



Findings for the Early Warning System Jul – Sep 2016

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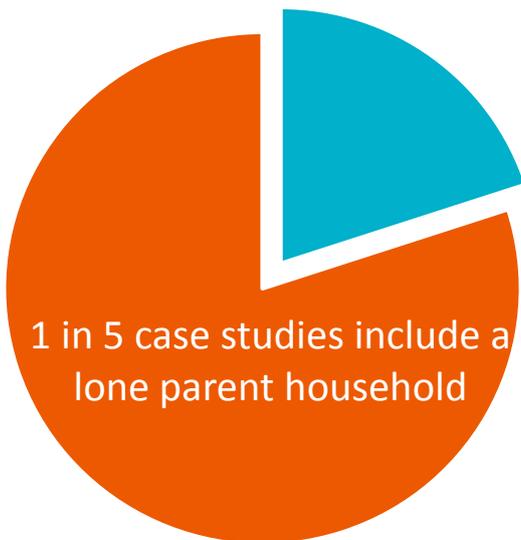
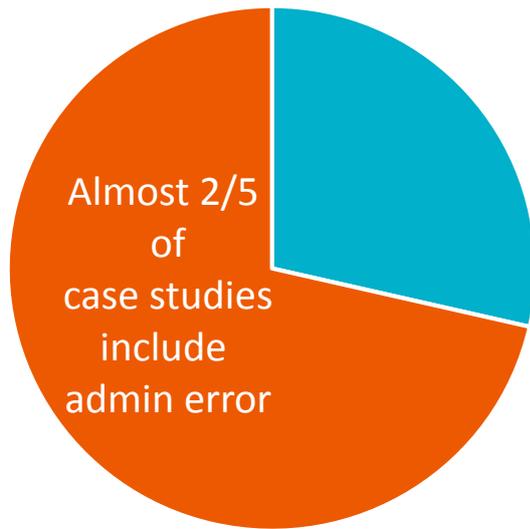
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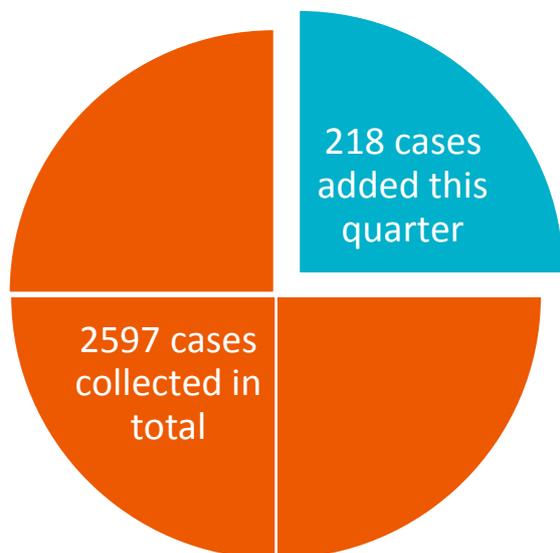
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Snapshot



Top ten issues July to September
admin error or maladministration
benefits for people from abroad
misinformation
employment and support allowance
universal credit
sanctions and claimant commitment
overpayment recovery
sanctions and claimant commitment
Scottish welfare fund
Mandatory reconsideration



Summary

Admin. error or maladministration – remains the highest occurring issue with DWP, HMRC and local authorities all making mistakes in benefit and tax credit administration.

Benefits from people from abroad – seeing an increasing number of clients facing destitution because they are unable to establish entitlement to benefits, but also a significant number of clients who are incorrectly denied access to benefits.

Misinformation – continuing to see a high number of clients receiving incorrect or misleading information regarding entitlement to benefits and the appropriate benefits to claim.

Employment and support allowance – still seeing a significant number of clients who are being underpaid ESA as a result of migration from incapacity benefit, the new rules regarding repeat applications and excessive delays for work capability assessments.

Universal credit – the cases primarily relate to the administration of universal credit but with some examples of people who are now worse off on universal credit than they would have been on legacy benefits.

