

odsc

Office of the
**Discretionary
Support
Commissioner**



Report for the period 1 April 2020 – 31 March 2021



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Foreword



Dear Minister

August 2021

As Discretionary Support Commissioner, I am required to present an Annual Report under the provisions set out in Article 136 (6) (d) of the Welfare Reform (Northern Ireland) Order 2015.

This is my fifth Report which covers the twelve-month period of operation from 1 April 2020 to 31 March 2021.

It is evident to me that Discretionary Support is continuing to make a vital contribution in

Yours faithfully

A handwritten signature in black ink, which appears to read 'Walter Rader'. The signature is written in a cursive style with a long, sweeping underline.

Walter Rader OBE DL MA Dip YCS
Discretionary Support Commissioner

support of the most vulnerable and those most in need across Northern Ireland.

The Covid19 pandemic had an enormous impact during this reporting period which necessitated several regulatory changes to enhance the entitlement and delivery of Discretionary Support to all vulnerable claimants throughout this extremely difficult and challenging period. I commend this report to you.

Executive Summary

During the period covered by this Report – 1 April 2020 to 31 March 2021

- ODSC has carried out 42 Independent Reviews at the request of claimants, with details set out in Table 1 at Paragraph 13.
- Analysis of the work of Inspectors is provided at - Paragraphs 24 – 28.
- Systems and processes have been further refined, in light of use. Some further efficiency savings were achieved in-year, whilst continuing to meet caseload targets - Paragraph 30.
- The Discretionary Support Change Control Group (Guidance) (CCG) on which ODSC has an active role on, as detailed in my previous Annual Reports, continues to provide a structure to consider any changes required to the DS Guidance. CCG has continued throughout this reporting period to give detailed consideration to proposed changes to the Guidance and determines the outcome of proposals. This process and the work of CCG has been utilized during the Pandemic period to ensure all DS staff have the necessary guidance available to deal with ever increasing demands.



Left to Right: Mark Egan, Office Manager; Inspectors, Amy Lucas, Fiona Douglas and not pictured, Elizabeth Holmes, Administration Team.

Top: is Gary Toner who has moved on promotion to a new Department

Introduction of Discretionary Support Arrangements

1. Discretionary Support is administered by the Department for Communities (the Department). The Welfare Reform (Northern Ireland) Order 2015 makes provision for the Department to make payments by way of grant or loan to prescribed persons. These arrangements constitute the provision of Discretionary Support which is available only in Northern Ireland. Arrangements came into operation on 28 November 2016. On 24 March 2020 emergency legislation was passed by NI Assembly which amended Discretionary Support policy.
2. To access Discretionary Support (DS) a claimant must have had an 'extreme, exceptional or crisis situation' which places them or a member of their immediate family's, health, safety or wellbeing at significant risk. If eligible, the claimant may be offered Discretionary Support in the form of a loan or grant. If the claimant is unhappy with a Discretionary Support decision, they have the right to ask for a review within 28 days of the initial decision. This First Review is carried out by a Departmental Review Officer (RO). If the claimant is unhappy with the outcome of the First Review, they can ask for a Second Review by the Discretionary Support Commissioner, who is independent of the Department. [\[see – Para12. Diagram A\]](#)

Appointment of a Discretionary Support Commissioner

3. The Welfare Reform (Northern Ireland) Order 2015 makes provision for the appointment of a Discretionary Support Commissioner. The Commissioner is an independent statutory office holder appointed by the Department for Communities. The independence of both the Commissioner and of his reporting is of vital importance to the role.
 - to arrange such training of Discretionary Support Inspectors as the Commissioner considers necessary
 - to carry out such other functions in connection with the work of Discretionary Support Inspectors as the Department may require
4. As detailed in the Welfare Reform (Northern Ireland) Order 2015, Article 136 the Commissioner's role is:
 - to monitor the quality of decisions of Discretionary Support Inspectors and give them such advice and assistance as the Commissioner thinks fit to improve the standard of their decisions
 - to report annually in writing to the Department on the standards of reviews by Discretionary Support Inspectors
5. Under the Welfare Reform (Northern Ireland) Order 2015, the Department is required to publish the Commissioner's Annual Report.

