Mrs L and pays her £1250 in recognition of the injustices caused to her. We have also recommended DWP takes steps to ensure the same events could not happen again and that ICE shares the report with its staff for learning.

The complaint

7. Mrs L complained about the service DWP provided, specifically that it:

- gave her an ambiguous and unclear appointment card
- sanctioned her JSA in February 2015 without giving her the opportunity to explain her circumstances. It failed to treat her as a vulnerable claimant despite knowing she had chronic health conditions and was recently widowed
- inappropriately sent a misleading notification to her local authority about this which meant her housing benefit was stopped, and
- refused to handle her complaint initially stating it was a disagreement with policy and not a complaint.

8. She also complained about ICE's decision, in particular that ICE:

- would not investigate and took too long to allocate the case to a caseworker
- would not consider the hurdles DWP put in place to prevent the complaints process from progressing at the early stages
- did not recognise she had to pursue the complaint for five years
- did not consider the severity of the injustice Mrs L experienced and only recommended a remedy of £75 which she feels is not a suitable figure given the injustice she experienced, and
- did not ask DWP to put in place any service improvements despite finding failings.

9. Mrs L says she is a vulnerable person and had to endure over two months without any funds to meet her basic needs. She says as a result of DWP's failings, she was left destitute and completely reliant on food banks. She says she accrued rent arrears for over two months. She says she accrued several hundreds of pounds worth of debt. Due to the loss of her means-tested benefits she had to pay more for her glasses. She says she was distressed and had a mental health breakdown due to all the issues complained of. She has told us this was the most severe impact on her.

10. As an outcome, Mrs L seeks service improvements on how sanction decisions are made. She would like a financial remedy for the distress and the debt she accrued as a result of DWP's maladministration. Mrs L is also seeking a remedy for both DWP and ICE's failures to investigate her complaint properly.

Background

11. Mrs L claimed ESA in March 2014. ESA is paid to people who have a disability or health condition which means they cannot work or need additional support to find or stay in work. At the time she claimed ESA, Mrs L was depressed and bereaved following the sudden death of her husband in March 2013. She also had multiple health problems which affected her mobility, reach and breathing.

12. On 8 January 2015 Mrs L had a work capability assessment for the purpose of assessing her eligibility for ESA (until then she had been paid ESA at an assessment rate). This is an assessment carried out by a medical professional which assesses a person's functional ability to work. Following that, DWP decided, on 21 January, that Mrs L could not be treated as having limited capacity for work. It disallowed her ESA from this date. In November 2015, an appeal tribunal overturned DWP's decision and her ESA was re-instated.

13. A DWP decision maker spoke to Mrs L on 21 January 2015 to explain the decision to stop her ESA. The decision maker asked if she wanted to claim JSA instead. The decision maker transferred the call for Mrs L to be able to claim JSA. The call handler arranged for Mrs L to attend the Jobcentre Plus office on 26 January 2015.

14. Mrs L attended a first interview for JSA on 26 January 2015. At a first interview a job centre adviser explains the rules for JSA and agrees a 'claimant commitment' with the claimant. The claimant commitment is an agreement signed by the claimant which says what work they will look for, when they will be available for work and the steps they will take to find work. The claimant commitment is binding and a claim for JSA cannot proceed without it being signed. The claimant commitment is supposed to take account of any restrictions a person might have on their ability to work.

15. DWP no longer have a copy of the claimant commitment agreed with Mrs L at the first interview. Her advocate says that it said she had to be available for work for 40 hours per week and apply for eight jobs per week. The claimant commitment also includes an obligation to attend appointments with JCP work coaches.

16. On 11 February 2015, DWP awarded Mrs L JSA from 21 January 2015. She received her first payment of £227.55 on 12 February for the period 21 January to 11 February.

17. At the first interview on 26 January 2015 the work coach gave Mrs L an appointment card with two appointment dates on it. The appointment card read:

'Wed 28/1/15 15.20 Fiona

Wed 4/2/15.'

DWP has not been able to tell us what either of these appointments were for.

18. Mrs L did not attend the appointment on 28 January 2015 but did attend on 4 February. At that appointment, an adviser told her that she should have attended on 28 January. DWP has no records of the appointment on 4 February. DWP does have a statement it says were the reasons Mrs L gave for missing the appointment on 28 January. The statement says she misread the appointment card.
19. Mrs L says at the appointment on 4 February 2015 she was told she would be 'sanctioned'. A sanction is a financial penalty by way of deduction or stoppage of benefits for not complying with a requirement of JSA.
20. Mrs L sought the help of the Salford Unemployment Community Resource Centre (SUCRC) after she learnt she might be sanctioned. SUCRC wrote a letter of complaint to DWP about the sanction on 11 February 2015. The letter said Mrs L was vulnerable and was given ambiguous information about when to attend.
21. SUCRC said her failure to attend 'was caused by confusion on an appointment card with two dates handwritten and [Mrs L] appears to have chosen the wrong one'. It did not recognise that Mrs L was supposed to attend both appointments. It enclosed a letter from her GP dated 9 February 2015 listing her medical conditions and saying she was not able to work.
22. On 13 February 2015 DWP gave Mrs L a four-week sanction. This applied to the period 12 February to 11 March (sanctions apply from the day after the previous payment of JSA). DWP said she had not given 'good reason' for missing the appointment on 28 January.
23. Mrs L applied for hardship payments. For three weeks of the sanction DWP paid her benefits with a 40% deduction from the full rate of JSA. Meanwhile, it referred her to the job centre's Disability Employment Adviser (DEA). DWP says this was because Mrs L reported a back problem. She saw the DEA on 4 March 2015.
24. Before the appointment on 4 March 2015, the DEA asked for a mandatory reconsideration of the sanction decision (all decisions carrying a right of appeal can be reconsidered by DWP through the process of mandatory reconsideration). The DEA said Mrs L's circumstances had not been properly identified at the first interview.
25. On 16 March 2015, SUCRC also wrote to request a mandatory reconsideration on the grounds that the appointment card was confusing and on the grounds of Mrs L's vulnerabilities.
26. On 18 March 2015, DWP reconsidered its sanction decision but did not change it. The record says misreading the appointment card was not evidence of 'good cause'.

27. Mrs L appealed that decision. In her appeal request she wrote that she had 'appointments scribbled on an appointment card by DWP. I went to the one I thought was correct but DWP said I missed one'.
28. Her submission also said that that she was a widow and her husband used to do all the household paperwork. She said she had mobility problems and depression. In its submission to the tribunal, DWP again said the appointment card was clear and Mrs L had not taken reasonable care to meet her responsibilities.
29. In response, Mrs L's advocate asked the Tribunal to consider the fact that DWP had not communicated clearly enough with Mrs L given her multiple health needs. The advocate said that this raised sufficient reasonable doubt (in case law DWP has to give the claimant the benefit of any doubt which reasonably arises) over whether Mrs L had good cause to fail to attend.
30. Prior to the appeal Mrs L's advocate wrote with a further letter of complaint dated 19 August 2015. This again said Mrs L had multiple health problems.
31. DWP carried out a review of its decision and wrote to Mrs L on 4 September 2015. DWP said it had looked at all the evidence again. It referred to Mrs L 'misreading' the appointment card and making a 'genuine mistake' but explained that even in those circumstances the sanction would apply.
32. On 9 November 2015, an appeal tribunal overturned DWP's decision to apply the sanction. There are no longer any records of the detailed reasons for that decision.
33. In the meantime, SUCRC were pursuing a complaint on Mrs L's behalf. On 5 March 2015, DWP responded to SUCRC's letter of 11 February. DWP said the complaint was about sanctions, which were a matter of government policy. DWP said it could not respond to the complaint. It maintained this position despite further letters from SUCRC.
34. SUCRC complained to ICE, but ICE said it could not look at the complaint until DWP had given a final complaint response. In December 2016, SUCRC complained to PHSO. PHSO explained to DWP the complaint was about the application of policy (rather than policy itself) and should be responded to.
35. DWP responded to the complaint in January and April 2017. It did not uphold any part of the complaint. It said the reason Mrs L gave for missing the appointment on 28 January 2015 was she did not read the appointment card properly. DWP said Mrs L had not declared any health issues at the first interview or on 4 February 2015. Mrs L took her complaint to ICE.