Sanctions and the claimant commitment – the number of sanction cases studies has reduced in line with the number of sanctions being applied, but finding increasing numbers of people struggling with the claimant commitment or having the wrong conditionality applied.

Overpayment recovery – primarily HMRC recovering overpayments at the maximum rate of recovery and very reluctant to agree to lower rates of recovery.

Scottish welfare fund – local authorities refusing to make crisis grant awards for ‘ongoing expenses’ when the crisis is a prolonged period with little or no income due to problems with tax credits or benefits.

Tax credits – cases all highlight administrative issues in relation to Concentrix, awards being calculated incorrectly and poor quality communications.

Mandatory reconsideration - issues being raised in relation to mandatory reconsideration notices not being issued and how much information to include at the mandatory reconsideration stage.

About the Early Warning System

Child Poverty Action Group (CPAG) in Scotland set up the Early Warning System (EWS) to gather information and case studies about the impact of welfare reform on children and families across Scotland.

The Early Warning System, which is funded by the Children, Young People and Families Early Intervention Fund managed on behalf of the Scottish Government by Lloyds TSB, is helping us to get a better understanding of how changes to the benefit system, like the introduction of universal credit, the benefit cap and changes to tax credit entitlement, will affect the lives of children and their families.

At the end of September 2016, 2597 case studies had been gathered from:

- frontline workers, for example, welfare rights officers and other advice workers, through our online case study collection form or at CPAG in Scotland training and events
- CPAG in Scotland's second tier advice line for frontline advisers and support workers
- research following twelve low income families over a number of years.

A case is added to the EWS if it:

- demonstrates an impact or outcome on a person or service because of welfare reform, or
- involves maladministration or misinformation by the DWP, HMRC, local authority or someone else, or
- highlights a wider concern, for example a disproportionate effect on a particular type of household.

The EWS, in partnership with Dr. Morag Treanor of Edinburgh University, has also been working with 12 low income families over two years to gain an in-depth understanding of how poverty and welfare changes are affecting child and family wellbeing.

The cases and research are enabling us to develop and share our knowledge on the impact of welfare reform and to identify how policies and services in Scotland can continue to contribute to the delivery of better outcomes for children.

Emerging issues

Increase in 'national living wage' leaving people worse off

We have received a small number of cases regarding clients who lost entitlement to means-tested benefits following the increase from national minimum wage to 'national living wage.' Whilst this means clients' wages increased, the loss of passported benefits sometimes means they are worse off. The only way to avoid this would be to increase means-tested benefit thresholds in line with the increase in the 'national living wage.'

Single client is subject to 25% bedroom tax reduction. He was receiving the national minimum wage and was entitled to £2 housing benefit (HB) a week which in turn entitled him to discretionary housing payments (DHP). When his wages increased in line with the 'national

living wage' he lost entitlement to HB and therefore DHP. He is now struggling to pay his rent.
#10004

Free school meals

A parent had difficulty claiming free school meals because the local authority was not aware that tax credit awards are not finalised until August/September:

Mum has been trying to renew free school meal application for her son during the school holidays at the point when everyone has provisional tax credit award letters for the year but not actual award letters, they are not usually issued until August/September. The local authority said they would not accept provisional award letters, but the client (and many others) could not have provided the necessary letter. #10187

Top ten issues

The tables in this section present the top ten issues appearing in cases added to the EWS. There is often an overlap of issues in an individual case, for example a case including benefits for people from abroad will often include admin error or maladministration; or a case involving tax credit reforms may also include overpayment recovery.

