

Findings for the Early Warning System Apr – Jun 2016



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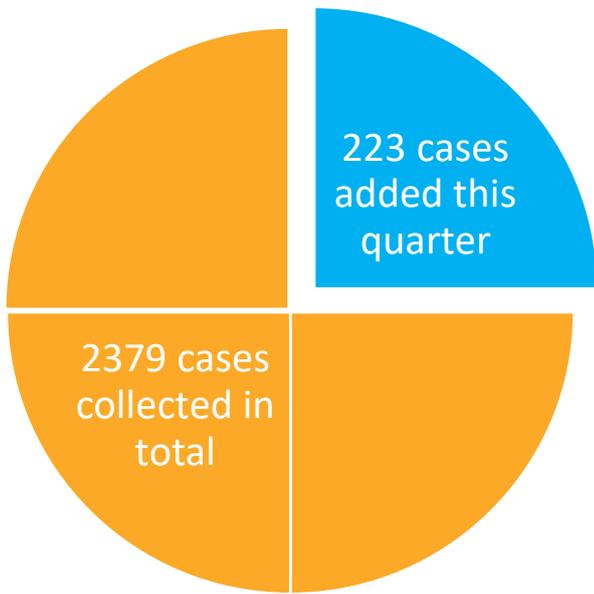
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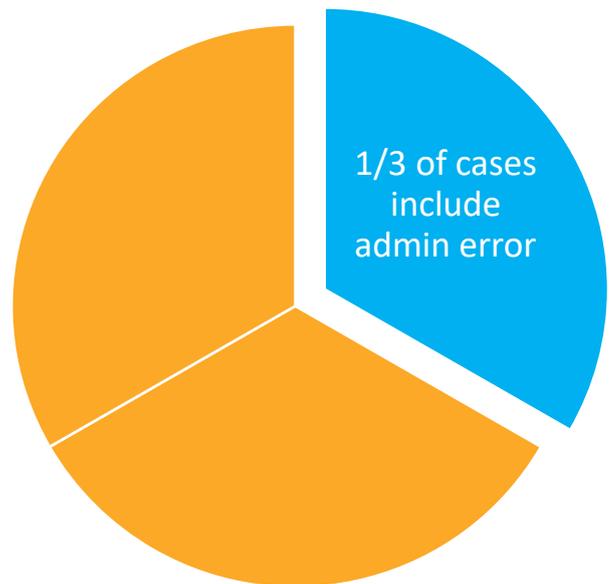
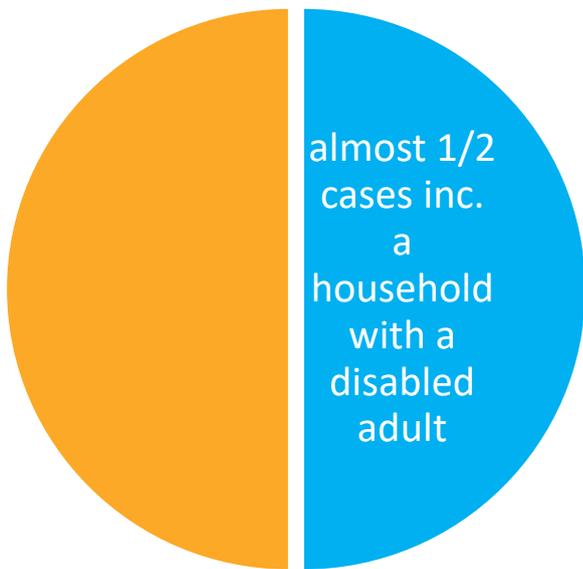
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Snapshot



Top ten issues April to June
admin error or maladministration
benefits for people from abroad
universal credit
misinformation
ESA
tax credits
overpayment recovery
sanctions and claimant commitment
PIP
council tax reduction



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 June 2016, 2379 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 themes

Disproportional effects on disabled people and their carers?

46% of the cases this quarter include a disabled adult in the household, 7% include a disabled child and 11% include a carer. This would suggest that welfare reforms and issues with social security administration are disproportionately affecting disabled people and their carers. These groups are represented in all of the top ten issues recorded in this report and not just in relation to disability benefits. This requires further investigation with consideration as to how this can be addressed in designing the new Scottish social security system.