Provision of Resources

6. The Commissioner appoints Discretionary Support Inspectors and other staff, from persons made available to him by the Department, so that his statutory duties can be discharged. This includes an Office Manager, appointed to support the Commissioner in the running of his office, Inspectors and administrative support. All staff are Northern Ireland Civil Servants and are subject to NICS Terms and Conditions. Whilst attached to the Office of the Commissioner, staff are required to operate in an independent role.
7. The Department provides for the running costs of the Commissioner's office through the normal Departmental budget allocation process. Accommodation and services, including IT support and internal audit, are provided by the Department.

Relationship Statement

8. A Relationship Statement between the Discretionary Support Commissioner and the Department has been agreed and governs the interaction between the two entities. The Relationship Statement records the statutory basis for the post of Commissioner and sets out the functions of the Office, together with planning and reporting arrangements operated by the Commissioner.

Context

9. This is my Fifth Report and covers the operation of the Independent Review Service for the period from 1 April 2020 to 31 March 2021.
10. I wish to acknowledge the staffing arrangements made available to me by the Department. I recognise my responsibility for both staff training and in supporting career development.

I wish to encourage staff to realise their full potential, including developing new skills and additional experience which will be transferrable to their future roles. I also want to ensure the efficient and effective delivery of the Independent Review Service, and to this end systems and processes are reviewed regularly.

Business Purpose

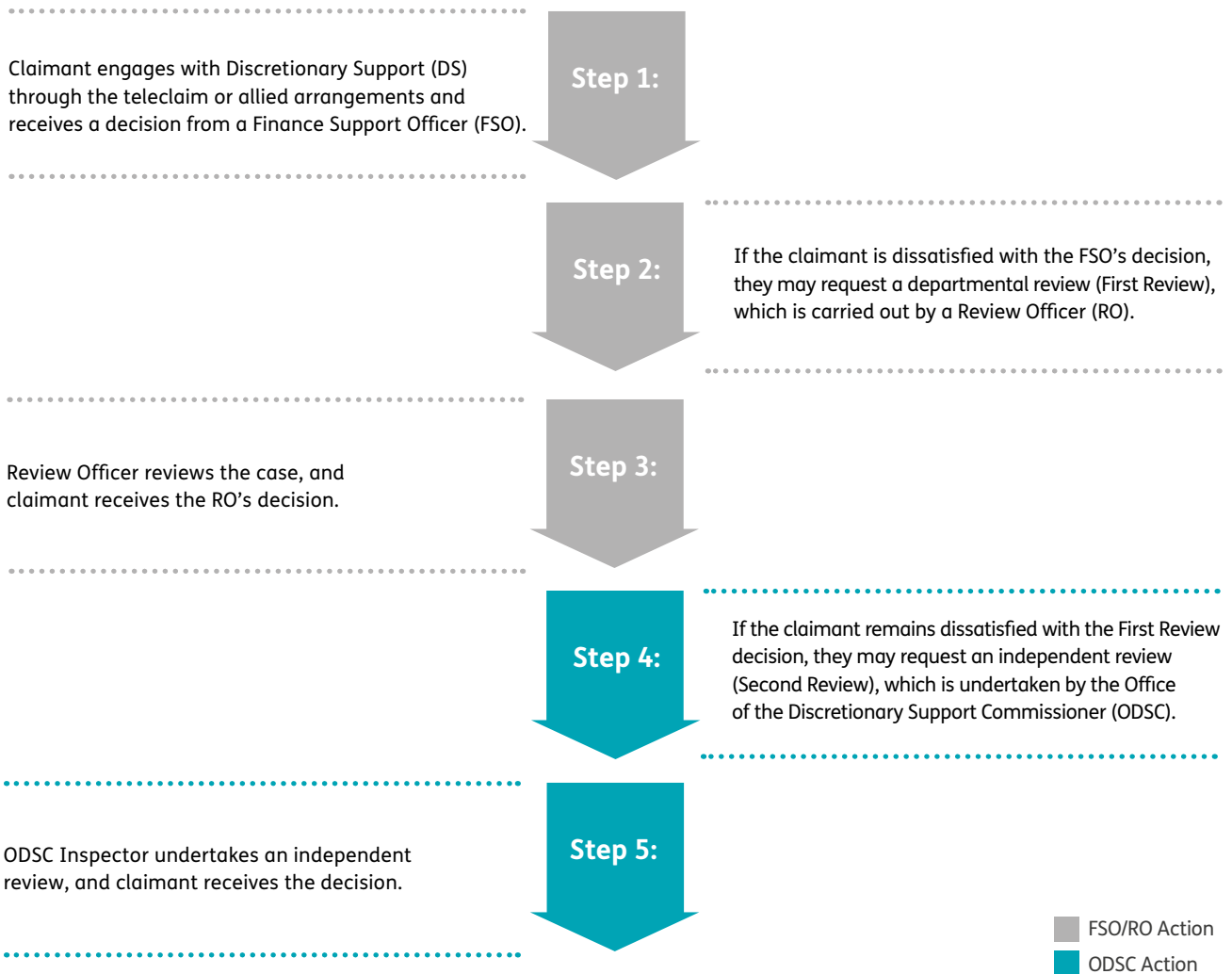
11. The purpose of ODSC is to deliver an Independent Review Service, for claimants who are dissatisfied with the outcome of the First Review decision