top ten issues July to September 2016	
issue	% of cases included in
admin error or maladministration	37
benefits for people from abroad	26
misinformation	16
ESA	15
universal credit	14
sanctions and claimant commitment	4
overpayment recovery	3
tax credits	3
Scottish welfare fund	3
mandatory reconsideration	2

top ten issues April to June 2016	
issue	% of cases included in
admin error or maladministration	32
benefits for people from abroad	22
universal credit	17
misinformation	16
ESA	11
tax credits	9
overpayment recovery	4
sanctions and claimant commitment	4
PIP	4
council tax reduction	3

top ten issues January - March 2016

issue	% of cases included in
benefit for people from abroad	28
admin error or maladministration	21
universal credit	13
misinformation	13
tax credits	9
ESA	7
overpayment recovery	5
sanctions and claimant commitment	5
PIP	4
SWF	2

top ten issues October to December 2015

issue	% of cases included in
admin error or maladministration	33
benefits for people from abroad	23
universal credit	14
misinformation	10
PIP	6
ESA	6
overpayment recovery	6
SWF	6
tax credits	6
sanctions and claimant commitment	4

Over the last three quarters the percentage of cases that include admin. error or maladministration has risen from 28% to 37% indicating that poor benefit administration may be becoming increasingly prevalent. Surprisingly ESA has over taken UC this quarter which could be explained by the issues in relation to repeat claims. Scottish welfare fund is a reappearance in the top ten, attributable to the emerging issue of local authorities refusing to pay crisis grants for ongoing expenses during prolonged periods of little or no income due to issues with benefits or tax credits.

Top ten issues in more detail

Administrative error

This has consistently been the biggest issue emerging through the Early Warning System findings and often overlaps with other issues, for example there are a number of administrative problems referred to in the section on universal credit. Issues arising that may not be included in other sections include:

Tribunals/appeals

- Tribunals going ahead without representatives being informed
- DWP advising a client that they were 'overturning' a tribunal's decision

- A decision having to be set aside because the tribunal could not provide a written copy of the reasons for the decision.

DWP sent a letter to a client 'overturning' the First Tier Tribunal's decision that he had retained worker status, allowing him six months jobseeker's allowance (JSA) before the genuine prospect of work test could be applied, on the basis that he had been subject to a two week disallowance (sanction). The disallowance had been dismissed by the tribunal as irrelevant. #10025

Housing Benefit

- Value of property not being calculated correctly
- Suspension of benefit without following the correct procedures
- Non-dependant deductions being applied incorrectly
- 'Bedroom tax' being applied incorrectly

Client's benefit was suspended without her being given written notice in advance or information about the information required to prevent suspension. The disabled client was told by a compliance officer that they knew she was living with her boyfriend (he visits her everyday but has his own flat) and that if she didn't move in with him her benefit would stop and she would be reported for fraud. Her benefit has been suspended and she has been given a week to come back with evidence that she is not cohabiting but she has not been given anything in writing. #9567

Benefits for people from abroad

Because this is a particularly complex area of the social security system it is accountable for a high proportion of calls to CPAG's second tier advice line for frontline advisers and support workers. This is reflected in the number of cases added to the Early Warning System. Since 2014 there have been a number of changes regarding benefit entitlement for people coming from abroad. These were primarily intended to restrict access for EU migrants who were not in work, but have also, to a lesser extent, impacted on British nationals returning to the UK from abroad.

Of the 57 cases studies in relation to benefits for people from abroad:

- nine included households who were having difficulty establishing entitlement, with a further 6 whom it was apparent did not have a route to entitlement at present.
- 15 households, whom on the information provided, should have been entitled to benefits had been refused on the basis that they were a person from abroad. A further three had their benefit stopped after the genuine prospect of work test had been incorrectly applied
- Seven cases included households who were unable to access disability or carers' benefits because they were subject to the past presence test.

