Responding to complaints made by customers about staff

Complaints, Redress and Stewardship Team (CReST)

Effective from 1\textsuperscript{st} February 2013
Purpose of this guidance

1. This guidance provides advice to DWP managers on how to administer customer complaints about the behaviour or attitude of a member of staff. (Child Maintenance Group staff should use their version of the guidance; however, it is aligned with this guidance.)

2. It should be used in addition to the Department’s Standards of Behaviour Policy and Discipline Policy which apply in cases of staff misconduct.

3. It is important to adhere to the guidance and to keep written records of what action was taken to investigate the allegation and decide the outcome. Complaint information is treated as ‘supporting’ documentation and the standard 14 month retention period applies. However, the destruction date should be moved on if a new complaint is made which links back to a previous issue. This ensures that all the documents remain available if the new complaint goes to the Independent Case Examiner or the Ombudsman. Please use the links to see the relevant retention periods for Health and Safety forms and HR document retention details (see ‘other documents’ for complaints about staff).

DWP standards

4. The DWP Customer Charter provides some basic standards for customer service across the Department, including the 4 principles of:
   - Right Treatment
   - Right Result
   - On Time
   - Easy Access

5. The Department is committed to “recognising its customers as individuals and treating them with respect”. In addition to our Customer Charter commitments, the Department has published guidance to staff on Standards of Behaviour.

Complaints from customers about staff

6. If a customer makes a complaint about the attitude, behaviour or service provided by an individual staff member, their complaint should be recorded and resolved in line with the standard customer complaints process within that business:

   - **Jobcentre Plus**
   - Pension, Disability and Carers Service
     a. The Pension Service
     b. Disability Carers Service (Disability Living Allowance)
     c. Disability Carers Service (Carers Allowance)
   - Debt Management.

7. DWP takes all customer complaints seriously. We are committed to investigating customers’ concerns and offering redress where appropriate. This commitment includes complaints about members of staff.

Core principle
8. There is a very important principle to bear in mind when investigating a complaint about a member of staff. The customer **should always be told** whether the investigation supported or refuted their complaint and any details that directly affect them (such as any agreed redress).

9. However, the Manager/business dealing with the complaint **must not divulge** any information relating to the member of staff, particularly any action it may take as an employer, in respect of the individual member of staff. For example the customer **must not** be told whether or not any disciplinary action is being taken. This is restricted information that must be kept private between the individual concerned and the investigating officer / line manager.

**First tier of the customer complaint process**

10. If a complaint is received about a member of staff, whether in writing, by telephone, TexBox, face to face or by email, it should be dealt with by either the line manager (LM), or an appointed investigating officer (AIO) of **at least** the same grade as the LM (unless the nature of the allegation suggests Risk Assurance Division need to be involved instead). An AIO will undertake the investigation if the LM is unable to do so, for instance, if the complaint involves them as well as their member of staff. The DWP Disciplinary Procedures explain who should investigate staff misconduct. This guidance applies to complaints investigated by the LM/AIO.

**Clarifying the complaint**

11. It is important to clarify with the complainant exactly what the staff member did/said that was rude or unhelpful. We cannot investigate generalities such as ‘they were rude to me’. Ask the complainant to explain precisely what was said. If they are unable to provide specifics, consider whether there is anything to investigate. See annex A for some helpful wording for the response if a meaningful investigation is not possible. Remember to signpost them to the next tier in the event that they are not happy with the outcome.

**Resolving the complaint**

12. Depending on the nature of the complaint, it might be possible to resolve it with an explanation. The LM/AIO can explore this option when they speak to the complainant to find out more about the complaint and what happened from their perspective. For example, complaints can be made about staff when in fact it is the information they provided that the customer is dissatisfied with, and not that the member of staff was rude or unhelpful when they delivered the message. For instance, a claimant’s benefit is suspended because they failed to satisfy the jobseekers criteria. They complain about the member of staff who tells them this news but it was the suspension they disagreed with, and not the way the member of staff dealt with the situation. In this type of scenario it may be that the LM/AIO can resolve matters with an explanation without the need to complete an investigation. The LM/AIO would need to be sure that there was no case to answer against the member of staff and that the complainant was satisfied that the explanation addressed his/her complaint before the matter could be considered resolved.

**Investigating the complaint**
Gathering the facts

13. If resolution fails, or was not feasible due to the nature of the complaint, then the LM/AIO will need to undertake an investigation. The LM or AIO should gather all the relevant facts before reaching any conclusions about the allegation. It is particularly important that the LM/AIO gives the complainant the opportunity to state their case, and explain exactly what happened from their perspective because these are the issues which need to be addressed during the investigation. The Department’s Discipline Policy and Procedures provide guidance on investigating minor misconduct and more serious misconduct. The LM/AIO can contact the Complex Case Advisory Service (CCAS) for advice at any stage of the investigation.