made by a Departmental Review Officer. ODSC Business objectives and values are set out at [Annex 1](#).

The Discretionary Support Independent Review Service

12. The Independent Review Service, steps 4 & 5 below, are part of a 5 step process as set out in Diagram A.

Diagram A



Report on the work of the ODSC Inspectors during the period 1 April 2020 to 31 March 2021

Northern Ireland Claims First Reviews and Second Reviews

13. During the twelve-month period covered by this report, details of the total claims received across Northern Ireland, First Reviews undertaken by

the Department and independent, Second Reviews carried out by ODSC, are set out in Table 1 below:

Table 1

Item	Number	Context
1	115,701	The total number of Discretionary Support claims dealt with by the Department
2	2,597	The number of claimant requested First Reviews carried out by Departmental Review Officers which represents 2%* of the total claims as set out in Item 1
3	42	The number of independent, Second Reviews, requested by claimants and carried out by ODSC Inspectors which represents 2% of RO First Reviews as set out in Item 2

[*Percentages are rounded up or down to the nearest point using the convention under 0.5% rounded down; over 0.5% rounded up]

Standard of Discretionary Support Inspectors' Decisions

14. As Commissioner I have a statutory duty, under Article 136 of the Welfare Reform (Northern Ireland) Order 2015, to monitor the quality of Inspectors' decisions and to give them advice and assistance to improve the standards of their reviews.

15. My team of Inspectors carry out reviews, as requested by claimants, of the decisions made by the Department's Discretionary Support, Review Officers. [\[Para 12. Diagram A, Steps 4 - 5\]](#)

Case Reading

16. Case reading is the primary means by which I assess the standard of Inspectors' decisions and reports. In order to create consistency of approach and to feed my findings to the Discretionary Support Change Control Group as and when required, I continue to read 100% of the case reviews which are undertaken.
17. My findings and advice are fed back to individual Inspectors either by the Office Manager, or through direct dialogue between myself, as Commissioner and the individual Inspector. This process is augmented by additional training, staff meetings and peer review sessions.
18. I take the view that it is vital for ODSC Inspectors to deliver high standard decisions which are justified, clear and concise. The Inspectors' reports are sent to the claimant so that they, their nominated representative, or support worker can see the reason for the Inspector's decision in their case. In this context I believe that ODSC has in place robust monitoring processes; indeed these processes have resulted in matters being referred to the Change Control Group for further consideration and action.
19. My office is, rightly, subject to the same Discretionary Support Regulations and Departmental Guidance which applies to front line staff - the FSOs & ROs. I recognise that these support arrangements are 'Discretionary'. However, I take the view that if discretionary support decisions are to be made equitably, those decisions must be based both on a clear understanding and a consistent interpretation of the Regulations and Departmental Guidance. ODSC Inspectors' decisions must also be based on the evidence and the facts of each case which is reviewed, using a consistent interpretation of regulations and guidance.
20. All those who use the ODSC and the Independent Review Service have a right to know the reasons why the Inspector reached the decision, in 'their particular case'. Inspectors' decisions must, therefore, be presented in plain language and in a concise manner. During my reading of cases, I consider whether the decision is justified, based on the evidence and facts of each case, and whether the decision is in keeping with DS Regulations and Departmental Guidance. In addition, I consider the clarity of the report to ensure it avoids jargon and communicates the reasons for the decision clearly and concisely, to the claimant.