Croatian national was sacked because she was pregnant. She has now had the baby but cannot establish a right to reside that would entitle her to benefits. #10461

Lone parent EU national left her husband due to domestic abuse. She has a residency card stating that she is the family member of an EU national but was refused income support (IS) and housing benefit (HB). It is likely that she has a right to reside as the family member of an EU worker but cannot obtain confirmation of this due to the threat of abuse. The DWP should be able to seek this information themselves but have not done so. #10243

EU national escaped domestic abuse and would like to return to Europe but her ex-partner has obtained a court order preventing her from taking the child out of the UK. The client should have a retained worker status but IS and HB were both refused and she has been told that JSA will stop after three months due to the genuine prospect of work test. #9786

Young EU national has terminal cancer and has claimed personal independence payment (PIP) under special rules. This is the only income she and her partner have. He has given up work to look after her but will be subject to the past presence test for carer's allowance. #10232

Misinformation

Case studies about misinformation consistently appear in the top ten issues emerging from through the Early Warning System. Issues arising this quarter included:

- Clients being advised to claim the wrong benefit
- Disabled students being incorrectly advised that they will not be entitled to benefit
- Clients being advised verbally that they will not be entitled to benefit without a claim being taken or a written decision being issued

When an income-related ESA recipient claimed carer's allowance for her disabled child, DWP incorrectly advised her she must stop claiming income-related ESA and claim IS. She lost the support component and is £36.20 a week worse off as a result. #9611

Disabled care leaver was incorrectly advised by Jobcentre Plus that he would have to come off benefits if he became a student. As an income-related ESA recipient receiving PIP he can continue to claim income-related ESA whilst studying, although student grants/bursaries may reduce or replace the ESA award. The misinformation led the client to believe that he could not afford to become a student. #9644

Client tried to claim ESA because their employer thought statutory sick pay (SSP) was discretionary and was only willing to pay it intermittently. Jobcentre Plus told her verbally that she couldn't get ESA as she was entitled to SSP, but should have taken the claim and issued a written decision. #10019

Employment and support allowance

[Income-related ESA and premiums not included in awards](#)

[New rules regarding repeat claims causing hardship](#)

[Excessive delays for work capability assessments](#)

Income-related ESA and premiums not included in awards

Contributory ESA can be paid to people who have made sufficient National Insurance contributions in the past or to people who have migrated to ESA from incapacity benefit (IB). For people who have migrated, contributory ESA stops after a year unless you have been placed in the support group. Income-related ESA is paid to people on a low income and can be paid to top up contributory ESA if you have a low income. It can include an extra amount, a 'premium' if you are in the support group or also receive a disability benefit.

The EWS is continuing to gather a significant number of cases highlighting:

- ESA claimants being underpaid ESA sometimes for years, because entitlement to income-related ESA has not been calculated and only contributory ESA is being paid – both on migration from incapacity benefit and new claims.
- Premiums not being included in awards of ESA

When client migrated from IB to ESA he was placed in the support group but did not have the enhanced disability premium included in his award. When challenged, the shortfall was backdated three months, but not back to the date of migration. #10200

New rules regarding repeat claims causing hardship

Since 30th March 2015 a person making a repeat claim for ESA who has already been found 'fit to work' will only be paid ESA pending their work capability assessment if they can provide evidence to suggest that their condition has substantially deteriorated or they have a new health condition. As a result we are seeing:

- Clients unable to make repeat claims for ESA as they will have no income pending assessment. Claiming another benefit in the meantime is likely to result in a work capability assessment not being carried out
- Clients without income for months while they wait for assessment
- DWP staff advising claimants to make repeat claims for ESA who will not be paid pending a new work capability assessment

Client claimed JSA after she failed the work capability assessment for ESA. She suffers from depression and is an alcoholic but did not want to 'look bad' in front of the doctor and lied about her abilities including things like bathing every day, which she does not do. She has been sanctioned, although the Jobcentre conceded that she is not fit to work and suggested she reclaim ESA. However as it is a repeat claim she will not be paid ESA pending assessment or subsequent appeal if required unless she has a new or significantly worsened condition. A letter from her GP states there is no significant worsening since the work capability assessment. If she tried to claim JSA pending assessment she may have to withdraw her claim for ESA, therefore a work capability assessment may never be carried out. In order to claim UC, she would have to declare herself fit to work to pass through the gateway conditions so again a work capability assessment would not be carried out. #9773

