

odsc

Office of the
Discretionary
Support
Commissioner



Annual Report 2022/2023



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Foreword



November 2023

This is my first annual report as the Discretionary Support Commissioner. The period straddles both my time in post since 1 November 2022 and that of my predecessor Walter Radar OBE DL MA Dip YCS who sadly died early in 2023.

At the outset, I want to pay tribute to Walter who despite failing health, met me and provided valuable insight and wisdom into the role and was characteristically supportive. His commitment to Discretionary Support and the role of the Commissioner was evident. He is sadly missed by colleagues here as well as by family and many friends.

Discretionary Support finds itself at a crossroads. In effect, it functions as the safety net below the safety net. Payments are made according to regulations 'where an extreme, exceptional or crisis situation presents a significant risk to the health, safety or well-being of the claimant or a member of the claimant's family'. The payments cover essential furniture and household items, short-term living expenses, travel expenses in emergency situations and rent in advance to private landlords. The

support can act as a bridge for a homeless person to furnish a Housing Executive or Housing Association home, assist someone to remain living independently in the community, deal with the aftermath of a disaster such as a fire or flood and deal with a temporary crisis through the provision of short-term living expenses. These payments often stave off changes which would ultimately cost more to the public purse. Normally, only one grant and three loans can be paid in any rolling 12-month period. There is also a maximum amount of debt that a claimant can be allowed to accrue. The conditions of entitlement are set out in the Discretionary Support Regulations (Northern Ireland) 2016 made under the powers contained in the Welfare Reform (Northern Ireland) Order 2015.

In the financial year 2022/23, claimants on Universal Credit and other means-tested benefits and those on low pay faced particular pressures. Means-tested benefits were increased by 3.1 per cent from April 2022 based on the rate of increase of the Consumer Price Index (CPI) from the previous September. By April 2022 the CPI

rate of inflation was 9.0 per cent, peaking at 11.1 per cent in October 2022 before falling back slightly to 10.1 per cent by March 2023. The pressures of the cost-of-living increases on claimants was reflected in the increasing demand for Discretionary Support payments. The claims made for Discretionary Support were up by more than 21 per cent on the previous year, initial reviews increased by more than 23 per cent and the numbers of reviews to the Discretionary Support Inspectors more than tripled. As a result, the initial budget was increased and Discretionary Support grants of just over £40 million and loans of £9.3 million were awarded in 2022/23 up from £17 million and £7.1 million for grants and loans respectively in 2021/22. Moreover, the ebb and flow of claims also reflected the periods of additional support provided for cost of living payments including assistance with fuel bills with short-term living expenses claims reducing immediately after such payments were made.

The budget for grants is £20 million for 2023/24. Revised guidance has been issued which includes outlining that an award cannot be made for the same item within 24 months save where there has been a disaster, or the person is setting up home for the first time or re-establishing him or herself in the community. The new arrangements are in place following the Department's Equality Impact Assessment though we will be already through the first

quarter of the 2023/24 financial year under the previous guidance. While guidance can be tightened, decision-makers at initial, review and inspector level must all adhere to the regulations which reduces to an extent the scope for radical change. Further, depending on the changes made the likelihood of a successful legal challenge will inevitably increase. I have great sympathy for senior Departmental officials who find themselves between a rock and a hard place in marrying the purpose of Discretionary Support, the current financial difficulties facing claimants and the squeeze on the Departmental budget. In addition, one of the strengths this year has been the speed of decision-making in keeping with claims which are often urgent. The financial pressures will inevitably mean that the time taken to process claims will increase.

Given the pressures on staff dealing with the increase in claims I have been impressed with the quality of decision-making at all levels of Discretionary Support. There can be a trade-off between speed and accuracy in decision-making, nonetheless, the balance in the quality of decisions made has largely been got right during the year. My Discretionary Support Inspector colleagues have taken on a new Quality Assurance role and their feedback and experience has provided further reassurance. I have attended the Change Control Group meetings where Departmental staff consider feedback and their own experience to reflect

on guidance and I am struck by the vibrancy and commitment of decision-makers which is a testament to the strong leadership and effective management within Discretionary Support. I have also read through the significant volume of guidance provided to decision-makers and have been impressed at its quality. While I have been able to suggest some improvements for consideration, they are at the level of tweaks rather than any fundamental recalibration and this is an additional reassurance.