- 21. In this my fifth year as Commissioner I am confident, from my monitoring and observations, that the Departmental decision making officers and ODSC Inspectors implementing the DS Regulations and Guidance, have gained valuable experiential learning and are honing their skills. In doing so they are both justified in, and indeed required to use their judgement and discretion in arriving at, and justifying, the decisions which they make.
- 22. My role as the Independent Commissioner affords me a unique overview of DS implementation. I maintain a clear understanding of the Discretionary Support system and process end-to-end, which enables me to ensure that my Inspectors are delivering relevant and timely reviews.
- 23. During this reporting period I have undertaken 42 case readings which represents 100% of the cases dealt with by Inspectors. An analysis of my findings are set out at Table 2 below:

Table 2

ITEM	NUMBER	CONTEXT
4	40	Decisions taken by ODSC Inspectors were correct, based on the evidence and facts of the cases, which represents 95% of all independently reviewed cases [Item 3 of Table 1 above]
5	2	The Commissioner requested Inspectors to provide further clarification and additional evidence to justify their decision, before clearing the Inspector’s decision.

Delivery Targets

24. As Discretionary Support is unique to Northern Ireland I, as Commissioner, set clear and challenging casework targets which were based on our

performance during the previous year, as set out in Table 3 below. I review the casework targets on a regular basis.

Table 3

ITEM	WORKING DAY/S	CONTEXT
6	1	Urgent case review process (For example, following a disaster or in relation to living expenses)
7	10	Standard case-review process
8	16	Complex case-review process

Performance against casework targets – 1 April 2020 to 31 March 2021

- 25. Inspectors have worked to the clear set of casework targets (at Table 3) during the period. I can confirm that all clearance targets have been achieved for this reporting period.
- 26. Mindful of the continuing health pandemic and the increase in DS claims I intend to maintain the current casework delivery targets for the coming year 2021/22 and to keep matters under review.

ODSC Inspectors’ Review Outcomes during the reporting period

27. In undertaking their Independent Review Service duties (Second Review) ODSC

Inspectors’ decisions have resulted in the actions set out in Table 4 below:

Table 4

ITEM	NUMBER	CONTEXT
9	4	Inspectors changed the decision made by ROs from disallowance of DS to an award of a DS Grant which represents 10% of total cases independently reviewed.
10	1	Inspectors changed the decisions made by ROs to increase the loan award previously made by the RO which represents 2% of total cases independently reviewed.
11	3	Inspectors decided that DS Regulation 10 was satisfied and returned cases to the ROs to consider Regulation 11 Loan or Regulation 12 Grant, which represents 7% of the cases independently reviewed.
12	34	Inspectors upheld the decisions made by the Departmental Review Officers, which represents 81% of the cases independently reviewed.