Client reclaimed ESA after he failed to attend his work capability assessment. He cannot be paid pending another work capability assessment and has been waiting four months. The company arranging the work capability assessment say he'll just have to wait until his name reaches the top of the list. The family are surviving on child benefit (CB) and child tax credit (CTC) for one child. They've have one crisis grant from the Scottish Welfare Fund but the local authority have advised that they won't get another as it would be for ongoing expenses. #9841

Client was advised (correctly) that she could not get ESA pending appeal as it was for a repeat claim for ESA. She then claimed JSA but is struggling with the conditionality and made another claim for ESA on the advice of Jobcentre Plus staff, but the claim failed and the limited capability for work decision was based on the previous work capability assessment which the client had failed. #9801

[Excessive delays for work capability assessments](#)

Excessive delays are a major inconvenience for people making their first claim as they will only be paid at the assessment rate of ESA and will not have additional amounts for limited capability for work/work related activity added until they have undergone a work capability assessment. But for those who are making a repeat claim for ESA, excessive delays could mean months without any or a severely diminished income.

Client claimed ESA having stopped work because her husband was terminally ill. She received contributory ESA but it was stopped after a year due to time-limiting, around the same time as her husband died. She did not receive a work capability assessment for a further five months, by which time she no longer had limited capability for work. Had she been assessed closer to the date of assessment it is likely that she would have had limited capability for work and has potentially lost out financially due to the timing of the assessment. #10396

[Universal Credit](#)

[Issues arising in full service areas](#)

[Issues arising in live service area](#)

[Issues found in both full service and live service areas](#)

Issues arising in full service areas

- Lack of support for vulnerable clients to make and maintain their claim, however we understand that the DWP has now appointed visiting officers to assist vulnerable clients with their claims.
- Clients who 'migrate' to UC during mandatory reconsideration of an ESA decision, and finding themselves much worse off because there are no disability premiums in a UC award
- Homeless clients struggling with the cost of temporary accommodation because the accommodation charge is capped at local housing allowance levels.

Client with brain damage and intellectual disability who was due to be discharged from hospital following amputation, received no support from DWP to make a UC claim, despite requesting a hospital visit because he had no bank account, email address or access to internet. He was told his health problems were not significant and he should be able to claim and maintain online himself. His application has now been closed. #Mii151

Client in full service area claimed UC while waiting for a mandatory reconsideration of his ESA claim. Client was found to have limited capability for work-related activity but now cannot return to ESA. Client contacted UC many times to ask for the limited capability for work-related activity element added to his award but has repeatedly been told that they don't know how to, or that they will but then don't, so he is currently being underpaid £315 a month. As he is receiving UC and not ESA, the enhanced disability premium is not included in his award, which means he is £68 a month worse off on UC than he would have been on ESA, even when the current underpayment is corrected. #9527

Client staying in temporary accommodation (a private sector leasing agreement with the local authority, with no support provided) had to claim UC and has now had her housing element capped at local housing allowance rates leaving a shortfall between the accommodation charge and the housing costs paid through UC. #10451

Issues arising in live service areas

- Still seeing clients slipping through the gateway
- Clients being advised by Jobcentre Plus and local authority staff to withdraw their claims for UC in order to claim legacy benefits, without highlighting that withdrawing a claim for UC during the monthly assessment period will lead to the loss of UC for all of that period.

Client earning around £450 a month was allowed to claim UC even though her earnings were too high to meet the gateway conditions. She is now trying to withdraw her claim for UC and reclaim HB. #9991

Client claimed UC after finishing university and receiving a £200 advance. Shortly after, he lost his tenancy and became unwell so the local authority homelessness department advised him to withdraw his claim for UC and claim ESA instead (because UC will not pay the higher charge for temporary accommodation). Client did so and ESA was backdated 7 days, but not further because client had claimed UC for that period. However, because the client withdrew his claim for UC during the assessment period, he was not paid any UC at all and has been told that the advance will be recovered. #9742