Discretionary Support was subject to a recent independent review led by Professor Gráinne McKeever which recommended a number of improvements which I would support. The independent review's recommendations include more emphasis on paying grants over loans and encouraging awareness of Discretionary Support and the review arrangements all of which occurred this year. These recommendations are unlikely to be maintained in 2023/24. Additional recommendations require amendments to the regulations which will need a Ministerial decision.

In summary the next few months will be very challenging for staff at all decision-making levels and critically for claimants at the sharp end who rely on Discretionary Support.

The annual report also includes figures on the take up of the Universal Credit Contingency Fund (UCCF) which falls within Discretionary Support. The UCCF provides for short-term living expenses grants while a claimant waits for a first payment of Universal Credit to be made. In 2022/23 the number of awards increased by 25 per cent and payments increased from just under £2.5 million to just over £2.8 million. The difficulties facing claimants during the five week wait has been well documented and the UCCF is a vital bulwark against claimants starting on the back foot when having to move on to Universal Credit, for example, due to an adverse change of circumstances such as ill-health, unemployment, relationship breakdown or an increase in caring responsibilities. The budget for UCCF totals £4.7 million for 2023/24 reflecting the important role it plays. The report also provides details of Covid-19 self-isolation grants which falls within Discretionary Support. The reduction in support reflects the reduction in Covid-19 cases during the last financial year.

Finally, I would like to thank the office manager Geraldine Campbell and inspectors who have patiently answered all my questions while managing effectively their own considerable workloads.

Les Allamby

Discretionary Support Commissioner

The Discretionary Support Commissioner and Staff



Hugh Phillips Inspector, Les Allamby Commissioner, John McParland Inspector, Amy Lucas Inspector, Fiona Douglas Inspector, Geraldine Campbell Office Manager.

Discretionary Support Arrangements

1. Discretionary Support is administered by the Department for Communities (the Department). The Welfare Reform (Northern Ireland) Order 2015 made 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.