After failing the work capability assessment

A number of cases relate to clients failing the work capability assessment for ESA, not challenging the decision and then falling into difficulties, for example:

- Some have difficulty making a claim for JSA, or
- Some successfully make a claim but then struggle to comply with their claimant commitment and in some cases are sanctioned as a result, or
- They are advised that they should be claiming ESA, make a new claim, but then can't be paid pending a new assessment.

This would suggest that there is a group of people who are vulnerable to 'falling through the net' who have been deemed fit to work, yet are unable to navigate the social security system and comply with conditionality.

Failing the work capability assessment and difficulty claiming JSA has led to a deterioration in a lone parent's mental health and increased contact with her GP and support workers. It has also impacted on her children's education leading to meetings with the school and the support worker questioning the client's ability to look after the children at the moment. Her GP was not asked for any information in relation to the work capability assessment and is in no doubt that the client is not fit for work. #Mii139

Claimant with learning difficulties failed the work capability assessment and went to Jobcentre Plus for advice on what to do about the letter as she didn't understand it and isn't able to navigate the claiming process by herself. They told her to make a new claim for ESA, even though she didn't have a new condition or deterioration. This has now been refused #8697

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 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

Top 10 issues July - September 2015	
Issue	% of cases included in
benefits for people from abroad	25
admin error or maladministration	22
misinformation	16
ESA	9
universal credit	8
tax credits	8
sanctions and claimant commitment	6
welfare to work	6
PIP	4
Scottish Welfare Fund	3

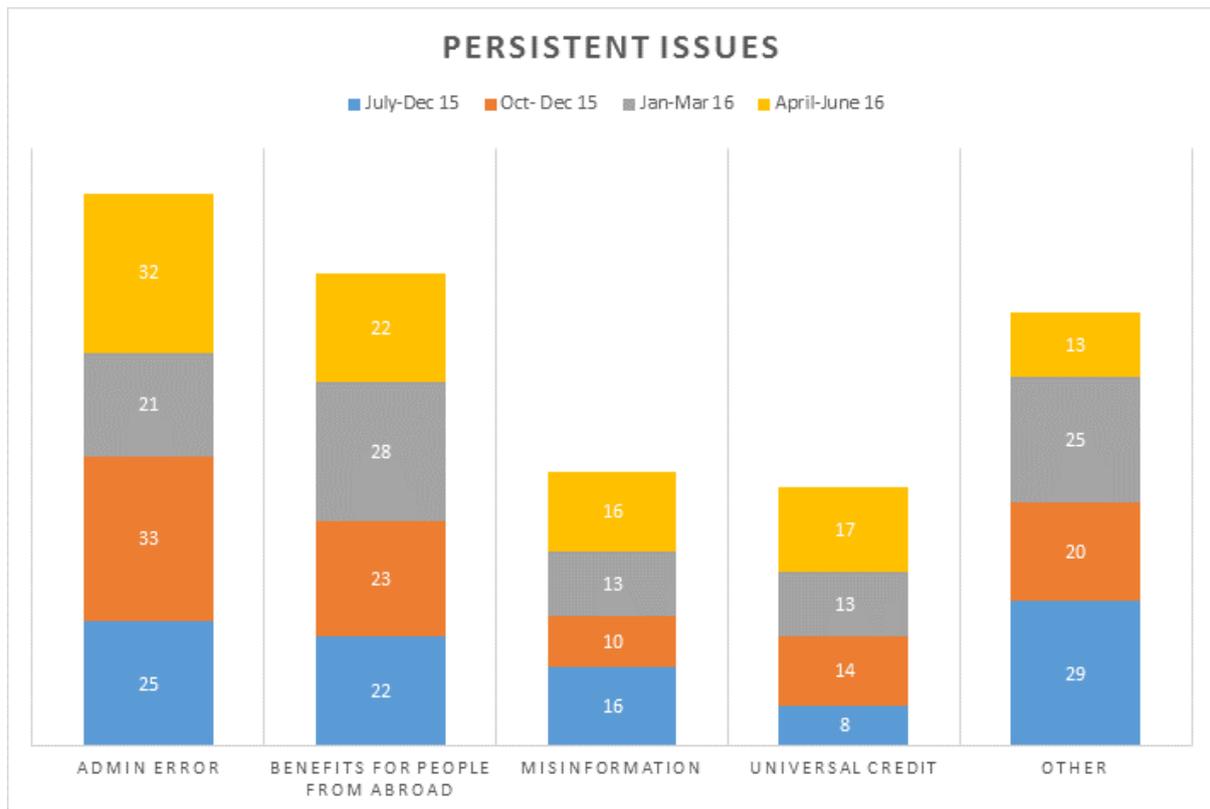
We can see from the tables that the top two issues have been consistently placed throughout albeit positioned differently. Benefits for people from abroad is a complex area and has been subject to a number of changes within the last two years. This is reflected in the number of queries to CPAG's advice line and consequently in the number of cases added to the EWS.

