

INDEPENDENT CASE EXAMINER

For the Department for Work and Pensions

ANNUAL REPORT

1 APRIL 2007 – 31 MARCH 2008

Judging the issues without taking sides

The Independent Case Examiner's Office

Our Mission

Judging the issues without taking sides

Our Business Purpose

We have two primary business objectives: to act as an independent referee if customers of the Department for Work and Pensions (DWP) feel that the Department or one of its Agencies has not treated them fairly or has not dealt with complaints in a satisfactory manner; and to support the Department in improving the service it delivers by providing constructive criticism and meaningful recommendations

Our Aim

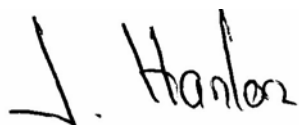
To provide a free, effective and impartial complaints review and resolution service for DWP customers that makes a difference to the way in which the Department discharges its public responsibilities

Our Vision

To be a first rate service provided by professional staff

1 Independent Case Examiner's foreword

- 1.1. I am pleased to present my first Annual Report as Independent Case Examiner (ICE) for the Department for Work and Pensions (DWP). This report describes the work of the ICE Office in the year ending 31 March 2008, and focuses on our experience of the DWP businesses'/agencies' approach to complaint resolution.
- 1.2. I took over as ICE in April 2007, following the extension of the ICE remit to cover all customer facing DWP businesses. This seemed to me to endorse the real difference made by ICE both to complainants, in the extremely positive outcomes achieved for individuals, and to the CSA by helping it to improve the service it offers to its customers. It was also confirmation of the success of the broader ICE prototype which had been running during 2006/07.
- 1.3. The widened remit has been a success. DWP customers who previously would either have complained through their Member of Parliament to the Parliamentary and Health Service Ombudsman (PHSO) or who would have given up even though they remained dissatisfied, have had their concerns addressed and had the reassurance that the impartial ICE service can bring. DWP businesses have produced good results by their willingness to attempt to promote resolution of complaints at the earliest opportunity, and to take on board feedback and proposals from this office, with a view to improving their approach to resolving complaints.
- 1.4. However, this year has also been extremely challenging in the face of a higher than expected intake of CSA cases in the first part of the year and the problems associated with that, detailed below.
- 1.5. The service provided by CSA to this office in terms of meeting its Service Level Agreements has not been as good as we would have wished, though matters have improved as the year progressed. The Agency has also taken steps to focus on enforcement of child maintenance arrears, and getting money to children at the earliest opportunity.
- 1.6. Despite the problems faced, the ICE office has been able to promote resolution of complaints at the earliest opportunity, clearing nearly four out of every five cases (78.7% of complaints) by brokering agreement between parties and has maintained a high standard of service to complainants and to the Department.



John Hanlon

Independent Case Examiner

18 July 2008

2 Executive Summary

Summary of key messages 2007/08

- DWP businesses have produced good results over the course of 2007 by their willingness to attempt to promote resolution of complaints at the earliest opportunity, and to take on board ICE feedback and proposals.
- The first six months of 2007 were particularly challenging as CSA intake far exceeded what had been expected, largely as a result of changes to complaint management within CSA. This had a negative impact on the CSA's ability to implement agreed resolution actions and recommendations. However, the situation has improved over the latter half of the year as the CSA has re-deployed staff to work on ICE cases and has taken steps to focus on enforcement of child maintenance arrears, and getting money to children at the earliest opportunity.
- In October 2007, it became necessary to introduce an "Exit" arrangement, which allowed ICE to disengage from an unacceptably high number of cases where the CSA had not implemented post-investigation ICE resolutions or recommendations within agreed timescales. Between October 2007 and February 2008, it was necessary to "Exit" 51 cases. In 47 of these, recommendations have subsequently been satisfactorily implemented, but disappointingly 4 remain outstanding. After discussions with senior CSA management, immediate action was taken to ensure that no further "Exits" would be required from March 2008.

Areas for improvement 2008/09

- Overall, good progress has been made in 2007/08. I am looking forward to 2008/09, and there are a number of areas where I would hope to see further improvements, as detailed below:
- There has been an increase in cases being referred to ICE by third party profit making organisations. I will be discussing with the businesses what more can be done to make it clear to complainants that ICE is a free, independent service that can be easily accessed without the need to involve these profit making third parties.
- Complainants continue to come to us too early, before the businesses have fully engaged with the complaint through their internal processes. I will be monitoring the impact of actions being taken by the businesses to address this issue.
- My office will continue to work with the businesses to help them improve their ability to meet the Service Level Agreement, particularly in respect of timely response to ICE investigations, resolution actions, and systemic recommendations.