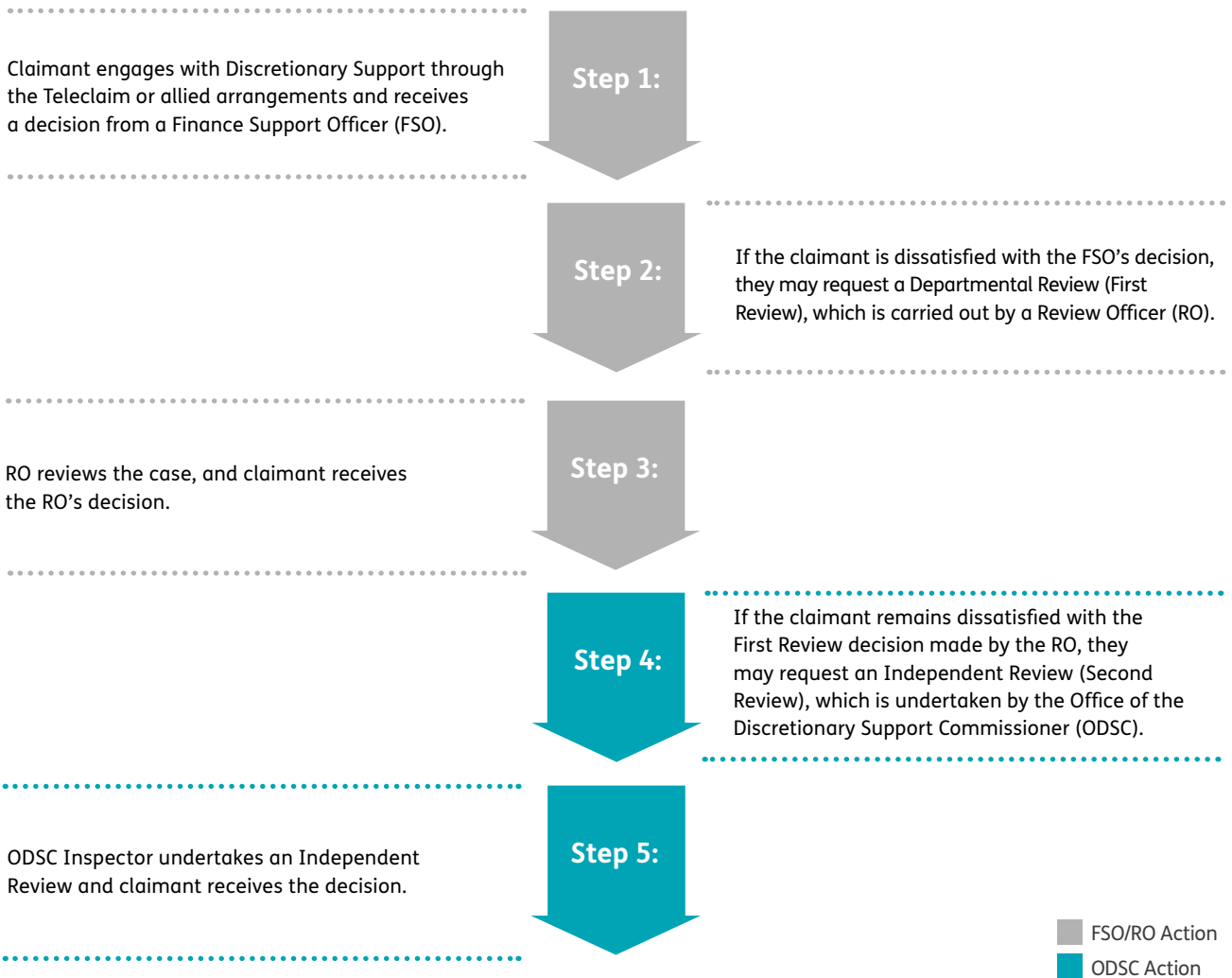
To access Discretionary Support a claimant must have had an 'extreme, exceptional or crisis situation' which places them or a member of their

immediate families, health, safety or wellbeing at significant risk. If eligible, the claimant may be offered Discretionary Support in the form of a grant or loan. If the claimant is unhappy with an initial Discretionary Support decision made by the Finance Support Officer (FSO), he or she has 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 a Discretionary Support Inspector. Discretionary Support Inspectors are part of the Commissioner's Office. In addition, the Universal Credit Contingency Fund and Discretionary Support Self-Isolation Grant also fall within the Discretionary Support scheme.

The Discretionary Support - Independent Review Service

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

Diagram A



The role of the Discretionary Support Commissioner

3. The Welfare Reform (Northern Ireland) Order 2015 provides 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 the reporting role is an essential component of the post.

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 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
- to report annually in writing to the Department on the standards of reviews by Discretionary Support Inspectors. Under the Welfare Reform (Northern Ireland) Order 2015, the Department is required to publish the Commissioner's Annual Report.

Provision of Resources

4. The Commissioner appoints Discretionary Support Inspectors and other staff, from persons made available by the Department, so that statutory duties can be discharged. This includes an Office Manager, appointed to support the Commissioner in the running of the office and Inspectors. 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. 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.

The expenditure on the Office of the Discretionary Support Commissioner this year in office was £195,000 which covered the salaries of all staff and the Commissioner.

Relationship Statement

5. A Relationship Statement between the Discretionary Support Commissioner and the Department has been agreed and governs the interaction between the two bodies. 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. The statement was amended to reflect the taking on of the additional quality assurance role of decisions made by FSOs and ROs.