You would expect universal credit as a new benefit to feature highly and it has crept its way up through the tables over the last year. (see below)

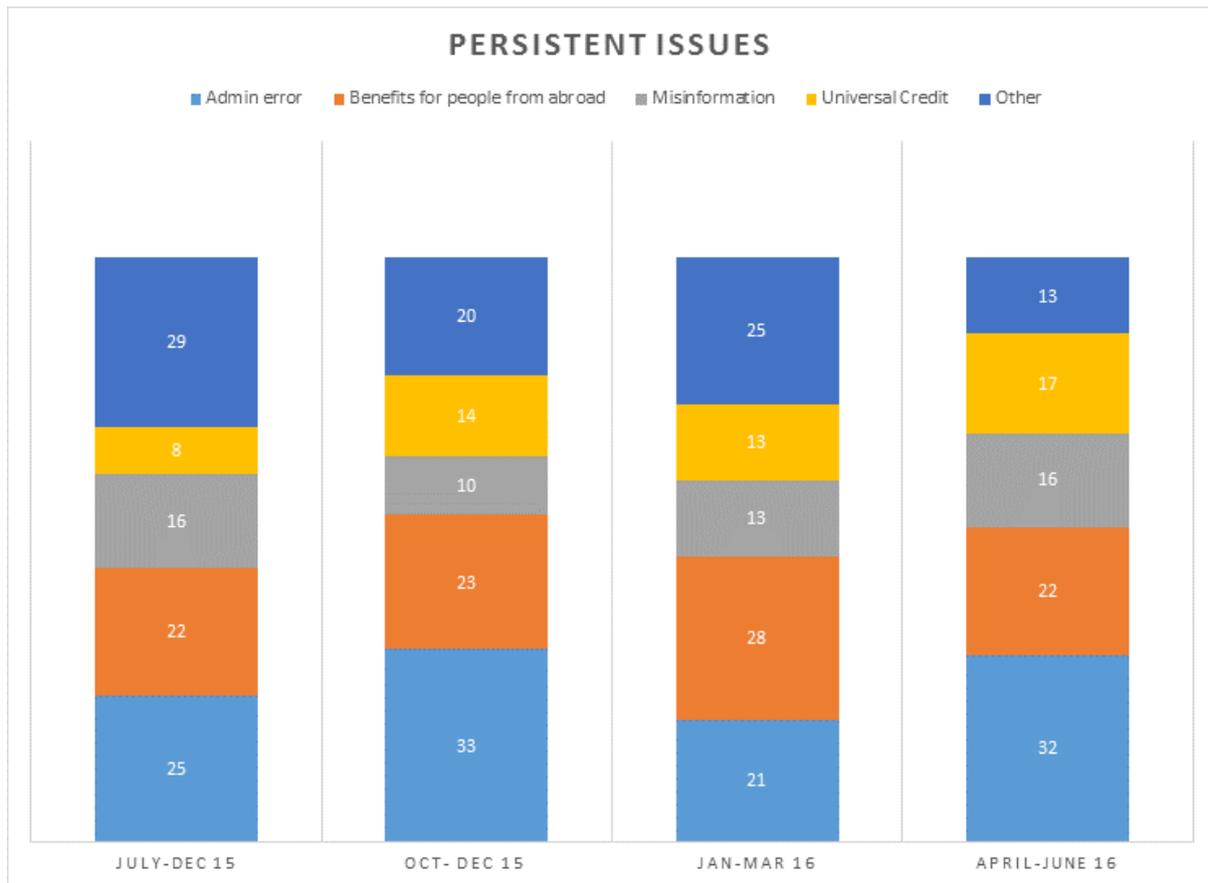
The consistently high occurrence admin error or maladministration and misinformation highlight that people are not only being impacted by welfare reforms, but by failures in the social security system itself.