36. ICE's report dated 17 April 2019 found DWP should have contacted Mrs L after she did not attend her 28 January 2015 appointment. However, ICE said even if DWP had done that, it would not necessarily have prevented the subsequent sanction decision being made. ICE also said DWP should have started the complaints process sooner, and DWP prevented Mrs L from escalating her concerns.

Evidence

37. We use related or relevant law, policy, guidance and standards to inform our thinking. This allows us to consider what should have happened.

38. We have considered evidence provided by Mrs L and her advocate and spoken to both of them. We have considered a file from DWP which includes Mrs L's medical and benefit claim history dating back to 2013, details of the sanction decision, and the complaint file. We have also considered parts of ICE's file including the phone calls it had with the advocate and the queries it made of DWP.

39. We have also considered the following relevant guidance and standards:

- Vulnerability Instructions, DWP, 2015
- Operational Guidance on the Equality Act 2010 - access to services, DWP
- The Equality Act, 2010
- [Public Sector Equality Duty: What do I need to know? A quick start guide for public sector organisations, Equalities Office, 2011](#)
- [DWP Decision makers' guide, 2014](#) Specifically Chapters 21 and 34
- [The Work and Pensions Select Committee report into Benefit Sanctions](#)
- [Housing Benefit Guidance Manual, section C6](#)
- [Housing Benefit Bulletin G4/2010](#)
- ATLAS FAQ dated 08/09/2011 and other archived material for local authorities about the ATLAS system, including the ATLAS guidance in place at the time
- [DWP Complaints procedure](#)
- [ICE Service standards](#)
- [Principles of Good Administration \(2009\)](#)
- Principles of Good Complaint Handling (2009)

Findings

DWP's sanction decision

What Mrs L told us about her appointments at the job centre in early 2015

40. We spoke with Mrs L about the events, and specifically the appointments she had at the job centre in January and February 2015. We also asked her about the impact the events had on her.

41. Mrs L told us when her husband died suddenly in March 2013 she felt as if 'her heart had been ripped out' and became depressed. She said after that she applied for ESA because of this and because of her physical health problems. She said she could not remember anything much about when her ESA was stopped or the appointment on 26 January 2015. She said she did not want to get anything wrong. She said she was 'talked at' a lot. She said she was given an appointment card with two dates on it.

42. She did remember more about the appointment on 4 February 2015. She said when she went in, the adviser (she said she did not know who he was) immediately said to her she had come on the wrong date. She said he pointed to the appointment card and told her she should have come on 28 January. She told us she said to him that,

'I came on the last entry. It's common sense, to come on the last entry'.

We checked if these were the words she used and she confirmed they were. She said to us a number of times it is common sense to come on the last entry of an appointment card. She explained she had been told she had to go to the job centre every two weeks to sign.

43. Mrs L said the adviser told her they were going to sanction her. She said she was in tears and asked how she would pay her bills. She said she was told it was for her to sort out. She said her friend took her to SUCRC, who helped her get food parcels and sort out her bills. They also made the complaint for her. She said she would not have been able to make a complaint otherwise because she was not good with 'paperwork and things'.

44. Mrs L said she found the experience in the job centre degrading. She said she would not wish it on her worst enemy.

45. We asked Mrs L what impact only having a small amount of money had on her. She said she had family around her who helped a bit with her shopping. She said, however, she did not like to ask, because they were also struggling. She said it was degrading having to ask for help. She said it was like having to beg.

46. Mrs L described how, in the period after the sanction had been applied, she had collapsed and an ambulance had been called. She asked for the ambulance to be cancelled when she recovered, but went to her GP. Her GP told her she had probably collapsed because she was suffering from exhaustion due to the stress of these events. She said she thought this would be in her medical records (NB: we have a letter from her GP dated 30 July 2015 saying she was suffering from anxiety as a result of the sanction decision).

47. Mrs L said she was not disabled but she had long term health problems and had difficulty in completing tasks and organising correspondence. She had difficulty joining the call when we spoke to her and her advocate. Her advocate explained tasks like following instructions to join a call were ones Mrs L struggled with on a day to day basis.

DWP's records about the appointments in early 2015

48. DWP has not been able to provide much contemporaneous documentary evidence to show what happened during the appointments Mrs L had with the job centre on 26 January or 4 February 2015.

49. During DWP's investigation of Mrs L's complaint of 11 February 2015, job centre staff said this about the appointment on 26 January 2015:

'There is very limited time (40 minutes) [in the first interview] in which to fully explore all circumstances in addition to explaining the benefit rules thoroughly at the new claim stage, hence why a further appointment with a work coach is usually made within a week of the new claim. In this case, there is little evidence to suggest health conditions were declared and discussed at the new claim stage, but much of the time would have been taken explaining the difference between ESA and JSA ...'

The response noted Mrs L was due to meet with the DEA on 4 March 2015 and said that,

'the full impact of any health condition will be discussed comprehensively in the appointment with the DEA. The DEA will identify what support is required ...'

50. With regard to the appointment card given to Mrs L, the staff response said it was usual practice for staff to write the next two appointments on an appointment card, one of which would be with a JSA adviser and the other would be a job search review with an assistant adviser. It said,

'the next appointments would also been clearly explained verbally, especially for someone new to JSA'.

51. DWP records of the sanction referral show that on 4 February 2015, job centre staff recorded Mrs L as saying the following:

'The reason I didn't attend on 28/01/15 is that I didn't read my appointment card properly. I thought it was today I should sign, as that is why I have come in today. It was only when I got to the job centre, the adviser told me it should have been on 28/01/15'.

There are no other records to show what discussion was had with Mrs L about this or about the potential for her being subject to a sanction.

52. DWP's record of the sanction decision refers to the explanation recorded above. It concludes this is not 'good cause'. The sanction decision does not refer to any of the evidence in the complaint letter sent by SUCRC on 11 February 2015 (NB it is not clear that DWP had received the letter at this time).

53. DWP's records show that prior to meeting with Mrs L, the job centre's DEA asked for the sanction to be reconsidered. The DEA wrote:

'I would like to request a reconsideration of this decision based primarily on medical grounds ... Initial WFI [work focussed interview] failed to identify significant health issues and circumstances which meant the CC [claimant commitment] was not realistic and more time should have been spent to confirm the claimant was fully aware of what is expected of her.