14. Written statements should be obtained from the complainant, the member(s) of staff named in the allegation and any other known witnesses to the event. Witnesses might include any of the following who saw/heard the event: other members of staff; other customers; a third party who was with the complainant at the time of the event. If the event took place on the telephone or in a customer area which has CCTV the LM/AIO should check to see if recordings of the call or CCTV footage is available.

Reaching a decision

15. The LM/AIO should then consider all the available information to see if it supports or refutes the complainant’s allegation. Where the complainant and the member of staff’s accounts differ significantly, the LM/AIO should consider whether any are supported by objective evidence such as other witnesses who are not directly involved. The Discipline Policy and Procedures provide guidance on what the LM/AIO needs to consider following the investigatory meeting. The LM/AIO can also contact the CCAS for advice.

16. In essence, the decision should be evidence-based, objective, fair, transparent and recorded appropriately. This means that all the information used to inform the decision, and the decision itself, should be recorded and kept in line with DWP data retention policies (see paragraph 3 for details). Where the accounts differ or the evidence is poor, the LM/AIO should decide on a balance of probabilities which is the more likely to have happened.

17. The LM/AIO’s decision will determine what further action is required in terms of the complainant (for example, an explanation or, where the LM/AIO considers that DWP was at fault, an apology or a special payment) and the member of staff (for example, explaining the outcome, providing supportive action where needed, considering disciplinary action if the evidence supports the allegation).

Considering redress

18. If the evidence supports the complainant’s allegation, the LM/AIO should consider whether any redress is appropriate. Redress might include an apology, an explanation, corrective action or (if DWP maladministration has had a significant impact on the customer) financial redress. (See also the operational guidance which explains how to make a referral for a special payment: Jobcentre Plus, Disability and Carers Service, The Pensions Service, (type in special payments in the Key words box) and Debt Management.
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Communicating the decision to the complainant

19. The businesses aim to provide a response to a complaint within 15 working days. If this is not feasible, the LM/AIO should contact the complainant to explain when they will be in a position to respond. If it isn’t possible to provide a definite timescale, the LM/AIO should arrange to keep the complainant informed until an outcome can be provided.

20. The response to the customer’s complaint should include:

- Outcome - whether the investigation of the complaint supported the allegation raised by the customer or not (please see annex A for some helpful wording);
- Explanation - it is not enough to simply provide the outcome, especially when the outcome is not favourable to the complainant, without explaining how the decision was reached. The customer can be told about the complaints investigation process and the reasons why their allegation was not supported by the evidence;
- Redress - if the investigation supported the allegation, details of any redress that is considered appropriate, for example an apology, an explanation and/or financial redress;
- Signposting - details of how the customer can escalate their complaint to the Director General, DWP Operations (or Group Manager in Debt Management cases) if they remain dissatisfied with the response provided.

21. The response to the customer complaint should **not** include:

- Any details (particularly any disciplinary action) relating to the member of staff.

Escalation of complaints about staff

22. If a customer is dissatisfied with the response to their complaint, they can escalate it to the Group Manager (Debt Management cases only) or the Director General, DWP Operations (all other cases), in line with the businesses’ normal complaint procedures. This means the complaint and the business’ response to the complainant will be considered afresh. This is the business’ final opportunity to ensure that the appropriate action has been taken and the complainant has received a full and final response to their complaint. If more could/should have been done, then this is the time to rectify matters.

23. If action is taken against the member of staff and they are unhappy about this and wish to raise a grievance, they and the LM should follow the relevant **HR guidance**.

Persistent Complainants

24. If, in addition to escalating their complaint about the original member of staff, the complainant also complains about the LM/AIO who dealt with the staff investigation, this will need to be considered by the LM/AIO’s line manager. As this is a new complaint, it will need to be considered afresh, from tier one. In the event that the complainant keeps complaining about any member of staff they come into contact with, you may wish to limit their access to staff by nominating a single point of contact (SPOC). The SPOC can be responsible for any information gathering required by senior managers investigating the latest staff complaint. See also paragraph 26 if the complainant’s contact becomes unreasonably persistent.
Unacceptable customer behaviour

25. If you believe that, in the process of progressing a customer’s concerns, the customer is displaying unacceptable behaviour then you should refer to the DWP guidance on Unacceptable Customer Behaviour (UCB). In this situation, we recommend you also check the UCB staff protection list to see if the customer already has any existing control measures which must be adhered to.