The only new issue to appear in the top ten is council tax reduction giving way to the Scottish Welfare Fund.

In the table below, you can see the number of cases regarding UC growing whilst the number of cases out with the top four, the 'other' issues, shrink.



In the next table you can see the 'other' issues being squeezed by the top four. It will be interesting to watch what happens to the UC figure and the 'other' issues block over time. As the UC figure increases, we would expect the admin/maladministration and misinformation calls to increase in step. Ditto queries about benefits for people from abroad.



Top ten issues in more detail

Administrative error or maladministration

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. Common issues that may not be highlighted in other sections include:

- Entitlement to benefits being incorrectly refused
- Agencies not acting, or delaying acting on information provided
- Payments of benefit stopping without the correct procedures being followed.

Couple who were receiving disability living allowance (DLA) and personal independence payment (PIP) were incorrectly refused housing benefit (HB) and council tax reduction (CTR) as their income was too high after a non-dependant deduction was incorrectly applied. #8645

Client notified the Pension Service twice that her husband had been assessed in hospital as needing to go permanently into care and would not be returning home but they are continuing to treat them as a couple for pension credit. This is causing problem for the local authority's charging procedures as it is difficult for them to separate his income from hers.

#8775

Client received a letter advising that his claim would be cancelled if he did not provide information requested with 10 days. The correct time limit is a month and in which case the claim should be suspended not 'cancelled.' #8646

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 EWS. 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. Increasingly we see cases regarding migrants who are unable to establish entitlement to benefit, many of whom have children and have nowhere else to turn.

Issues arising this quarter include:

- EU nationals who should have an entitlement to benefits being incorrectly refused
- EU nationals who have no right to reside or difficulty establishing a right to reside that would entitle them to benefits
- The genuine prospect of work (GPOW) test continuing to be incorrectly applied to people who have an alternative right to reside that would allow them to continue receiving JSA
- Restrictions on entitlement for EU nationals continuing to disproportionately affect people affected by domestic abuse
- Long delays in processing applications for benefit by EU nationals

EU national lone parent with four children had her HB and income support (IS) stopped on the basis that she does not have a right to reside when in fact it appears she should have the right to reside as the primary carer of children of an EU worker in education. #8587

EU national who has been living in the UK for eight years had his jobseeker's allowance (JSA) stopped. He recently received a letter advising that he had as much money or more money than the law said he needed to live on, stating the amount £0.00. There was no mention of the GPOW test. The adviser queried the letter with DWP on several occasions and was told

1. it was either a GPOW or uprating issue
2. the client had been scheduled for a GPOW assessment but his benefit had ended as three months was the maximum amount available to jobseekers. He would need to book the assessment himself at the local Jobcentre.
3. The GPOW assessment had been scheduled and he would receive written notifications in the post. He then received a letter notifying him of the GPOW with no explanation as to what this entailed.

Client has been placed in a B&B temporary accommodation by the local authority and is accruing considerable rent arrears as he has no income. #8861a

EU national was told that it could be 26 weeks before her claim for CB would be processed #8390

Universal credit

Predicted impacts of UC

As universal credit rolls out across Scotland we are seeing some the impacts that were anticipated coming to light, for example: hardship caused by the six week wait for the first payment or because there has been a change in circumstances during the monthly assessment period, reducing entitlement for the whole period between payments. We are seeing some people who are better off on UC, but only marginally so, whereas the people who are worse off on UC are considerably so.

Client aged 25 who works 25 hours a week for £177 net will be £25 a week better off on UC and will be entitled to a small CTR. Previously he had no entitlement to HB or CTR. #8749

Couple who are planning to move in together will be £70 a week worse off on UC than they would be if they continued to receive legacy benefits because of the loss of disability premiums and the restriction preventing the carer element and limited capability for work element being awarded at the same time. #8513

Administration of UC causing unnecessary hardship

In addition to the predicted impacts, we have gathered a number of cases highlighting problems that have arisen as a result of the way that universal credit is being administered:

- Multiple third party deductions from UC causing claimants hardship
- Clients finding it extremely difficult or impossible to claim contributory benefits
- Clients in live service areas being incorrectly advised to claim UC
- Inconsistency amongst work coaches in relation to work related requirements pending work capability assessment
- Housing costs not included in UC awards