Issues found in both full and live service areas

- Difficulty claiming new style contributory benefits
- Clients not having the housing element included in their award, in one case resulting in the client's eviction

- Clients on liberation from prison unable to make claims because they are unable to open bank accounts, without the required ID
- A question arising about how offenders who are forbidden from using the internet can make and maintain claims
- Four weekly payments of other benefits/wages resulting in double payment during a monthly assessment period dramatically reducing the UC award
- Clients much worse off on UC than they were on legacy benefits

Client claimed UC but noted on her journal that she should be entitled to contributory ESA. Despite asking her work coach several times, this has not been actioned. Client would be better on contributory ESA as she works 6 hours and this is being deducted from her UC, but would not be deducted from ESA. #9683

Failures in UC administration led to a vulnerable client being evicted. When the client applied for UC his adviser requested that he be noted as vulnerable. He received his first payment six weeks later (after Christmas and New Year) but it did not include the housing element. He did not receive the next month's payment at all. The next two months payments included the housing element, despite an arrangement for the housing element to be paid direct to the landlord as there were pre-existing rent arrears. The client had no understanding of the housing element being included in the award and did not pass the money onto his landlord. He was evicted and became homeless. The missing month's money is yet to be paid five months later. #9619

Prisoners (stet) in UC full service area are unable to make timely claims for UC when they are liberated, because they don't have valid ID therefore no access to bank accounts. The prisons won't issue photo ID because of data protection laws, the DWP no longer issue ID, HMRC take months to issue photo ID and the homeless accommodation ID is not accepted as valid by the banks. Simple payments aren't an option as some form of valid ID is needed for these and prisoners usually don't have this (or they'd be able to open a bank account). The DWP suggest they use a "fake" bank account number, but this number is not accepted by the UC system. #10111

Client received two payments of statutory maternity pay (SMP) during one assessment period which meant both were taken into account as income and she was only paid £12 UC. This means she will be in arrears with her monthly bills, causing her distress. #9905

Client on contributory ESA who gets PIP is claiming UC but will not have a disability premium included in their UC as it is a new claim and they are not migrating. #9808

Sanctions and the claimant commitment

The number of sanction cases has continued to fall in line with the reduction of the number of sanctions being applied nationally, with more cases highlighting issues with agreeing and complying with the claimant commitment.

- Confusion amongst DWP staff about the appropriate claimant commitment for different benefits
- The majority of claimant commitment and sanctions case studies including clients who struggling with conditionality having claimed JSA having after failing the work capability assessment.
- Clients who have been sanctioned, but are also having deductions taken from their UC award, finding that there is a shortfall between their rent due and the UC award.

Client who receives IS and CA and therefore should only have to attend a work focused interview every three years, was advised that she would have to attend Jobcentre Plus monthly and take part in work-related activity. #9789

Client received ESA in the support group until he failed the work capability assessment and did not have the decision changed at mandatory reconsideration. He claimed JSA but is struggling to comply with the claimant commitment. Adviser believes he should have scored enough points to pass the work capability assessment. #10256

Client would appear to have been sanctioned as he is only being paid the housing element of UC. However he is having the maximum deduction taken off for rent arrears leaving a shortfall between the rent charge and the UC which means there is a shortfall between the rental charge and universal credit. #9810

Overpayment recovery

The majority of cases this quarter relate to tax credit overpayments being recovered at a rate that is not affordable, with HMRC refusing to accept lower payments. As reported last quarter this is also an issue with DWP. One case highlighted the issue of a client who is no longer in receipt of tax credits trying to have an overpayment recovered through ESA unsuccessfully.