'These circumstances include a recent bereavement and ... depression treated with Mirtazapine (known to cause confusion). A letter from her doctor confirms she also suffers from essential hypertension, hammer toe and mортons neuroma [nerve damage in the foot], chronic back pain and sacroiliitis [inflammation of joints in the pelvis causing pain]. She is on a mixture of drugs for these conditions ...'

54. DWP's record of its mandatory reconsideration says (under the reasons why the decision was disputed) 'States that her appointment card is misleading and not due to the fact that she misread it which caused the missed appointment.' This reflected information in the letters sent by SUCRC. The decision maker has recorded they looked at the letter sent by SUCRC on 11 February 2015. The decision maker said this did not provide new evidence. No reference was made to the DEA's submission or other information in SUCRC's letter.

55. DWP's record also says that the decision maker spoke to Mrs L 'to explain the decision' at 15:30pm on 17 March. The record says that Mrs L was 'not satisfied'.

56. In the course of Mrs L's appeal and complaint, DWP has repeatedly said it gave Mrs L an opportunity to explain why she did not attend the appointment on 28 January 2015. DWP has said this is evidenced by the note the adviser made on 4 February 2015. DWP said Mrs L did not mention she had any relevant disability or other circumstances that made her vulnerable at that time, or at the time of the first interview on 26 January 2015.

57. In its responses to our provisional view, ICE and DWP have referred to the letter DWP sent Mrs L on 4 September 2015. They say this was a second mandatory reconsideration. However, while this letter refers to the sanction decision, there is no evidence this was treated as a mandatory reconsideration although we accept it was a third review.

What the relevant guidance says

58. The DWP Decision Maker's Guide (DMG) chapter about sanctions explains what actions or omissions cause a sanction to be applied. It says a sanction can be applied when someone misses an interview for which they have been given a relevant notification. A relevant notification specifies the time (when), place (where) and manner (how) in which a person must participate in that interview.

59. The DMG also explains what can be counted as 'good reason' for taking a sanctionable action or making a sanctionable omission. In those cases the sanction is not applied.

60. Good reason is described in the DMG as,

'facts which would make a reasonable person act as the claimant did'

The DMG says that decisions makers should take account of all relevant information about a claimant's circumstances and their reasons for their act or omission before making a decision.

61. The DMG says claimants will be given the opportunity to explain why they acted as they did. It says claimants should be allowed five working days to provide an explanation.

62. The DMG says that having a disability does not, in itself, show the claimant had good reason. It says that factors related to disability will be relevant to good reason. Factors include things like the support a disabled claimant might need to complete a task they were required to do.

63. The DMG also says facts that might be relevant to a decision about good cause are if a claimant has difficulty understanding what is required of them. A claimant's ability to perform tasks and the anxiety and distress performing the tasks might cause, is also a relevant consideration in good reason.

64. The DMG guidance about good reason also specifically refers to Chapter 21 of the DMG. Chapter 21 says advisers should take account of any disability, impairment or restrictions when agreeing the claimant commitment.

65. DWP has not been able to provide a copy of its claimant commitment guidance in place at the time of these events. However, it has provided a copy of a blank claimant commitment pro-forma from the time of the events. This has space to tailor the types of jobs or amount of hours a person can be available for work. There is no evidence Mrs L's claimant commitment was amended to allow her to restrict the hours or types of work she could do.

66. DWP's vulnerability guidance says its definition of a vulnerable person is a person with complex needs who needs additional support to access DWP benefits and services. 'Complex needs' includes difficult personal circumstances or living with difficult life events.

67. The vulnerability guidance says it is a matter of social justice to help vulnerable people access services which enable them to turn their lives around. It says the purpose of the vulnerability guidance is to help staff put in place support which will help vulnerable claimants meet with their responsibilities.

68. The vulnerability guidance is clear that DWP staff should use indicators from the way in which a claimant is behaving or responding to tasks to help decide if additional support needs to be offered. It is clear the claimant does not have to tell DWP staff specifically that they have an additional need.

69. The Equality Act 2010 requires organisations to make reasonable adjustments for people with protected characteristics under the act. Disability is a protected characteristic. Disability is defined as any health condition, of a duration of more than twelve months, that has more than a minor or trivial impact on a person's ability to live a normal life.

70. The Public Sector Equality Duty came into force in 2011. It requires public sector organisations to have due regard to eliminating discrimination and promoting access to services and opportunities for all individuals. The duty is relevant to all public sector decision making including the delivery of services.

71. Our Principles of Good Administration say that in making decisions organisations should take account of all relevant considerations, ignore irrelevant ones, and balance the evidence appropriately.

Our analysis

72. In accordance with the DMG, three basic things had to happen before Mrs L was sanctioned.

73. Firstly, Mrs L should have been given a 'relevant notification' about when, where, and how she was supposed to participate in the interview booked for 28 January 2015.

74. Secondly, when she did not attend her appointment, the DMG says Mrs L should have been given an opportunity to explain whether she had good cause.

75. Thirdly, once the matter was referred to a DWP decision maker to decide whether to sanction Mrs L, the decision maker was required to take all relevant facts and the individual circumstances of the case into account.

76. Other DWP guidance is relevant to the individual circumstances of the case. In accordance with the vulnerability guidance, job centre staff were obliged to identify whether Mrs L had any life circumstances which would mean she required additional support to access DWP services. The guidance does not put the onus on Mrs L to specifically tell staff about her life circumstances or about what support she might need.

77. Also, in accordance with DMG chapter 21, job centre staff should have explored with Mrs L whether she had any issues that might restrict the number of hours she was available for work or the type of work she could do. This discussion should have informed her claimant commitment.

78. The claimant commitment is a binding document which must be signed by the claimant before their claim can proceed. It is an agreement to the requirements of JSA - including the sanctions regime. It is a document that is completed at the first interview.

79. It is therefore clear that job centre staff also need to identify the support claimants need (paragraph 77) to access job centre plus services at the first interview. This ensures claimants fully understand what they are agreeing to.

Relevant notification:

80. DWP has told us that when an interview is booked, a system generated letter is produced. This ensures that a customer receives a 'relevant notification'. The letter can be stopped from being sent by the job centre adviser. DWP said this happens, 'for example, when an appointment was booked for a few days later, or the customer had previously had an appointment card and they regularly went to the Jobcentre Plus office'.

81. Mrs L's appointment was only a few days later. An appointment card was used. Mrs L was not given the standard letter. She had not previously had an appointment card. She did not regularly go to the Jobcentre Plus office. An appointment card does not contain all the information in an appointment letter. It is not a 'relevant notification' in the meaning of the guidance without some additional explanation.

82. DWP has said that the appointment card 'would have been explained' to Mrs L. It has no records about this, however.

83. We do not know what explanation was provided to Mrs L about the appointment card. We do not have evidence the explanation was sufficient for her needs (see also paragraphs 113 to 119).

Opportunity to explain good cause:

84. DWP did not contact Mrs L when she failed to attend the appointment on 28 January 2015.

85. Mrs L next attended on 4 February. She told us she recalls an adviser told her she would be sanctioned. There is evidence her account is reliable: her actions immediately after this appointment were to go to SUCRC. This generated the complaint letter dated 11 February - before a sanction had even been decided by the decision maker.