Client is having deductions taken from her UC for rent arrears and the water and sewerage charge leaving her with £171.65 a month. The adviser tried to request that the deductions be lowered but has ended up toing and froing between the local authority, Jobcentre Plus and the Universal Credit Service Centre. In addition the client has been waiting for a work capability assessment for over five months. #8767

Client in full service UC area tried to initiate a claim for contributory employment and support allowance (ESA) through an online claim for UC but it asked her to provide her partner's income details and he refused to provide them. Contributory ESA is not means-tested and therefore it should not be necessary to provide income details. #8539

Client in a live service area who wanted to claim ESA was incorrectly advised that she must claim UC #8993

Client was threatened with eviction because housing costs were not included in her UC award for over three months after she moved from a full service area to a live service area. The DWP kept saying that they were trying to establish whether or not her new postcode could be included in their system, but that they could not pay housing costs in the meantime. Housing costs were eventually included in her award but she is still waiting payment for the months when it was not. #8652

Interaction with ESA pending mandatory reconsideration in a UC full service area

You cannot be paid ESA while you are waiting for the outcome of a mandatory reconsideration. During this period you can claim JSA, or UC if you are in a UC full service area. The implication of claiming UC during this period is that even if the outcome of the mandatory reconsideration, or subsequent appeal, is successful, you will remain on UC, with the relevant limited capability for work/work related activity element included in your award. As there are no disability premiums payable with UC, someone in this situation could be worse off by almost £80 a week than they would be if they were awarded ESA. If you do not claim UC pending the outcome of the mandatory reconsideration, ESA should be paid if the outcome is successful or pending an appeal.

Case studies show that clients are not aware of the implications of claiming UC and that DWP do not fully understand when someone should be paid UC or ESA.

Client was told that he had failed the work capability assessment for ESA over the phone and advised to claim UC pending mandatory reconsideration, however he was not told that once he claimed UC that he would not simply return to ESA following the mandatory reconsideration. #9262

Jobcentre Plus mistakenly advised a client who won his appeal for ESA that he must claim UC now even though he had not claimed UC pending mandatory reconsideration or appeal. #9300

Misinformation

Case studies about misinformation consistently appear in the top ten issues emerging through the EWS. The most common issues are:

- Clients are incorrectly advised that they are not entitled to a benefit and in some cases are told they cannot submit a claim. This is especially an issue for students.
- Clients are advised to claim the wrong benefit

One family that the adviser supports were in receipt of DLA at medium rate care for their son. When they applied to get the disabled child element of CTC they were told they were ineligible. Fortunately they contacted the helpline again and were successful. #Mii134

Student in receipt of PIP tried to claim income related ESA but was told that she does not qualify as her income is too high, but it would not be if she had the LCW or LCWRA component added to her allowance. DWP should not have refused to accept her claim. #8418

Employment and support allowance (ESA)

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. In common with other ESA claimants, entitlement to 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 has gathered 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

Client was not assessed for income-related ESA when she migrated from incapacity benefit and so has not had the enhanced disability premium or the severe disability premium included in her award for the past seven years. #8942

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:

- People who wish to make a repeat claim for ESA being left without income for months
- DWP staff advising claimants to make repeat claims for ESA who will not be paid pending a new work capability assessment.

Client has been left without any income for months. They failed to attend a work capability assessment, claimed JSA, but then submitted a repeat claim for ESA. The JSA claim stopped after the repeat ESA claim was submitted, but the client was told they must provide evidence of a new or significantly worsened condition. ESA have said that they will not assess his limited capability for work. Adviser has seen three people in similar circumstances in the last week, two of whom were advised to claim ESA again by their Jobcentre advisers. #9043

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 had been waiting for a work capability assessment for nine months when he passed away without entitlement to a component having been assessed. #8853

Tax credits

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

- Continuing to see lone parents having their tax credits stopped because Concentrix believe there is an undisclosed partner living in the household
- HMRC stating that decisions are not appealable when they should be
- HMRC treating disputes as mandatory reconsiderations and refusing to accept them

Client has received a letter from HMRC asking him to prove that no one else was living with him. His wife moved back in with her parents last year but didn't change her address for correspondence and they still held a joint bank account. She has just moved back in to help look after their disabled children. There was no reason for them to lie as they lost out on working tax credit (WTC) as a result of wife not living there. #8960

Vulnerable disabled client was receiving the disabled worker element in his WTC claim until HMRC incorrectly decided that he was no longer entitled to the disabled worker element, stopped his WTC, asked him to repay £780 and told him this was not a decision he could appeal against. The situation was eventually resolved after the adviser made numerous phone calls and was eventually passed to the 'extra support' team because the client was at risk of suicide. #9012

Overpayment recovery

Increasingly we are seeing the cases in relation to the DWP seeking the maximum level of deduction from a benefit for an overpayment which is causing some clients severe financial hardship when coupled with deductions from other benefits and payments towards arrears:

Client is left with £24.55 income-related ESA a week to live on after deductions for overpayments and payments towards arrears.