Couple are having a tax credit overpayment recovered at 50 percent with three children whose child care costs are not covered as a result of the reduction. HMRC have refused to reduce or wipe out the debt because the family's income is more than £20K a year (just), despite a letter from the GP confirming that Mum's poor mental health is attributable to the financial difficulties they are experiencing as a result of the recovery rate. Mum is considering giving up work as a result. #9820

A jobseeker has been left with £44 a week to live on and has been reliant on fortnightly food parcels after an overpayment is recovered at £29.50 a week, because he failed to declare a small occupational pension. He has tried and involved his MP to get the rate of reduction reduced but DWP have refused. #9868

Client has tried asking for a WTC overpayment to be recovered from his ESA as he is no longer in receipt of tax credits and the direct debit he set up keeps bouncing and accruing

bank charges. No one has been able to help at the tax credit helpline or debt management team. #9865

Scottish Welfare Fund

All but one of the cases studied this quarter about the Scottish Welfare Fund relate to clients who have claimed crisis grants during a prolonged period of no, or severely reduced, income due to problems with their benefits or tax credits. The emerging issue is of the Scottish Welfare Fund refusing fourth applications because the client has already had three crisis grants in the previous 12 months, or because the application is for ongoing expenses. Some local authorities allow people in these circumstances to request a review of the amount previously awarded.

Lone parent's CTC stopped because she was alleged to have an undisclosed partner. She was awarded 3 crisis grants between December 2015 and late July 2016. Her 4th award was refused with the decision upheld at review on the basis that the SWF were unable to sustain awards on an ongoing basis. The SPSO also upheld the decision. #10374

Adviser reported inconsistencies in SWF crisis grants being awarded. Two clients claimed after their CTC was stopped as it was alleged they were living with an undisclosed partner. One applicant was awarded a crisis grant but the other refused on the basis that the application was for ongoing living expenses. #10024

Tax credits

As with last quarter, all of the cases gathered this quarter in relation to tax credits do not relate to reforms, but to issues with HMRC administration:

- Concentrix stopping tax credit awards because they allege there is an undisclosed partner in the household. HMRC's contract with Concentrix has since been ended with immediate effect and all cases returned to HMRC
- Awards being calculated incorrectly
- Poor quality award letters

HMRC stopped a lone parent's tax credits and raised an overpayment of £10,000 based on information that her husband, from whom she was separated and living apart from, still appeared on the electoral register at her address. #10404

Client notified HMRC the day after her partner left and they adjusted the amount of tax credits paid, but not to the right level. She has now been notified of an overpayment of £2000 and the end of year statement still doesn't have the income right for the year. #10247

Client's end of year tax credit award is indecipherable and neither the client nor the adviser can work out how much of an overpayment has been repaid and how much is still to be paid. #9729

Mandatory reconsideration

Since October 2013, with the exception of housing benefit, you must ask for a mandatory reconsideration of a decision before you can appeal to a tribunal. This particularly impacts on ESA claimants who are not entitled to ESA while a mandatory reconsideration is carried out. They may claim JSA, or UC in a full service area, but must comply with the jobseeking conditions. We are mainly seeing administrative issues, although worryingly one case highlighted a first tier tribunal judge suggesting that information could not be considered if it had not been raised during the mandatory reconsideration stage:

Advisers have found that they if they put in lengthy and detailed mandatory reconsideration requests with lots of evidence, this results in extensive delays and no change in the decision, but one first tier tribunal judge has suggested that you cannot raise something at appeal unless it was raised at the mandatory reconsideration stage, whereas tribunals may admit evidence whether or not it was previously available to the decision maker. #9804

Client was left without any money for three months after DWP lost his ESA mandatory reconsideration request. The local CAB mistakenly advised him to submit a new claim for ESA which was then treated as a claim for UC and limited to one month backdating. #10015

Client asked for the decision that he didn't have good cause for failing to attend a work capability assessment to be looked at again. Instead of treating the request as a mandatory reconsideration, he was sent a further explanation of the decision. Without a mandatory reconsideration notice he cannot appeal, prolonging the period during which he cannot be paid ESA. #10005

Contact the Early Warning System

We would be interested to know if you have found the information in this report useful and how you have used it. Is there any information you would like to see included in future reports?

If you have any queries about the content of this report, or would be interested in submitting case studies to the Early Warning System please contact:

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