86. Front line job centre staff cannot make decisions to sanction claimants. In accordance with the DMG guidance, claimants should be given an opportunity to explain their reasons for missing an appointment before front line staff refer their case to a decision maker. Front line staff are responsible for providing relevant information to the decision maker.

87. DWP says that Mrs L was given an opportunity to explain. It says the evidence shows a job centre adviser wrote down her statement on 4 February 2015.

88. We recognise a statement was recorded by DWP. It is set out in paragraph 53. It says Mrs L said she misread the appointment card. It does not say anything about Mrs L's physical health problems or depression.

89. DWP's record does not correspond with any of Mrs L's subsequent complaint correspondence or her verbal evidence to us (paragraphs 21 and 42). That evidence is that she found the appointment card confusing and she thought it was common sense to come on the last entry.

90. She has also said in her complaints and to us that she has a number of physical health problems, depression, and difficulties with some administrative tasks. Having spoken to Mrs L we also find that the statement recorded by DWP is clearly not in her words.

91. Given the consistency of all the evidence in paragraph 89, and the manner of the appointment on 4 February as described in paragraph 85 we do not think Mrs L was given a genuine opportunity to explain.

92. We also do not think the opportunity was appropriate to her circumstances and needs (which we will set out in paragraphs 93 to 104). She appears to have been placed in a significantly stressful situation on top of her pre-existing difficult personal circumstances, rather than being given a genuine opportunity to explain. This was by being told she would be sanctioned when that decision had not yet been made.

Relevant facts and individual circumstances:

93. Mrs L's evidence is that she had a number of difficult life circumstances. These meant she needed to restrict the claimant commitment. Mrs L was required to sign the claimant commitment to receive benefit. As above (paragraph 77), this is a binding document setting out what Mrs L agreed to. It had not been adjusted to reflect her needs.

94. It is also possible Mrs L's life circumstances were such that she needed additional help accessing job centre plus services (in accordance with the vulnerability guidance). These were relevant to how the job centre staff communicated with her. They were relevant to the decision makers when they were asked to decide whether to sanction her.

95. DWP acknowledges there is no contemporaneous evidence that job centre staff explored with Mrs L whether she needed any support or adjustments at the first interview (on 26 January 2015). The evidence from DWP's records shows this was unlikely to have been the case.

96. Specifically, the evidence shows that no adjustment was made to the standard claimant commitment. Also, in its response to Mrs L's complaint the job centre said there was little evidence Mrs L's health conditions were declared or discussed at the interview on 26 January as most of the time would have been spent explaining JSA (paragraph 49).

97. Nevertheless, despite this evidence, DWP say that job centre staff would have assessed whether Mrs L needed any support in accessing job centre services. DWP said staff would have done this by observing Mrs L (in accordance with its vulnerability guidance). DWP say job centre staff would have concluded that Mrs L did not need any additional support accessing job centre services.

98. In support of its view that Mrs L did not need any additional support, DWP says Mrs L managed to complete administrative tasks such as attending appointments with her GP, doing voluntary work and completing the ESA application and JSA (volunteering) forms.

99. DWP also says the answers in Mrs L's ESA application suggest she did not need any help accessing job centre services. DWP has pointed specifically to her answers in the following sections: Speech, Hearing, Communication and Daily Tasks.

100. The questions about communication are questions about speech and hearing and learning disability. Under 'communication' the ESA form asks about whether a person can convey a simple message about danger or understand where a fire escape is. Daily tasks are said to be things like washing and dressing. Learning tasks is things such as using a washing machine.

101. We agree that Mrs L did not say she had any problems with any of these tasks on the ESA form. We agree this demonstrates Mrs L probably did not have a specific physical or learning disability or a speech and language problem that would prevent her from accessing job centre services.

102. However, other evidence shows that Mrs L had a range of difficult life circumstances:

- Evidence from her GP showed she had a number of physical health problems and depression, which was being treated
- Mrs L described on her ESA form how her depression caused her to be stressed and anxious when going into new places and meeting new people. When assessing her ESA claim, DWP agreed Mrs L's depression and resulting anxiety would affect her ability to go out and that she would need help from another person to do that
- The complaint correspondence says Mrs L had previously relied on her husband to complete administrative tasks
- In our conversation with her, Mrs L confirmed she has difficulty with administrative tasks. We found Mrs L's evidence credible. We also observed she had difficulty following instructions to join a conference telephone call (entering a series of numbers when prompted).

103. All this is evidence that Mrs L might have needed to support to carry out some of the actions required of her under JSA. It is evidence she would have needed adjustments to the claimant commitment.

104. DWP say Mrs L did not raise any issues at the first interview. It suggests this is because she did not need any support. Mrs L says she was 'talked at' at the first interview. Her evidence is there was not an opportunity for her to raise any issues. Her evidence is corroborated by the job centre's comments that there is often not enough time at first interview to explore issues.

105. Further, the job centre's own DEA said Mrs L's life circumstances and health problems were not properly explored with Mrs L (paragraph 53). The DEA said an unrealistic claimant commitment had been put in place. The DEA said job centre staff had not spent enough time ensuring Mrs L fully understood the requirements of JSA.

106. We considered what might have happened if job centre staff had discussed or considered whether Mrs L needed any support to access job centre plus services, or adjustments to the claimant commitment. We decided, on balance, that if they had they would have discovered at least some of her difficult life circumstances.

107. The reasons we consider it more likely than not that would have been the case is because of the GP evidence and evidence from our contact with Mrs L. This has provided evidence that she presents as someone who may have difficulties with some tasks and is happy to talk about those.

108. We therefore also find the DEA's contemporaneous evidence that Mrs L was required to sign a claimant commitment which was not appropriate to her circumstances is reliable.

109. We will now look at the relevant circumstances around Mrs L's failure to attend the appointment on 28 January 2015.

110. Mrs L said she attended on the last entry of the appointment card. She said this was common sense. In general, where only one appointment is normally written on an appointment card at a time, you are expected to attend on the last entry.

111. Mrs L's actions in only attending on the last entry are perfectly reasonable for someone who holds her view. For the reasons in paragraphs 102 and 103, we think the evidence shows Mrs L had a range of difficult life circumstances that mean her holding this view is understandable and probable.

112. DWP has questioned Mrs L's evidence about 'attending on the last entry'. DWP say the events were long ago and say Mrs L has not used these words before.

113. Our findings in paragraph 92 explain Mrs L was not given an appropriate opportunity to explain her reasons for not attending. Our findings in paragraph 89 and 90 explain the DWP record of her reasons was unlikely to have been in her words. We therefore find the evidence from Mrs L more convincing.

114. DWP says the appointments would have been clearly explained to a customer who was new to JSA. However, DWP has no contemporaneous evidence about this. We do not know what Mrs L was told on 26 January 2015.

115. We also do not know what a clear explanation would have normally entailed. However, whether an explanation is clear for any one individual is dependent on their circumstances and their ability to understand and comply with that instruction. As we have seen above, there is no evidence job centre staff considered Mrs L's ability to understand or comply with the instruction.

116. The only thing we do know with any certainty is Mrs L was told she had to attend every two weeks. Both DWP's and Mrs L's evidence supports this. We know Mrs L knew this was a Wednesday because she offered to change the day of her voluntary work.