Summary of Business Performance		
Business Performance	Performance 2006/07	Performance 2007/08
Received	3974	5065*
Accepted	1805	2036
Fails	2169	3029*
Total case clearances (of which):	1710	1843
Resolved	1155	1302
Investigated	368	352
Withdrawn	187	189

*55 cases were received with insufficient information to identify which business they related to, and as such subsequently failed our gateway

3 DWP Businesses (except CSA)

- 3.1 In the latter part of the year, ICE intake from businesses other than CSA has increased significantly. This was to be expected as awareness of the ICE service was raised among the broader DWP customer base. The majority of the increase can be attributed to complaints about Jobcentre Plus, again unsurprising since it is the largest of the Department's agencies.
- 3.2 Our experiences at the end of this reporting year have by and large reinforced and consolidated our expectations during the first six months, and the key findings/messages remain on the whole the same. The majority of cases we see are resolved, which demonstrates the businesses' willingness to co-operate with the ICE office, though it might also indicate that there is more that could be done by those businesses to explore all avenues for resolution and prevent complaints from having to progress to ICE. Of those complaints which we are not able to resolve, most are not upheld, indicating that, in those cases, businesses have been pro-active at putting things right in-house. As might be expected, most of the complaints we examine - particularly, though not exclusively, those which cannot be resolved - are complex.
- 3.3 Businesses are generally very receptive to feedback and I remain impressed by their enthusiasm and preparedness to implement changes to their working practices where they agree that this would lead to improvement. I have raised several systemic issues with various businesses which they have taken on board. In doing so, they have generally provided information in a timely manner, explaining the action they are prepared to take to improve the service they offer to their customers. It is rewarding to hear that most of the businesses find feedback from ICE extremely useful, and that it has helped them to become more focused in their approach to examining complaints.
- 3.4 I have asked businesses to review the relevant information in literature and on websites, to ensure that their customers are made aware of the ICE service but

also that the information fully explains to complainants that they should have received a final response to their complaint from the business concerned before referring it to this office. I am pleased to say that businesses have taken steps to improve their signposting and virtually all final Chief Executive letters now include a common paragraph about ICE.

- 3.5 As the year has progressed and numbers of cases accepted from Jobcentre Plus have increased, I am concerned that the Agency has increasingly struggled to meet Service Level Agreement (SLA) commitments. As a result, and following discussion with other businesses, one SLA deadline has so far been extended but achievement of SLA timescales may become more problematic for Jobcentre Plus and others in the coming year, particularly where Focal Point (FP) resource is tight.

4 Child Support Agency

- 4.1 Although during the first half of the reporting period CSA casework increased dramatically, I am mindful that this needs to be put into perspective: ICE deals with a small percentage of the Agency's live load, and often sees the more problematic cases. Despite the problems we see, we are aware that the Agency is getting more money for children than ever before and getting better at enforcement.

- 4.2 Nevertheless, from our perspective, and as previously highlighted, it has been an extremely challenging twelve months in dealing with the CSA, and the ICE office has had to make significant changes to its processes as a result of the problems we have experienced with the Agency.

"Bouncebacks"

- 4.3 For several years ICE has had an arrangement with CSA whereby it accepted referrals from complainants who were unable to secure a final response from or on behalf of the Chief Executive within a specified period. This was deemed to have occurred in situations where the initial referral to ICE revealed that the CSA had not offered a final response, and at a point 8 weeks later the CSA had still not offered a final response. During the previous reporting year, such cases were the exception with only 50 being accepted during the whole of the 2006/07 business year. In contrast, during the first six months of the 2007/08 year ICE accepted 387 such referrals.
- 4.4 Following discussions with ICE Stewards it was recognised that the high number of premature referrals to ICE was undermining the Agency's complaints resolution processes and the "bounceback" arrangement had become unsustainable in CSA cases. It was agreed that, for an indefinite period, but subject to review, ICE would not accept complaints about CSA until the complainant had gone through the Agency's internal complaints tiers and the Agency had offered a final response to the issues of concern.
- 4.5 The Department does, however, grant me discretion to take on complaints which do not meet that criterion, where, in my judgement, the objective features of the case merit my doing so. Since I am concerned that the general restriction on "bounceback" cases might become a barrier that denies parents

access to independent adjudication of their complaints, and I have no doubt that some complainants have found the experience of the CSA complaints process to be frustrating in that repeated attempts at resolution meant they could not easily escalate matters to the independent tier, I very much welcome that discretion. In some wholly exceptional cases, where complainants have been waiting for what I consider to be an unreasonably lengthy period of time for the Agency to respond, I have used the discretion afforded me and accepted these complaints for examination, and will continue to do so.