26. Customers who are not happy with the outcome of the business’ investigation may contact the Department persistently about the same issues. In such situations we recommend that you check the DWP guidance on dealing with Unreasonably Persistent Contact from Customers.

Independent Case Examiner (ICE)

27. If a customer is still unhappy with the outcome of their complaint after having received a final reply from the relevant business, they can escalate the issue to the Independent Case Examiner (ICE). The ICE provides an independent review service for people who feel that DWP Businesses have not dealt with their complaint in a satisfactory manner.

28. The ICE cannot look at DWP’s actions as an employer, so they will not look at any HR aspects of the investigation into staff misconduct. However, the ICE can investigate whether DWP businesses have:

- progressed any complaint about staff misconduct in accordance with this guidance and the businesses’ complaint procedures;
- given the complainant the opportunity to provide their perspective, and detail exactly what was said/done by the member of staff;
- gathered information from witnesses to the event (including members of staff) and checked other sources (such as telephone recordings/CCTV) before fully and appropriately investigating the customer’s complaint;
- if the complaint was upheld, considered/offerred suitable redress for any injustice or hardship arising from the staff misconduct (maladministration);
- notified the complainant of the outcome and explained their reasoning.

29. It is therefore essential that a full record of events, including details of any management actions can be made available upon request, to enable ICE to:

- fully investigate the alleged maladministration;
- consider whether the appropriate action was taken in response to the complaint; and
- consider the suitability of any redress that the customer has been given/offered in response to their complaint.

30. If the complaint was not investigated by the relevant business or the investigation was not undertaken in line with standard processes, ICE may refer the matter back to the business for reinvestigation. ICE may also invite members of staff to comment on evidence given by complainants, when they have been named or identified as party to the events surrounding a complaint (see Annex B).
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31. In reporting its findings to the customer, ICE will comment on whether the business followed procedures appropriately and whether the complaint was found to have any substance. ICE **will not** divulge details of the investigation where it relates to staff or of any disciplinary action taken against individual members of staff.

Parliamentary and Health Service Ombudsman

32. The complainant can escalate their concerns to the Parliamentary and Health Service Ombudsman (PHSO) if they are dissatisfied with the ICE investigation. ICE will provide the Ombudsman’s details in their report. Any referral to the Ombudsman should be made via an MP. It is open to the complainant to refer their complaint to the Ombudsman at any stage of the complaint, but PHSO would normally expect them to have exhausted DWP’s complaints procedures (including the independent tier provided by ICE) first.

Desk Aide

33. A desk aide with useful reminders about what to do/not to do is provided at Annex C.

Queries about this guidance:

34. In the event of any queries concerning this guidance please contact:
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Annex A

Example of wording where the complaint is too general to investigate

I asked you to specify in what way you felt the member of staff had been rude or unhelpful. As you were unable to provide any examples of what they said or did, I have been unable to conduct a meaningful investigation of your complaint. If you remember any details which will help, please let me know by [insert date – allow a maximum of four weeks].

Examples of wording for explaining the outcome of the investigation to the complainant

Allegation is clearly supported by the evidence

I have considered the information that you and the other witnesses provided. It was clear that the evidence supported your allegation. We aim to provide our customers with a good standard of service and I am very sorry that we did not do so on this occasion.

Allegation is clearly not supported by the evidence

I have considered the information that you and the other witnesses provided. It was clear that the other evidence did not support your allegation.

Balance of probabilities decision – in the complainant’s favour

I have considered the information you and the other witnesses provided. The accounts varied quite widely but on balance I found that it was more likely than not that your recollection was correct. We aim to provide our customers with a good standard of service and I am very sorry that we did not do so on this occasion.

Or

Your recollections and those of the member of staff differ widely. His/her perspective is….Where the recollections of two parties to a conversation are irreconcilable and there is no corroborating evidence, I have to consider which account is more likely than not to have happened. On balance I found that it was more likely than not that your recollection was correct. We aim to provide our customers with a good standard of service and I am very sorry that we did not do so on this occasion.

Balance of probabilities decision – not in the complainant’s favour

I have considered the information you and the other witnesses provided. The accounts varied quite widely but more witnesses supported the member of staff’s account than yours. On balance I found that it was more likely than not that your recollection was inaccurate.