117. DWP say this means Mrs L must have understood she also had to attend on 28 January 2015. We do not agree. The appointment on 28 January was an exception to a general rule. The general rule is likely to have been explained in more detail.

118. We have therefore made a decision on balance. We have taken account of DWP's evidence in paragraphs 98 to 100 and balanced this against the contemporaneous evidence of the DEA (paragraphs 53 and 105) and Mrs L (paragraphs 42 and 43). Having done that, we do not think that DWP's explanation was clear enough for Mrs L's needs.

119. On balance, therefore, we accept Mrs L's evidence that she found the appointment card confusing. We think that her actions, in only attending on the last entry, is what a reasonable person would have done in her circumstances (i.e. one who held her understanding of an appointment card and one who had her life circumstances).

120. To prevent any confusion for Mrs L, DWP could have adhered more closely to the relevant guidance. DWP could have issued Mrs L with an appointment letter. It did not do so. DWP should have explored Mrs L's life circumstances with her and adjusted the claimant commitment to ensure she was making a realistic agreement and she understood her obligations. It did not do so. DWP should have considered any support Mrs L may have needed to access its services. It did not do so. DWP could have provided an explanation sufficient for her needs. We have not seen enough evidence that it did that either.

121. On this background, the decision maker decided to sanction Mrs L. The only information the decision maker considered was the reason Mrs L gave as recorded by the job centre on 4 February 2015. The decision maker also recorded that Mrs L had been given a relevant notification - a 'letter issued face to face'. This was not what Mrs L had been given.

122. It is arguable that given the information in front of them, the decision maker made a reasonable decision. 'Misreading' an appointment card is not 'good reason' in the meaning of the guidance in the DMG. Claimants have a responsibility to take reasonable care to make sure they attend appointments on the right date and at the right time.

123. However, job centre front line staff failed to adhere to multiple pieces of guidance (as explained in paragraph 120). By doing that, they failed to give the decision maker all relevant considerations about Mrs L's explanation for her non-attendance, or her disabilities and life circumstances that might have affected her understanding of what she needed to do (as set out in paragraphs 102 and 103, as well as her reasons for not attending as described in paragraphs 111 and 112). This was therefore a failure to take all relevant considerations into account.

124. By the time of the mandatory reconsideration, the DEA had explained Mrs L's needs had not been identified at the first appointment on 26 January 2015, and that an

inappropriate claimant commitment had been put in place. Mrs L's advocate had also written that Mrs L had multiple health problems and was vulnerable.

125. DMG guidance required the second decision maker to take account of the limitations Mrs L's disabilities placed on her, including any anxiety she might have experienced in meeting her obligations. It required that the decision maker consider any difficulties she may have had understanding her obligations. The guidance also required the decision maker to record the evidence relied on.

126. The mandatory reconsideration makes no reference to the relevant considerations or individual facts of the case set out in the submissions by the DEA or Mrs L's advocate. It acknowledged only that Mrs L said the appointment card was confusing. This was a failure to follow the relevant guidance in the DMG and the Principles - that public bodies should take all relevant considerations into account when making decisions.

127. DWP says a third review of the sanction decision was made prior to the appeal. In a letter dated 4 September 2015, the decision maker said they had reviewed 'all' the evidence again. What that evidence exactly was, was not recorded.

128. However, the letter still refers to Mrs L 'misreading' her appointment card. The evidence was overwhelmingly that her reasons for not attending were that she found the appointment card confusing. There is no other record of what the decision maker considered. On balance, therefore, we do not consider that the decision maker considered all the relevant considerations set out above.

Our findings about the injustice to Mrs L as a result of the failings in the sanctioning decision

129. On balance, had job centre staff acted in line with all the relevant guidance and Mrs L's life circumstances been identified in line with DWP guidance, there are two likely alternative outcomes. The first is the job centre adviser would have ensured Mrs L fully understood when she needed to attend.

130. The other is the decision makers would have taken account of Mrs L's life circumstances and other relevant considerations as detailed above. We think, on balance, had the decision makers done that, they would have concluded those gave her good reason to only have attended the second date on the appointment card. In either situation, Mrs L is unlikely to have been sanctioned.

131. Had Mrs L not been sanctioned she would not have experienced feeling degraded. She would not have had to seek financial support from food banks and her family or undertake an appeal process. She would not have had to continue her complaint for five years to get DWP to accept she was vulnerable and should not have been sanctioned.

132. Mrs L has provided us with a persuasive account of how she felt and how her health was affected by the events. In particular, she has described her health became so poor that she collapsed from exhaustion. She has provided a letter from her GP, dated 30 July 2015 which supports her comments she was suffering from increased ill health and anxiety as a result of the sanction decision. Mrs L had a period of extended sick leave (when a doctor certifies a claimant is not fit to look for work) from August 2015.

133. The sanction decision also caused financial hardship to Mrs L. The impact of this is not quantifiable. However, she had to live off only £130 for an entire month. Since she was already on a low income, she had no savings and had to rely on friends, family, and food banks. She saw this as having to 'beg'.

134. The vulnerability guidance also makes it clear it is a matter of social justice to help vulnerable people access and engage with the job centre. The failure to follow that guidance meant that instead of engaging Mrs L, she was sanctioned. She has said she would not wish the experience of the job centre on her worst enemy as a result. Mrs L was denied an opportunity to engage with and access help from the job centre.

Our finding

135. We have seen failures by DWP leading to the injustice Mrs L claims. We uphold this aspect of Mrs L's complaint.

Mrs L's complaint that her housing benefit was stopped

136. Mrs L says DWP sent notification to her local authority which meant her housing benefit was stopped. Her advocate says that those notifications were unclear.

Mrs L's advocate's evidence about what happened

137. Mrs L's advocate told us that Mrs L's housing benefit was stopped for a period of time that was long enough for her landlord to chase her for rent money. Her advocate said at the time he had seen a number of similar cases where housing benefit had been stopped unnecessarily following a notification from DWP. He said that he met with the local authority about this.

138. At that meeting, he said the local authority accepted housing benefit decisions did not need to be made on the basis of information about claimants other benefits. However, he said the local authority officers said they felt 'bound' by the auto-notifications received from DWP. The advocate formed the impression local authority officers felt the auto-notifications were misleading because they said a means tested benefit had been stopped but did not give enough reasons about why that was.

DWP's evidence about the notifications

139. During the complaint process and the ICE investigation DWP confirmed auto-notifications would have been sent to the local authority about Mrs L's change in benefit from ESA to JSA and about her sanction.

What the guidance says

140. Housing benefit is a means tested benefit. It is not dependent on JSA being in payment, even though people will often apply for both at the same time. Local authorities administer housing benefit on behalf of DWP. DWP is therefore responsible for setting policy and issuing guidance about it.

141. The housing benefit manual says a housing benefit decision should be superseded (replaced with a new decision) if a change of circumstances occurs, such as another benefit stopping or starting. The claimant is supposed to inform the local authority within one month of the change. Because that did not always happen, DWP has for a long time sent notifications to local authorities when a claimant stops or starts claiming social security benefits like JSA.

142. The notifications from DWP do not necessarily contain all the information required for a decision about housing benefit. This is because housing benefit is a means tested benefit and not dependent on another benefit being in payment. The housing benefit manual says housing benefit decision makers can ask the claimant for additional information and allow one month to receive that, if they need more information to make a decision.