- 4.6 I am concerned that the suspension of the “bounceback” arrangements may be one of the factors that has led to more complainants approaching their MPs. There has been a 17.9% increase in the number of MPs who refer cases in respect of CSA to ICE, with 352 referrals received for the 2006/07 reporting year, increasing to 415 for the 2007/08 period.
- 4.7 CSA senior management is aware of my concerns and is keen to ensure that failed ICE gateways are tackled effectively. It has therefore established dedicated teams to review complaints that fail the ICE gateway where the Agency has not offered a final response. Despite this, it is evident that some complainants who approach the ICE Office are still having trouble in obtaining responses from the Agency, with some waiting since October 2007 for a response.

Co-operation with ICE

- 4.8 The service that ICE is able to offer complainants is dependent upon the co-operation of the DWP businesses that are the subject of the complaints. Unless the businesses respond to enquires, requests for information and draft closure reports, ICE cannot complete its examination of complaints.
- 4.9 CSA was, for the most part, adhering to SLA deadlines until the autumn of 2006. Over the past eighteen months however CSA has found it increasingly difficult to adhere to the SLA, and delays in all areas of engagement have had a negative effect upon the service ICE is able to offer complainants.
- 4.10 ICE managers and I raised this problem with every tier of CSA management. The ICE Office has expended considerable resources during the year in pursuing co-operation, escalating requests, responding to frustrated complainants and completing nugatory work.
- 4.11 Under the Department’s standing arrangements a consolatory payment can be made as part of the redress for the impact of maladministration on the lives of its customers. In deciding how much to pay, account is taken of the maladministration identified and whether the handling of the complaint resolved matters or whether poor complaint handling added to the impact on the customer. Following discussion with the Agency, and in view of the number of cases reflecting considerable delay, it was agreed that we would seek payments for poor complaint handling (referred to as botheration payments) in appropriate situations. We are therefore recommending that the Agency award a botheration payment where there has been a significant service failure which has impacted on our progression of a case, and, in closed cases where the Agency has failed to implement our recommendations.

4.12 I am pleased to be able to report that CSA has made some positive changes. In particular, it has changed arrangements for handling clerical complaints and has applied substantial resources to address backlogs. Good relations have been forged between ICE and CSA staff, who are working together to achieve satisfactory outcomes for complainants. We have also continued to build on the good working relationship we have with senior Agency managers, with a view to maintaining continuous improvement. We welcome the constructive response received from those managers, especially their introduction of organisational change to improve Agency complaint resolution and their ongoing engagement with ICE managers in relation to specific cases and circumstances that are causing concern.

Handing back responsibility to CSA at the end of ICE investigations

4.13 ICE closure reports are issued to the complainant detailing the actions that CSA has agreed to undertake and the timescales involved. In a number of cases during 2007/08 the CSA failed to honour agreements within required timescales and ICE staff engaged in extensive communications to try to secure compliance with the resolutions or recommendations. The Agency has since taken positive steps to recover from this position.

4.14 At the point ICE issues a closure report its work is effectively done. It has identified what needs to happen to put the case back on track and the CSA has agreed to its proposals. CSA's delay in progressing some of the agreed proposals during the reporting year gave rise to a situation in which ICE staff spent much longer than envisaged in following up outstanding actions. That in turn presented ICE with a conundrum: if we stayed engaged for too long post-investigation, albeit with the best of intentions, was there a risk that we could unreasonably raise complainants' expectations of success and potentially inhibit their progressing complaints to the Parliamentary Ombudsman? Ultimately, we concluded that we were at real risk of maladministering cases in that way.

4.15 As a result, following discussions with operational managers in ICE, with DWP and with PHSO, I introduced "Exit" arrangements whereby, if CSA has failed to implement agreed resolution actions or recommendations within 6 weeks of the date the final action was due to be completed, I will advise the complainant that I am withdrawing from the case. In every such case I will advise the complainant of their right to approach PHSO, via their MP.

4.16 This was a significant departure from the established practice and has considerable implications for CSA and for the Department. I am effectively saying to complainants that I am unable to secure the redress that is appropriate in their case.

4.17 Since these arrangements were introduced on 1 October 2007, to the end of February 2008, we had to exit from 51 cases. In each of these cases we have had to remind our complainants of their right to approach PHSO. The Agency has also paid every one of these complainants a 'botheration' payment to reflect the undue delay in implementing the recommendations I have made.

4.18 I am pleased to say that discussions with Senior Agency Managers about implementation of outstanding actions resulted in the Agency agreeing to take

action to ensure that I did not have to exit from any more cases after March 2008. I am pleased to report that this commitment was honoured and I have not had to exit from a case in these circumstances since February.