[Note: The ODSC does not hold a budget for the loan or grant decisions made by Inspectors, such awards come from the DS central budget, therefore in the reporting period Inspector’s decisions resulted in additional spend from DS budget of £1,181.68]

Actions taken by ODSC

28. During the reporting period my office provided feedback to the Department on our findings and the trends we observed in relation to the cases reviewed by the Inspectors. During the period of this report ODSC has:

- Made improvements in the standard of our work, taking into account the views of our stakeholders and the reflective learning from the case reading process
- Maintained a Learning Log as the basis for shared learning and advice
- Provided information to claimants and their advisers and to staff of the Department, about Discretionary Support, the role and work of ODSC and the right of claimants to seek an independent (Second Review) Discretionary Support review
- Provided input to the DS Change Control Group regarding development of the Departmental Guidance and processes
- Supported the Department to improve standards of Discretionary Support decision-making through feedback directly to DS management where that matter did not require referral to the CCG
- Focused business resources to achieve the most efficient and effective outcomes, delivering value for money

Resources

29. During the reporting period ODSC was allocated funding by the Department for salaries of £175,000.00. In addition, there was funding for £5K to provide for Travel and Subsistence, Staff Training and Development, Postage and Stationery. The Department also provides accommodation, IT support and Internal Audit functions.

30. I can confirm that ODSC has delivered the Independent Review Service in line with all Internal Audit's recommendations, has met casework targets and achieved modest in-year efficiency savings. These savings have been made in both salary and General Administration Expenditure terms as a consequence of changes to my staff baseline which I have refined based

on casework demand. I will continue to monitor budget allocation and casework targets in the coming year.

a. Due to the Covid 19 Pandemic staff training this year has been very much restricted to on-line webinars. As Commissioner, under Article 136 (6)(b), I have a responsibility to arrange the appropriate and necessary training of Discretionary Support Inspectors. During this reporting period my Inspectorate staff have:

- Completed all on-line Departmental training material as required within the NICSHR Learning and Development system.

Reflections on the year

31. I take the view that with any initiative, such as Discretionary Support, there will be the need to change, amend and develop the initiative as a result of operational experience. The need for change has very much been heightened this year as a result of the Covid 19 Pandemic.
- a. It has been my experience, as Commissioner, that all those associated with the delivery of the Discretionary Support are aware of, and committed to the uniqueness of the initiative, whilst recognising the daily challenge of responding to individual need and even more so through this extremely difficult reporting period which has been impacted by Covid 19.
 - b. As Commissioner, I am privileged to have a unique, independent overview of Discretionary Support processes. I have referred matters to CCG from that independent perspective
- and as a contribution to the efficient and effective development of Discretionary Support.
32. During this reporting period I was made aware of an initiative, by DS Management, to introduce decision making templates for DS decision makers. It was very helpful for my ODSC staff to have been included in the scrutiny process of this development. The focus of this initiative, from a claimant's perspective, was to ensure there is a consistency of approach when recording written decisions and to provide the claimant with sufficient information in a "Plain English" format to allow them to fully comprehend the reasoning in terms of their outcome decision.
- I commend the introduction of the template process. This initiative enables the Department to provide clear and unambiguous written decisions enabling the claimant to understand the reasons for their DS decision.

Office of the Discretionary Support Commissioner

Business Objectives

- Deliver impartial, independent review decisions to published standards
- Make improvements in the standard of services provided and in doing so seek, and take into account, the views of claimants and stakeholders
- Provide information to the public, claimants and their advisers, to staff of the Department and stakeholders about the role and work of the Office of the Discretionary Support Commissioner (ODSC) highlighting the right of claimants to seek an independent review of a Discretionary Support decision made by a Departmental Review Officer
- Support the Department to improve standards of Discretionary Support decision making and operational delivery through an annual report and by referring matters to Change Control Group
- Focus business resources to achieve efficient and effective outcomes delivering value for money

Business Values

Business values guide staff in the delivery of their work and focus the contribution made both individually and as a team.

The ODSC business values are to:

- place claimants at the centre of the review process
- treat claimants, stakeholders and colleagues with respect and courtesy
- respect and accept the differences of others in accordance with Section 75 obligations
- work to improve standards of service provided for claimants of Discretionary Support
- be receptive and responsive to the external environment and the way it influences and shapes our business future
- engage in reflective learning and use this process to make improvements to the independent review service
- recognise and value the members of our staff team for the contribution each makes in delivering efficient and effective services.