143. In 2010, the regulations on sanctions changed. This allowed entitlement to JSA to continue when sanctions were applied for missed appointments. Prior to that, a missed appointment may have meant an end to JSA entitlement and that might have been a cause for housing benefit entitlement to end.

144. DWP issued bulletin G4/2010 in 2010 to explain this. This specifically said sanctions did not have any impact on a housing benefit claim.

145. Separately, in 2011, DWP introduced a new auto-notification system, called ATLAS, which was intended to notify local authorities of changes to benefit entitlement within 24 hours. This was to help prevent the number of people overpaid or underpaid housing benefit because local authorities would be more quickly aware of changes in circumstances. Local authorities would therefore make quicker supersession decisions.

146. ATLAS was also intended to provide local authorities with more information on which to make a decision about housing benefit. The ATLAS system replaced a previous system of 'prompts' which only prompted local authorities to take action, but included no substantive information.

147. If an overpayment of housing benefit is made because the local authority failed to act on information sufficient to make a decision, it can affect the local authority financially (local authorities are subsidised by DWP to administer housing benefit). There is therefore a financial incentive to act on information received.

148. The ATLAS FAQ's issued in August 2011 explained all of this. Other archived material about the roll out of the ATLAS system also confirms housing benefit decisions did not need to be made solely on the basis of an auto-notification.

149. The ATLAS guidance in place at the time the notifications were sent in Mrs L's case also say:

'JSA Sanctions:

The ATLAS notification will display 3 awards.

Award No 1 - Current award with award amount and an end date

Award No 2 - Sanctioned period. The award amount for this award will still display the actual amount; however, the award will be labelled 'Sanctioned'.

Award No 3 - A further award will follow this which will be £0.00 pending an entitlement review.

It should be noted that once the review action is undertaken by DWP the award after the sanctioned period is usually re-instated unless there has been a change in the claimant's circumstances. The ATLAS notification for this will be filtered out by the DWP filtering rules and you will not receive this. As per bulletin G4/2010 no action should be taken on the HB/CTR claim as a result of a Sanction, and therefore Award No 3 should also be ignored.'

150. On 30 September 2015, DWP issued an 'urgent bulletin' to local authorities. This reiterated that no action should be taken on auto-notifications about sanctions.

151. The Ombudsman's Principles say that public bodies should plan carefully when introducing new policies or procedures. The Principles say that public bodies should ensure they act in accordance with their statutory duties.

Our analysis

152. Stopping rent payments to landlords can cause significant distress to housing benefit claimants. DWP has a large responsibility in the process of housing benefit decisions given that local authorities administer housing benefit on behalf of DWP and DWP issues the relevant guidance.

153. We do not know which notification from DWP (whether it was about her ESA, JSA or the sanction) meant Mrs L's housing benefit was stopped. She has not made a formal complaint to the local authority about this, so we do not know the precise circumstances.

154. However, the guidance - both the housing benefit manual and the ATLAS guidance - is clear a decision about housing benefit does not need to be made on the basis of an auto-notification from DWP. Housing benefit decision makers can request more information if it is needed. In the case of a sanction, the relevant ATLAS guidance and guidance about the introduction of sanctions says that local authorities should not take any action on notifications about this.

155. The advocate's meeting with Mrs L's local authority seems to support that the local authority was aware of this guidance.

156. In accordance with the Principles, DWP had responsibilities to ensure that local authorities had sufficient information by which to administer housing benefit, particularly following the introduction of the ATLAS system.

157. Local authorities also have responsibilities to ensure their staff acted on the relevant guidance. We have no jurisdiction to look at the actions of the local authority in this instance.

158. We have seen evidence that DWP did produce information by which to administer housing benefit in the form of the guidance that was in place. We have seen evidence that Mrs L's local authority was aware of that guidance. This suggests that if there was any maladministration leading to the closing of Mrs L's claim, it was not, on balance, a result of actions or omissions by DWP.

159. Mrs L's advocate believes there was a wider problem with local authorities thinking they had to make housing benefit decisions on the basis of ATLAS notifications. DWP had to issue an urgent bulletin in September 2015. This is evidence there may have been a wider problem, at least in respect of sanctions. The system of notifications, or the way in which DWP made local authorities aware of the relevant guidance, might not have been working as well as it could have been.

160. We would expect DWP to act on any apparent problems in the procedures it had put in place to prevent people having their housing benefit unnecessarily stopped. We do not know the extent of any problem in 2015, or if the urgent bulletin of 30 September 2015 was a sufficient response.

161. However, for the reasons above, we do not think that any potential failing by DWP in this regard has directly affected Mrs L's case.

Our finding

162. We have not seen evidence that actions or omissions by DWP led to Mrs L's housing benefit being stopped. We do not uphold this part of her complaint.

DWP's complaint handling

163. Mrs L says DWP refused to deal with her complaint because it said it was about policy. She says DWP also prevented her from escalating it.

The evidence we have seen from DWPs complaint file

164. Mrs L's advocate first made a complaint about the sanction on 11 February 2015 (before the sanction decision had been made). He made a further complaint on 16 March 2015. On the same date, he made a request for urgent revision of the sanction decision. He then complained again on 19 August 2015, 2 March 2016 and 27 June 2016 (after referring his complaint to ICE). DWP responded to these letters on 5 March 2015, 2 September 2015, 23 March 2016 and 28 June 2016. DWP sent a further complaint response in January 2017 after this office asked it to in December 2016.

165. The complaint letters broadly said Mrs L was sanctioned for missing an appointment because of ambiguous communication. They asked DWP to compensate Mrs L for the damage to her health caused by maladministration. They asked DWP to improve its processes for sanction decisions, contact with the local authority, and setting realistic claimant commitments.

166. DWP's replies said the system of sanctions was a matter of government policy. It said when it received a policy complaint it checked it has applied the policy correctly and recorded receipt of the complaint, so complaints can be reported to the policy makers. DWP said it was unable to provide Mrs L's advocate with information on how to proceed with the complaint until the response of January 2017.

What the guidance says

167. DWP complaints procedure includes its customer charter which says it will deal with a request the first time DWP is contacted or as soon as it can. It says it will follow processes correctly, provide the correct decision and say sorry if it makes a mistake.

168. Our Principles of Good Complaint Handling say that complaint staff should be properly equipped and empowered to put things right promptly where something has gone wrong.

169. They also say that public bodies should be open and honest when accounting for their decisions and actions. They should give clear, evidence-based explanations, and reasons for

their decisions. When things have gone wrong, public bodies should explain fully and say what they will do to put matters right as quickly as possible.

170. Finally, the Principles say public bodies should make it clear to complainants when they have provided their final response to a complaint. At that stage, public bodies should provide clear and accurate information about the next stage of the complaint process so the complainant is clear about what to do next if they remain dissatisfied. If the complaints procedure is not the most appropriate way for a customer to take forward their concern, public bodies should also clearly direct them to the most appropriate way, for example through alternative appeals mechanisms.

Our analysis

171. DWP incorrectly said Mrs L's complaint was about government policy. Her complaint was clearly about the way in which the sanction decision had been made in her case. It was not about the policy of having sanctions.