- 4.19 Furthermore, I am also pleased to acknowledge that of the 51 cases we exited from, the Agency has subsequently implemented the outstanding resolutions or recommendations in 47. Disappointingly, the Agency has been unable to carry out the required action in four cases despite the very considerable time lapse (some of the outstanding actions dated back to August 2006).

5 Common Issues

During the course of this year a couple of matters have come to my attention with relevance to more than one of the businesses with which I deal:

Third Party Interventions

- 5.1 The Department for Work and Pensions made the decision to set up the ICE office for a number of reasons, including its desire to improve the service it offers to its customers and to ensure that those who are unhappy with the service it provides, or with the way in which it has dealt with their complaints, are provided with a free and impartial investigation of the issues they raise and with an independent assessment of appropriate redress. Because ICE provides a free complaint resolution service, and because that service is designed to be readily accessible to all, there should very rarely be any need for complainants to pay third parties to represent them.
- 5.2 I am seeing an increasing number of cases which have been referred to ICE by third party profit making organisations, who are acting on behalf of the complainant. In my opinion, and from the cases I have seen, these organisations too often appear to be acting merely as a “post box” between the complainant and ICE, and a potentially very expensive “post box” at that. I am concerned at how such third parties are paid. In some instances, the fees required by these organisations might only be paid from compensatory or consolatory payments intended for the benefit of the complainant or, worse, from advance payments of child maintenance awarded as a result of our involvement, when these payments should be directed for the benefit of the qualifying children concerned. It seems to me that in respect of CSA cases, either money due for maintenance of children is being utilised in an unintended manner, or, where there is no maladministration found, complainants are incurring an unnecessary expense.
- 5.3 This highlights to me that we need to do more to ensure that complainants are fully aware of the service ICE provides, and particularly that it is a free service. It is important that our services should be accessible to *all* complainants. In my opinion there should rarely be a reason for a complainant to instruct a fee paying organisation to represent them, until they have exhausted both the services of the ICE office and, if necessary, PHSO.
- 5.4 In view of this I would wish the businesses to explore how they might better promote ICE as a free, independent service available to sort out any complaints which remain unresolved after the agency/business has been given the

opportunity to do so. I will be discussing with the businesses what more can be done to make this clear to complainants, and obviate the need to involve these profit making third parties.

Early Approaches to ICE

- 5.5 In the first six months of the reporting year, the CSA work, which had been expected to continue at a level similar to the previous year, saw a dramatic increase: 41% in cases received and 43% in the number of cases accepted for examination. Much of that rise can be ascribed to a dramatic upturn in the number coming to ICE precipitately before the customer had received a final response from the Agency. The work received from other businesses remained in line with forecasts for the first six months, but increased in the second half of the year by a very significant 84%. To some extent, particularly in the case of Jobcentre Plus, that too was ascribable to premature approaches from DWP customers.
- 5.6 As a result of this unexpected rise, partly to ensure that ICE could concentrate on those cases which remained unresolved after the Agency had been given a reasonable opportunity to do so and partly to ensure that ICE could continue to operate within its resource allocation, the Department decided in September 2007 to modify the arrangements between CSA and ICE. This modification was planned to allow ICE to give focussed attention to those cases in most need of its assistance. ICE temporarily ceased routinely to accept those CSA complaints which had not been fully addressed by that Agency (“bounceback” cases, referred to in section 4 above).
- 5.7 The same issue is emerging in relation to other businesses, particularly Jobcentre Plus: complainants are regularly coming to us too early before the business concerned has been given the opportunity to put matters right. As a result of this, and in order to avoid reaching a similar situation as with CSA, in February this year it was decided in agreement with businesses that the arrangements in respect of the non CSA work would also be modified to ensure that complainants complied with the requirement to engage fully with the relevant business before approaching ICE. This is unlikely to have an impact until the next reporting year.

6 Parliamentary and Health Service Ombudsman (PHSO) Referrals to ICE

- 6.1 PHSO will not usually investigate a complaint if the complainant has not exhausted the Department’s internal processes, including the service offered by the independent tier. PHSO’s office refers complaints to ICE if the complainant has not sought our input, unless it is deemed there are any exceptional reasons why it should take on the complaint sooner. If there are no such reasons it will refer the complaint back either to the relevant Agency, or, where that stage of the complaints process has been completed, to ICE, for us to deal with.
- 6.2 During this reporting period ICE received 172 direct referrals from PHSO: 137 CSA complaints and 35 relating to other DWP businesses.