Discretionary Support Statistics

6. The figures for claims and decisions by FSOs, ROs and the Discretionary Support Inspectors are set out below. Table 1 covers the outcome of Discretionary Support claims, alongside first and second reviews with a comparison to figures in 2021/22. Table 2 sets out the outcomes of the second review to Discretionary Support Inspectors.

Table 1: Figures for Discretionary Support claims, first reviews and second reviews to Discretionary Support Inspectors 2021/2022 and 2022/2023

	2021/2022	Success rate %	2022/2023	Success rate %
Discretionary Support Claims	113,437	68.43	136,240*	72.09
Discretionary Support first reviews	1,994 received	25.43	2,440* received	28.28
Discretionary Support Inspector second review	74	20.00	247	14.0

*Rounded to the nearest 10

Table 2: Discretionary Support Inspector Reviews Outcomes 2022/2023

	Received	Processed	% overturned
April 22	16	14	14%
May 22	10	12	17%
June 22	20	20	10%
July 22	10	10	50%
August 22	15	16	13%
September 22	21	18	11%
October 22	25	26	12%
November 22	31	32	19%
December 22	20	21	14%
January 23	37	37	14%
February 23	24	23	4%
March 23	17	18	11%
Total	246	247*	14%

*One case carried forward.

Overall expenditure for 2021/2022 and 2022/2023 on Discretionary Support grants and loans and number of awards are set out in Tables 3 and 4.

Table 3: Expenditure on grants and loans for Discretionary Support in 2021/2022 and 2022/2023

Expenditure	2021/2022 £m	2022/2023 £m
Grants	17,065	40,044
Loans	7,126	9,337
Total	24,191	49,381

These figures are for Discretionary Support awards only and do not include awards made under Universal Credit Contingency Fund and Self-isolation grants.

Table 4: Number of Awards for Discretionary Support in 2021/2022 and 2022/2023

	2021/2022	2022/2023
Total number of awards made	77,622	98,220*

*Rounded to the nearest 10

Case Examples

7. A is a single man in his late 50s. He receives Employment Support Allowance and Personal Independence Payment care and mobility components. He suffers from obsessive compulsive disorder, depression, anxiety including panic attacks, arthritis, irritable bowel syndrome and asthma. He applied to Discretionary Support for a single bed and bedding, cooker, washing machine, settee, fridge, tumble dryer, wardrobe and clothes. The FSO awarded a grant of £1123 to cover the cooker, single bed, fridge and washing machine but disallowed the claim for the bedding, clothing, tumble dryer and wardrobe. A sought a review. The RO awarded an additional £111 to cover clothing and bedding due to the incontinence issues but also refused the claim for a wardrobe and tumble dryer. A sought a further review to the Discretionary Support Inspector. The Inspector contacted A's social worker who outlined the extent of the significant mental and physical health issues, and that A was struggling to cope with living independently and telephoned A who outlined he was often left having to wear wet clothes because of limited clothing he had and was putting the clothing on the windowsill because of the lack of a wardrobe and chest of drawers.

The Discretionary Support Inspector allowed the claim for the tumble dryer and wardrobe awarding an additional £388 on the basis that there was a need and that circumstances were met within the regulations and had regard to guidance about improving a claimant's living conditions and reduce the risk of having to go into residential care.

B is a single man in his 30s. He has a learning disability and mental health issues including post traumatic stress disorder alongside suffering from chronic obstructive pulmonary disease and irritable bowel syndrome. He is receiving Universal Credit and Personal Independence Payment care component. He was living with his sister, however, following a mental health episode he destroyed furniture at his sister's house who asked him to leave. He became homeless and then moved to his brother's house. He applied to Discretionary Support for a bed, clothes, curtains, carpet for a bedroom, an easy chair, table, fridge, washing machine, towels and toaster. The FSO awarded a grant of £494 to cover a bed, clothes, curtains, carpet and towels and disallowed the other items.