172. DWP told Mrs L that when a complaint was about policy it would check to see if the policy was applied correctly, but it did not do that. It provided no explanation for its decision that the complaint was about policy. DWP also did not explain how to escalate the complaint.

173. DWP continued to fail to respond substantively to Mrs L's complaint up until January 2017. It failed to do this even though ICE had referred the complaint back to it. It only responded substantively after PHSO said it needed to answer the complaint.

174. Even then, DWP failed to recognise it had failed to make its sanction decisions in accordance with the guidance (as explained in the first section of these findings) or take steps to put that right.

175. DWP's complaint handling failed to meet the expectations set out in the DWP customer charter and the guidance in our Principles.

Our findings about the injustice to Mrs L as a result of DWP's complaint handling failings

176. Mrs L has said she has experienced ongoing emotional upset as a result of not having matters put right. She told us that after the sanction she would not wish the experience of having to go to a job centre on her worst enemy. She said she was overjoyed when she learnt she did not have to go anymore when she started receiving pension credit (in March 2016). It is clear the sanction decision coloured her whole engagement with DWP. This was an injustice that lasted for more than a year.

177. We also accept that Mrs L's feelings of degradation as a result of the sanction and the financial impact on her, as described in paragraphs 129 to 134, would have remained for her for as long as her complaint went unanswered.

178. DWP told us it believes the matter would have been resolved for Mrs L once the tribunal found in her favour. This is clearly not the case. The tribunal can overturn the sanction decision, but it cannot put right the injustices we have described in paragraphs 129 to 134.

179. DWP could have put matters right if it had acted in accordance with the relevant guidance when looking into Mrs L's complaint. It did not do this. This has meant Mrs L has had to live with these injustices for a further three years.

180. ICE recommended DWP apologise for the poor complaint handling and pay £75. This payment was for DWP failing to call or write to Mrs L after she missed her appointment and for the complaint handling. We will consider whether this payment is enough to recognise the impact on Mrs L caused by the poor complaint handling, after we have looked at the complaint issues Mrs L raised about ICE (paragraphs 208 and 224).

Our finding

181. Mrs L's complaint was not answered in accordance with the guidance and this led to an injustice to her for an extended period of time. We uphold this aspect of the complaint.

ICE's complaint handling

182. Mrs L has made a number of complaints about ICE's handling of her complaint. We will look at these in turn below.

Decision to investigate and timescale for allocation

The evidence we have seen from ICE's files

183. On 24 February 2016, Mrs L's advocate wrote to ICE to ask it to consider the complaint. ICE replied on 19 March saying it would not accept the complaint until the DWP complaints process had been exhausted.

184. ICE received the re-submitted complaint on 26 April 2017 (after the DWP complaints process was completed). ICE decided on 10 May that it could not consider the complaint as it related to policy and not maladministration.

185. Mrs L's advocate asked ICE to review this decision. ICE agreed that while some issues did relate to policy, there were other issues it could investigate. ICE wrote to Mrs L's advocate on 27 June 2017 explaining what parts of the complaint it could look at and Mrs L's advocate replied on 3 July saying this was acceptable.

186. On 18 July 2017, ICE accepted the complaint for investigation. ICE explained to Mrs L's advocate that it was taking approximately 13 months to investigate complaints. A large part of that delay was the time it was taking to allocate cases to an investigation manager.

187. Mrs L's new advocate contacted ICE in July 2018. ICE responded on 8 August 2018 to say that cases from April 2017 (Mrs L's was submitted in June 2017) were being allocated to an investigation manager. Mrs L's advocate also phoned ICE and got an update on 7 September 2018.

188. On 24 October 2018, having heard nothing further, Mrs L's advocate complained about the delay. ICE responded on 7 November. It explained the volume of incoming complaints had increased by 250% in the previous 18 months. It also explained it was not its normal practice to contact complainants while the complaint was waiting to be allocated if there was no new information to give. It said complainants could make contact at any time during the process.

189. Mrs L's complaint was allocated to an investigation manager on 10 December 2018.

What the guidance says

190. ICE's complaint handling policy says it can only consider a complaint if the complainant has already complained to the agency or business, waited until they have finished their complaints procedure, and received a final response.

191. Our Principles of Good Complaint Handling say public bodies should tell complainants how long they can expect to wait, keep them regularly informed of progress, and the reasons

for any delays. Our Principles of Good Administration say public bodies should tell people if they are going to take longer than the person could reasonably expect them to take.

192. ICE has a published service standard to ‘complete our action in those cases that require a report from the Independent Case Examiner, within 20 weeks of the complaint being allocated to an investigation case manager’.

Our analysis

193. When Mrs L’s advocate complained to ICE, DWP had not investigated the complaint or given a final response. ICE therefore asked DWP to respond. This was in line with its policy. While DWP did not subsequently give a response until PHSO became involved, ICE could not have foreseen that.

194. ICE told us it should have accepted the complaint for investigation two months earlier than it did after Mrs L’s advocate re-submitted it in April 2017. ICE acknowledged it should not have said the complaints were all related to policy. ICE has identified itself that this was a shortcoming.

195. ICE did not finish its investigation until April 2019. ICE’s 20 week standard begins from when a case is allocated to an investigation manager. In this case, ICE has told us the case was allocated on 10 December 2018 and the report was issued on 17 April 2019. This was within the 20 week target.

196. The delay in this case was in allocating the complaint to an investigation manager. At the time Mrs L’s advocate made the complaint, ICE told him it was taking 13 months to allocate complaints. That is, Mrs L’s advocate had a reasonable expectation it would be allocated in August 2018.

197. It actually took more than 17 months to allocate. The advocate only became aware of the delay and the reasons for it after he contacted ICE in July, September and October 2018. He only found out that it would take longer to allocate Mrs L’s case at the time he was expecting it to be allocated.

198. For reasons beyond its control, the volume of complaints ICE received at this time had a significant impact on its service. ICE aimed to deal with complaints fairly by allocating them in date order. ICE told Mrs L’s advocate what the likely timescale would be when it accepted the complaint for investigation. This is all in accordance with the Ombudsman’s Principles.

199. However, when it took even longer to allocate cases than ICE had predicted, ICE made no effort to proactively update Mrs L or her advocate. This was not in accordance with the Principles. ICE has told us that since the time of Mrs L’s complaint it has updated the

information it provides to better explain its predicted timescales and how customers can get more information.

Our finding

200. There were some shortcomings in the way in which ICE dealt with Mrs L's complaint. On balance, we do not consider those to have been so significant as to amount to maladministration. We do not uphold this part of Mrs L's complaint.

ICE's consideration of DWP's complaint handling

Mrs L's evidence about ICE's consideration

201. Mrs L says ICE would not consider the hurdles DWP put in place to prevent the complaints process from progressing at the early stages. She says ICE did not consider that she had had to pursue the matter for five years.

Evidence from ICE's report

202. ICE's report says DWP should have started the complaints process sooner and that 'DWP blocked access to the higher tiers of the complaint process, which prevented Mrs L from escalating her complaint'. The ICE report upheld this part of the complaint and recommended DWP paid £75 in total for the poor complaint handling.

What the guidance says

203. The Ombudsman's Principles say that when making decisions public bodies should take all relevant considerations into account.