- £29.60 deducted from £73.10 income-related ESA (maximum deduction allowed where someone has committed fraud)
- £11.10 deducted from HB for overpayment
- £5 a week voluntary payment towards rent arrears to prevent eviction proceedings being raised
- £2.65 a week to sheriff officers for council tax arrears #9253

Claimant commitment and sanctions

The number of cases regarding sanctions has fallen in line with the reduction of the number of sanctions being applied, however we are still seeing:

- Clients having their benefit suspended pending a decision on whether they should be sanctioned, leaving them in limbo as there is no right of appeal until a decision is made
- Poor communication between work providers and DWP leading to delays in getting sanction lifted
- Majority of sanctions case studies include people with mental health problems struggling to meet conditionality, often after they have failed the work capability test and been refused ESA.

Client with significant mental health problems received a letter telling him that payment of his JSA is being withheld until he makes contact with his local Jobcentre as he had not logged onto Universal Jobmatch sufficiently in the previous two weeks. Client's iPad broke and he had no easy alternative access to internet as he lives in a very rural area. #8585

Lone parent of four children had to attend a foodbank and had a major loss of income over the Christmas period because she was sanctioned for failing to attend a work programme appointment because one of her children was rushed to hospital. Client spent two months chasing the WP09 form that the work programme provider could send to the Jobcentre to get the sanction lifted because the work programme provider. #Mii127

Claimant with mental health problems (including memory problems, anxiety and chaotic lifestyle) has been sanctioned twice for failure to attend Jobcentre Plus (for four weeks and 13 weeks respectively). The first sanction occurred because the client thought she did not have to attend because it was a bank holiday, the second sanction because she did not realise she had to sign on during the sanction period. The client was claiming JSA having failed the work capability assessment for ESA. #8433

Personal independence payment (PIP)

The common issues emerging regarding PIP are:

- Ongoing issue of medical assessment providers refusing to provide medicals at a venue suitable for the client's needs
- DLA recipients losing their mobility car when they are assessed for PIP and it is either not awarded, or awarded at a lower rate
- Difficulty obtaining evidence to submit with a PIP claim or request for mandatory reconsideration.

Client with mental health problems is having difficulty getting ATOS to agree to a PIP assessment at a local centre or home visit in Falkirk – they keep sending him appointments in Edinburgh. Adviser has sent a letter from a psychiatrist about client's difficulties with public transport and spoken to DWP who suggested requesting home visit from ATOS but their reply was just another date for Edinburgh appointment. #9148

Client bought his Motability car after he lost entitlement on transfer from DLA to PIP. He was later awarded PIP on appeal and became entitled to a Motability vehicle again. Motability

refuse to buy the car back from him so he now has a £10k debt and his only option is to sell the car to pay off the loan and the exit charges. #9208

Local GPs are refusing to provide evidence to accompany clients' PIP forms because they believe the medical assessment providers will contact them directly, because they are named on the form but this often doesn't happen. #8918

Council tax reduction (CTR)

CTR has appeared in the top ten issues for the first time. The main issues are:

- Confusion about the form on which to submit a claim for CTR
- Issues arising because there is no requirement to issue a CTR decision

Client claimed CTR on a form provided by the DWP, however the local authority deemed the form unsuitable and sent the client a local authority claim form to complete. The client didn't complete the form as he had already submitted the DWP one and when he received the council tax bill he paid it in full. The client has submitted a subsequent claim but it cannot be backdated as there is no provision for this in the regulations. #8515

Client who had been receiving CTR recently received a council tax bill for the past 3 years, but not a CTR decision or overpayment notice. There is no requirement to notify a CTR decision but the client must be told about changes to council tax instalments. #8504

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 queries to the Early Warning System please contact:

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