The RO upheld the decision. The Discretionary Support inspector phoned the claimant and was told that the table was to replace the one destroyed at his sister's and that he needed

a fridge of his own due to the impact on his mental health if anyone touches his food. He also outlined he had not accurately estimated the cost of the carpet as it did not include fitting and supplied an estimate for carpet and fitting. The Discretionary Support inspector upheld the FSO/RO decision save for allowing an additional £60 to enable the carpet for the bedroom to be purchased and fitted.

C is a single woman in her 30s. She has mental health issues and receives Universal Credit and Personal Independence Payment (care component). She had been street homeless for five years, however, after reconciling with her mother she moved into her mother's spare room and applied for and received a Discretionary Support grant for a bed and bedding. She had previously received a loan from the Department but had defaulted on repayments. Three months later she secured

an unfurnished tenancy from the Housing Executive. She applied for a Discretionary Support grant for essential furniture and household items including a table and chairs, cooker, fridge, washing machine, settee, carpets and curtains. In accordance with the regulations, the FSO accepted that there was a need but disallowed the claim as C had received a grant in the previous 12 months. A loan was considered but not awarded as the claimant had defaulted on a previous loan. The RO upheld the decision on the same grounds. The Discretionary Support inspector upheld both decisions as the regulations do not allow for the award of more than one grant in any 12 month rolling period save where a disaster has occurred and the claim did not fit within the definition of a disaster within the regulations. A loan is also not permissible where a claimant has defaulted on a previous loan.

Universal Credit Contingency Fund

8. The Universal Credit Contingency Fund (UCCF) is one of several specific mitigation measures introduced to support claimants as a result of UK wide social security reforms introduced in Northern Ireland through the Welfare Reform (Northern Ireland) Order 2015. The UCCF was introduced from 1 November 2017 with payments being made through the Discretionary Support scheme under legislative provisions within the Discretionary Support regulations of 2016. The

UCCF provides a discretionary grant to alleviate short-term financial hardship experienced by Universal Credit (UC) claimants while waiting for their first payment. The UCCF grant counts as one of the Discretionary Support living expenses grants in a 12 month period precluding a claimant from receiving a further living expense in that period.

The awards and expenditure on UCCF for 2021/2022 and 2022/2023 is set out in Table 5.

Table 5: Awards and Expenditure on UCCF for 2021/2022 and 2022/2023

UCCF grants	2021/2022	2022/2023
Awards	7662	9740
Expenditure	£2,498 m*	£2,812 m*

*Figures rounded to nearest £100k

Discretionary Support Self-Isolation Grant

9. The Discretionary Support self-isolation grant is a payment to help with short-term living expenses for individuals on low incomes who are experiencing financial hardship as a result of having to isolate due to Covid-19. The grant was introduced under the Discretionary Support (Amendment) (Covid-19) Regulations (Northern Ireland) 2020. As this is part of the Discretionary Support scheme a claimant must satisfy the basic conditions for Discretionary Support, namely having an extreme, exceptional need or crisis placing the claimant or immediate family members health, well-being or safety at significant risk. The Discretionary Support annual income threshold and

other eligibility criteria for Discretionary Support must also be satisfied. An award is based on the number of people in the household, the period of need and other financial circumstances. A payment is normally made from the date of application to the day before a claimant's next income is due to be received though additional enhancements can be made to the increase in the duration and value of amounts awarded. The number of awards has decreased significantly reflecting the change in the impact of Covid-19 during the post financial year. Table 6 sets out the awards and expenditure in the DS self-isolation grant for 2021/2022 and 2022/2023.

Table 6: Awards and Expenditure on Discretionary Support Self Isolation Grants in 2021/2022 and 2022/2023

Awards	2021/2022	2022/2023
Self-isolation grants	8705	1445
Expenditure	£1,443m	£0.241m

Quality Assurance

10. Discretionary Support Inspectors have taken on an additional quality support role to provide further assurance and oversight of the standard of decision making by FSO's and RO's.

The functions of the ODSC Inspectors now have a joint role as Quality Support officers. Whilst the main function of the post holders remains to consider second reviews with the role of Quality Support officer is secondary.