- 6.3 During the period we cleared 127 cases referred from PHSO: 107 CSA and 20 others. I am greatly impressed that ICE staff were able to resolve 67% of these complaints to the complainant's satisfaction. I consider it a major achievement that staff are managing to achieve resolution of such a significant proportion of these cases, given the level of disillusionment and mistrust which may often build up by the time a complainant seeks the intervention of the Ombudsman. It demonstrates that mediated agreement can still be reached even when there are significant challenges to be faced.

PHSO Principles of Good Administration and Principles for Remedy

- 6.4 In March 2007, PHSO published The Principles of Good Administration and in October 2007, The Principles for Remedy.
- 6.5 An audit of ICE processes was carried out by ICE internal auditors in March 2008 to provide assurance to the Independent Case Examiner and senior managers that ICE business practices reflect the Principles. The audit team were also asked to identify areas of potential improvement.
- 6.6 The Principles are a broad statement of what the Ombudsman believes public bodies within its jurisdiction should be doing to deliver good administration and customer service. The internal audit established that the Principles approach is being deployed throughout the ICE Office. There is strong evidence that the Office is following the Principles in each area. The evidence demonstrates that the Office is committed to a learn, review and improve approach, and that the Principles of Good Administration and for Remedy are embedded in its culture.

7 ICE standards of service

- 7.1 It has been a rewarding year for the ICE office, in which it has risen to the challenges it has faced and continued to deliver a creditable service to complainants despite rising workloads.
- 7.2 When we acknowledge receipt of a complaint referral, we send the complainant a copy of our leaflet "Our Service and Standards". The leaflet explains how we deal with complaints and includes information about how long it should take us to do so. This year's performance, despite the challenge posed by the very significant delays experienced in relation to CSA cases and explained in section 4 above, has remained well within those published timescales. ICE throughput rate for the reporting year in respect of CSA caseload is 21.94 weeks, which is still considerably ahead of our 34 week published target. This compares to 18.86 weeks for the 2006/07 reporting period.

7.3 Our level of service for this reporting year and the last is detailed below:

Target	Performance 2006/07	Performance 2007/08
Acknowledge complaints within 2 working days	99.8%	99.5%
Respond to correspondence within 10 working days	99.4%	98.9%
Decide within 10 working days whether we can accept a complaint for consideration	99.6%	97.0%
Remind complainants at case closure of their right to approach the Parliamentary and Health Service Ombudsman	100.0%	100.0%
Clear cases accepted for action, within 34 weeks	18.87 wks	21.21 wks

8 The ICE Office

- 8.1 I am very grateful to the ICE Office for the support given to me during my first year as ICE. Despite the challenges we have encountered, staff have remained highly motivated and committed to providing a first rate service to complainants. I am particularly impressed by their willingness to embrace the changes to our processes that I have initiated.
- 8.2 I am impressed at the staff's ability to resolve such a high percentage of our complaints at the earliest opportunity. I also want to pay credit to staff for the knowledge they have built up in respect of all the DWP businesses and agencies whose complaints we examine. It is pleasing to observe that our people are fully committed to forging excellent working relationships with the agencies/businesses we engage with, in order to achieve the best possible outcome for complainants. During the year, eleven people from the ICE office have undertaken a new mediation course with a professional accreditation. The management team intends to offer this training to all new staff and to those others who might benefit from it.
- 8.3 I am delighted that the Office has achieved Charter Mark re-accreditation and that it has achieved the British Standards Institute (BSI) accreditation for its internal complaints processes. Both of those indicate the very high level of service the staff here provides to members of the public. I am also pleased that the Office, which has long recognised the value of its staff and has held Investors in People (IiP) accreditation since 1999, has this year been successful in gaining accreditation against the much higher standard of IiP Profile.
- 8.4 There have recently been some major changes to the senior management team at ICE, with the retirement of Phil Latus, the Case Director, and Elspeth Cooper, the Operations Director. Both have played an integral part in the success and positive culture of the ICE office. I would like to offer my personal thanks to them for their commitment and efforts on behalf of complainants. I would also

like to welcome the appointment of Carol Farrell to her new role as Head of the ICE Office and the confirmation of Margaret Fowler in hers as Operations Manager. I look forward to a productive working relationship with them both.

- 8.5 The Office is committed to providing a first rate service. I am pleased to report that people who use the ICE service have expressed high levels of satisfaction, and have told us about the difference our service has made to their lives, as the following quotes demonstrate:

“Excellent staff and service. I could not have coped without this service behind me. Thanks so much to everyone. I’m really very grateful!”

“I am very happy with the friendly, helpful and courteous manner in which I was treated, it lifted a huge strain off me.”