Our analysis

204. ICE did consider the problems Mrs L faced in getting DWP to investigate her complaint and the time it took to complete the complaints process. This is specifically set out in its report. The fact ICE upheld this aspect of her complaint suggests that ICE did understand the 'hurdles' DWP had 'put in place'.

205. The ICE report also details how the events spanned from 2014 to 2017 (the period up to when the complaint was referred to it). This is sufficient evidence that ICE took account of the fact Mrs L had been pursuing the complaint for a significant length of time.

Our finding

206. We have not found failings in these areas of ICE's handling. We do not uphold this part of the complaint.

ICE's consideration of the severity of Mrs L's injustice and its financial recommendation

Mrs L's evidence about ICE's consideration of her injustice

207. Mrs L says the events she complained about caused her significant distress and she had a mental health breakdown. She says ICE did not consider the severity of what she had gone through.

ICE's evidence about how it considered Mrs L's injustice

208. ICE fully upheld Mrs L's complaint that DWP should have investigated sooner and that DWP prevented her from escalating her complaint.

209. ICE only upheld Mrs L's complaint about the sanction decision to the limited extent that DWP should have tried to contact her within five days of her missing the appointment on 28 January 2015.

210. ICE says it considered the impact of these failings when it recommended DWP pay Mrs L £75. ICE told us her advocate had not raised any new information about Mrs L's health or provided any evidence of a mental health breakdown.

211. ICE provided us with a copy of a document ('the pro-forma') which explains its rationale for the recommendation. This shows Mrs L's advocate told ICE that the DWP maladministration impacted on Mrs L's health. It shows the advocate told ICE the JSA sanction and stopping of Mrs L's housing benefit put her in financial hardship. The advocate asked ICE for compensation for Mrs L and an assurance that DWP would, from then on, consider a claimant's circumstances before imposing a sanction.

212. We have also seen the notes of telephone calls ICE had with Mrs L's advocate. There is no evidence in those calls of ICE specifically exploring the injustice Mrs L might have experienced as a result of DWP's complaint handling and the specific failings ICE found.

What the guidance says

213. Our Principles of Good Complaint Handling say an organisation should consider the nature of the complaint, the impact on the complainant, how long it took to resolve the complaint and the trouble the complainant was put to in pursuing it.

214. Our Principles for Remedy say that financial compensation may be appropriate for any inconvenience or distress that has resulted from poor complaint handling.

215. Our Principles of Good Administration say that when reaching decisions, public bodies should take account of all relevant information and weigh the evidence appropriately.

Our analysis

216. ICE's pro-forma shows it considered recommending compensation for the two elements of complaint it upheld. The pro-forma sets out the claimed injustice Mrs L said arose from all of her complaints. It does not provide any explanation (in line with our Principles) about how the failings it identified specifically affected Mrs L.

217. In addition, ICE did not uphold a number of Mrs L's complaints. This meant ICE did not identify the full extent of the failings by DWP that we have identified in this report. It therefore also did not make recommendations to put right all the injustice caused to Mrs L.

218. The complaints ICE considered were:

The Department for Work and Pensions:

- A. provided Mrs L with appointment cards which were ambiguous and unclear in the information they contained;
- B. did not provide Mrs L with the opportunity to explain why she missed an appointment before moving forward with a sanction;
- C. failed to recognise that Mrs L was a vulnerable customer before imposing a sanction;
- D. contacted Salford Council in error and as a result, Mrs L's housing benefit was stopped; and
- E. blocked access to the higher tiers of the complaints process, which prevented Mrs L from escalating her complaint.

219. ICE only upheld complaint E and complaint B to the limited extent that DWP did not contact Mrs L when she failed to attend.

220. As we have set out in this report, we consider that Mrs L has justified complaints in respect of A, B and C. We think, like DWP, ICE failed to identify there were more significant failings by DWP. We have not seen that ICE took account of all the relevant considerations set out in this report, or weighed that evidence appropriately. In particular, we think that evidence included aspects of Mrs L's vulnerabilities, her opportunities to explain, and the appointment card.

Our finding about the injustice caused to Mrs L as a result of ICE's failing

221. ICE's pro-forma does not provide reasons for its decisions about the compensation it offered Mrs L. This did not cause any specific injustice to Mrs L. We recognise that the compensation ICE offered was in line with DWP guidance if we only look at the two discrete areas of complaint that were upheld.

222. However, ICE's failure to address the full injustice to Mrs L means that the injustices we have described in paragraphs 129 and 134 and 176 to 180 have gone without remedy for an extended period of time. This has compounded the injustice set out in those sections.

Our finding

223. Failings by ICE in determining the extent of the injustice to Mrs L led her to have to wait even longer for resolution. We uphold this aspect of her complaint.

ICE's decision not to recommend DWP makes service improvements

224. Mrs L says ICE found failings but did not recommend DWP makes service improvements.

225. The ICE report shows it identified that DWP did not follow existing procedures in two discrete areas of the complaint.

What the guidance says

226. Our Principles of Good Complaint Handling say that to seek continuous improvement, organisations should use feedback and lessons learned from complaints to improve service design and delivery.

227. Our Principles of Good Administration say that public bodies should take all relevant considerations into account when reaching decisions and weight them appropriately.

Our analysis

228. In this case, as ICE did not identify any systemic failings by DWP, there was no need to make improvements to the design of that service. ICE could have made recommendations to ensure the guidance was adhered to in future. However, ICE reasonably formed the view that these were discrete failures to act in accordance with the guidance. This is because there is no evidence from this individual case to show that there was a wider systemic problem.

Our finding

229. We do not uphold this aspect of Mrs L's complaint.

Recommendations

230. In considering our recommendations, we have referred to our Principles for Remedy. These state that where poor service or maladministration has led to injustice or hardship, the organisation responsible should take steps to put things right.

231. Our Principles state that public organisations should ‘put things right’ and, if possible, return the person affected to the position they would have been in if the poor service had not occurred. If that is not possible, they should compensate them appropriately.

232. To determine a level of financial remedy, we review similar cases where there has been a similar injustice, along with our severity of injustice scale.

233. We have described the injustice Mrs L was caused as a result of DWP’s failings in paragraphs 129 and 134, 176 to 180 and paragraph 222. As described, Mrs L has experienced significant injustices to her financial security for the period of the sanction. She has experienced impacts on her health until at least late 2015. She found the experience ‘degrading’. In addition to that, she has found no remedy through the complaints process for over five years.

234. We consider Mrs L’s injustices meet with level four on our severity of injustice scale.

235. Mrs L is also keen to see service improvements within DWP. As we have seen in this report, the failings we have found relate to a failure to apply the guidance that is in place. There have also been failures in complaint handling by DWP and ICE, particularly to consider all the evidence available and balance that appropriately.

236. We therefore recommend, within three months of the date of this final report:

- DWP should consider its guidance around the definition of ‘good reason’ being ‘facts which would make a reasonable person act as the claimant did’ and consider whether it is consistent with other guidance and legislation.
- DWP should consider the findings of this report in any ongoing work in respect of sanctions.
- DWP should write to us and to Mrs L to explain the outcome of the above actions and any improvements it has made since the time of these events (2015) as to how it approaches sanctions.
- ICE should share the content of this report with its staff for information and learning. It should write to us and to Mrs L with the outcome of that exercise.

- DWP should pay Mrs L £1250 in tangible recognition of the injustice caused to her by the failings identified in this report.