The purpose of this independent team is to help the Department to improve the standard of decision making within the FSO and RO teams. This development can be implemented under existing criteria which state that within the Commissioner's role is the option -

To carry out such other functions in connection with the work of Discretionary Support Inspectors as the Department may require.

ODSC provides Discretionary Support operations with a quarterly report on monitoring performance. Extensive collaboration took place in determining the type and level of information that would be included to ensure that it would be a useful tool. The report is shared across Discretionary Support managers and included in team time agenda for discussion. To date, Discretionary Support operations have found ODSC monitoring to be beneficial in terms of learning and in highlighting areas in guidance that need augmenting or clarifying. The regular liaison with ODSC has also been welcomed and enables both areas to be aware of any issues currently affecting each other's service. Discretionary Support also welcomes the claimant centric approach taken by ODSC which focuses on ensuring that claimants are treated with dignity and respect and awards made correctly within the parameters of legislation and guidance.

Table 7 sets out the numbers of decisions examined and the outcomes for the period 1 June 2022 – 28 February 2023.

Table 7: Numbers and outcomes of cases examined under Quality Assurance arrangements (1 June 2022 - 28 February 2023)

Date	Cases checked	Cases with significant decision-making error	Cases where improvement could have been made which would not have affected outcome
1 June – 31 August 2022	379	None	66 (17.4%)
1 Sept – 30 November 2022	379	5 (1.3%)	76 (20.1%)
1 Dec – 28 Feb 2023	379	12 (3.2%)	128 (33.8%)
Total	1137	17 (1.5%)	270 (23.7%)

Among the good practice noted from the decisions and calls examined were that decision-makers were normally polite, clear and helpful including acknowledging the difficulties claimants face. Moreover, in some cases, decision-makers had gone the extra mile to show empathy and be helpful. In addition, the decision-makers reports were well presented making appropriate use of templates when recording facts and providing grounds for decisions. On the improvement side, some decisions were confusing with a lack of detailed reasoning with at times, the incorrect reference made to the regulations, occasionally there was a need to seek further evidence and also inconsistencies between what was recorded in the evidence gathered and the basis of this in making the decision. In the small number of decisions where a decision-making error occurred the issues were specific technical

ones around interpreting the regulations, decisions not always addressing all the items claimed and decisions which awarded a loan when a grant was more appropriate.

The Discretionary Support Commissioner also reads every decision made by Discretionary Support Inspectors following the trail from the initial decision and the first review decisions.

The Commissioner, Office Manager and on a rotational basis a Discretionary Support Inspector attend the Change Control Group meetings which are regularly held to discuss any issues arising from decision making and examine the guidance. The meeting is led by the Discretionary Support team operating within local offices and are also attended by the Department's Social Security Policy and Legislation staff.

Performance against casework targets

11. Inspectors have worked to the clear set of casework targets (set out at Table 8) during the period. All clearance targets have been achieved for this reporting period.

Table 8: Performance Targets and Outcomes 1 April 2022 to 31 March 2023

	Received	Processed	Actual Average Clearance Times in days - Month	Actual Average Clearance Times in days - Year to Date
Apr-22	16	14	2.6	2.6
May-22	10	12	2.7	2.6
Jun-22	20	20	1.8	2.3
Jul-22	10	10	2.5	2.3
Aug-22	15	16	2.3	2.3
Sep-22	21	18	1.4	2.1
Oct-22	25	26	2.3	2.2
Nov-22	31	32	2.3	2.2
Dec-22	20	21	1.8	2.2
Jan-23	37	37	3.0	2.3
Feb-23	24	23	2.4	2.3
Mar-23	17	18	2.5	2.3
Total	246	247*	14%	

*1 Carried forward from previous year

Target	Working days
Urgent case review process (For example following a disaster or in relation to living expenses)	1
Standard case review process	10
Complex case review process	16

Office of the Discretionary Support Commissioner

12. Business Objectives and Values

The Business Objectives for 2022/23 were as follows:

- 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, by referring matters to Change Control Group and through our Quality Support objectives as directed by the Department
- 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.