Or

Your recollections and those of the member of staff differ widely. His/her perspective is….Where the recollections of two parties to a conversation are irreconcilable and there is no corroborating evidence, I have to consider which account is more likely than not to have happened. In making my decision, I cannot ignore the fact that [include anything relevant: eg you were angry because your benefit had been stopped; the member of staff is very experienced and providing a good
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customer service is very important to them; you have made many complaints about staff but none have been found to have substance]. on balance I found that it was more likely than not that your recollection was inaccurate.

request for witness details

the witness statements were taken in confidence and I cannot provide you with their details. however, if you are dissatisfied with the way I have investigated your complaint, you can ask for it to be considered again by escalating it to [include details of the next tier].

request for details about the member of staff

I cannot provide you with details relating to the member of staff – matters between an employer and an employee are confidential.
Annex B

TAKING EVIDENCE FROM DWP STAFF: ICE PROTOCOL

Principles:

• ICE may invite individual members of staff to comment on evidence given by complainants, when those members of staff have been named or identified as party to events surrounding a complaint. The intent is that DWP staff should have the opportunity to provide direct evidence to either support or contradict the evidence provided by a complainant, where they are able and wish to do so, rather than having their perspective represented by a third party or omitted. The inclusion of such primary evidence would even the balance of an ICE report.

• Participation by staff will be on a wholly voluntary basis.

• ICE has no jurisdiction over HR matters, including disciplinary procedures. ICE does not give advice to the Department about managing its staff: specifically, it does not make recommendations arising from or relating to staff conduct.

Process:

• Where ICE identifies that evidence from a member of staff would be helpful, it will alert the relevant Focal Point.

• The Focal Point will approach the member of staff via line management to invite participation in the ICE investigation.

• If the individual wishes to give evidence, the Focal Point will arrange a telephone conversation between that individual and the ICE investigator, at a mutually convenient time. The individual will be provided with the name and contact details of the investigator and make the relevant call from a location of their choice. A third party e.g. TU representative may be present if required by the individual. Telephone conversations will be informal and will not be audio-recorded; notes will be taken by the investigator.

• If evidence from staff is to be directly quoted within an ICE report, Focal Points will ensure that the report is copied to the participant at draft stage, for factual accuracy check.

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1 This protocol has been agreed by Senior Managers and Trade Union. If there are any queries about this protocol they should be referred to xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
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<thead>
<tr>
<th>Step</th>
<th>Description</th>
<th>Do’s and Don’ts</th>
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<tbody>
<tr>
<td><strong>Step 1</strong></td>
<td>Ensure that the complaint is recorded and progressed in line with the standard process for dealing with customer complaints in your business.</td>
<td>Don’t forget to consult the HR guidance and follow the Department’s Disciplinary Policy at all times when dealing with complaints about staff misconduct.</td>
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<td><strong>Step 2</strong></td>
<td>Discuss the complaint with the complainant to establish what happened and whether it is possible to resolve the complaint.</td>
<td>Do ensure that the complaint is dealt with by either the line manager (LM) or an appointed investigating officer (AIO) of at least the same grade as the LM. Do ask the complainant to be specific about what the staff member said/did – you cannot investigate vague, sweeping statements such as ‘your staff are all rude’.</td>
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<td><strong>Step 3</strong></td>
<td>If it is not possible to resolve the complaint and an investigation is needed, collect statements from any available witnesses – these can include the complainant, DWP staff, other customers or a third party who was with the complainant at the time of the alleged incident.</td>
<td>Don’t forget to obtain any other evidence which might be available such as CCTV or a recording of the telephone call.</td>
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<td><strong>Step 4</strong></td>
<td>Consider all the available evidence and decide whether it supports or refutes the complainant’s allegation. If there is evidence of maladministration, consider whether any redress is appropriate.</td>
<td>Do remember that if the evidence does not wholly support/refute the allegation you will need to make a balance of probabilities decision based on what is more likely to have happened. Do remember that redress can include an apology, an explanation of what went wrong and the action taken to resolve this as well as financial redress.</td>
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<td><strong>Step 5</strong></td>
<td>Let the customer know the outcome of your investigation and whether the evidence supported their complaint or not. If you decide that redress is appropriate, provide the apology or explanation and advise the customer if any other action (e.g. a special payment referral) will be taken.</td>
<td>Don’t divulge any information to the customer about the individual member of staff, particularly any disciplinary action that may be taken.</td>
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<tr>
<td><strong>Step 6</strong></td>
<td>Provide the customer with details about how they can escalate their complaint in the event that they are not happy with the outcome.</td>
<td>Do remember that whoever deals with the next stage of the complaint will need to know what you did. You must keep notes of the action you took, and any evidence you obtained to inform your decision.</td>
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