

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 27 May 2008

Public Authority: Child Support Agency
Address: Caxton House
London
SW1H 9NA

Summary

The complainant requested a number of statistics from the Child Support Agency (CSA). The CSA responded informing the complainant that the information sought is not held. The Commissioner has investigated and found that the CSA responded in accordance with the requirements of section 1 of the Act as he is satisfied that the information requested is not held.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. The Commissioner notes that under the Act the Child Support Agency (CSA) is not a public authority itself, but is actually an executive agency of the Department for Work and Pensions which is responsible for the CSA and therefore, the public authority in this case is actually the Department for Work and Pensions not the CSA. However, for the sake of clarity, this decision notice refers to the CSA as if it were the public authority.
3. The complainant has advised that on 7 July 2007 he made the following request for information to the CSA:

"1. In how many cases in the years 2006 and 2007 to date has the CSA enforced claims against a total stranger / outsider, despite the fact that the father is married to the mother, is named on the birth certificate, and has

parental responsibility, and where both parents have maintained in law and in legal matters that the father is the father?

2. In how many cases have the CSA during 2006 and to date in 2007 started a second claim against a man where the first claim was already in existence.

3. In how many cases in 2006 and 2007 to date have the CSA continued to target a man while the Independent Case Examiner was scrutinising the case.

4. In how many cases in 2006 and 2007 to date have the CSA refused to give the criteria under the law on which they based their claim to the non resident parent.

5. In how many cases in 2006 and 2007 to date have the CSA deliberately and maliciously acted on a false claim by a woman against a man, and issued a claim against the man on false information.

6. In how many cases in 2006 and 2007 to date have the CSA implemented maintenance against a man within days of claiming to send him a questionnaire and where they were informed within days of their first communication, of the true facts, still proceed to corrupt the law and their practice.

7. In how many cases in 2006 and 2007 to date have the CSA acted in a racist manner by using one criteria against a non British ethnic minority person compared with a British person, in effect operating a two tier system, one for the dominant community and another for minority communities.

8. In how many cases during 2006-2007 has the CSA acted on a malicious and invalid claim to enforce an unlawful claim against an innocent party.

4. The CSA responded on 11 July 2007 informing the complainant that the specific data requested is not routinely recorded by the CSA and is therefore not held. With regards to question 7 the CSA explained that it has developed a set of corporate values, based on the core values of the Department for Work and Pensions to influence how everyone in the Agency will act. It aims to ensure that all its customers and employees are treated with respect – recognising understanding and embracing diversity.
5. The complainant wrote on 7 September 2007 requesting an internal review of the decision to withhold the requested information.
6. The CSA responded on 13 September 2007 acknowledging receipt of the complainant's request for a review and providing him with a date as to when to expect the review.

7. The CSA completed its internal review and communicated the findings to the complainant on 5 October 2007. The internal review upheld the original decision that the specific information requested is not held. The review also explained to the complainant the background to the procedures, policies and legislation of the CSA in an attempt to explain to him why the specific information requested is not held.

The Investigation

Scope of the case

8. On 30 October 2007 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to assess whether the CSA were correct to state that the information requested is not held.

Chronology

9. The Commissioner began his investigation by telephoning the CSA to ask some further questions regarding the nature of the information requested. Following this conversation the Commissioner asked the CSA to write, in more detail, to the complainant explaining with reference to each of his 8 questions why the information sought is not held. The Commissioner also suggested that in relation to questions 3 that the CSA could provide more information regarding the number of cases with the Independent Case Examiner (ICE).
10. On 7 January 2008 the CSA wrote to the complainant explaining in more details why the information sought is not held with reference to each point of this request. The CSA also provided some additional information to assist the complainant and explained how many cases are currently with ICE.
11. On 21 January 2008 the Commissioner wrote to the complainant asking him if in light of this additional information he now wished to withdraw his complaint.
12. On 3 February 2008 the complainant responded. In his letter he stated that he was still dissatisfied that the CSA had failed to respond to any of the issues raised.

Background Information

13. The CSA explained that when a person submits an application for Child Support Maintenance, the Secretary of State has a duty to proceed with this request. The CSA acts on the information supplied by the person with care (PWC) on the application and begins the process of contacting the non-resident parent (NRP). A questionnaire referred to as the Maintenance Enquiry Form (MEF) is issued by post to the NRP which must be returned within 14 days, if not a further MEF reminder is sent out, this must be returned within 7 days. If for any reason(s) the MEF is not received by the Agency, a caseworker will access a combination of

databases to verify the address of the NRP, in some situations employer(s) are contacted to provide an address and continue to try to make contact with the parent.

14. The Child Support (Information, Evidence and Disclosure) Regulations 1992 refers to person under a duty to furnish information or evidence. Any person falling within this paragraph shall furnish such information or evidence as is required by the Secretary of State to enable a decision to be made. The regulations require a person alleged to be a NRP to provide information to allow the identity of the NRP to be established. Normally this will be supplied on return of the MEF.
15. If an alleged NRP disputes parentage, Section 26 of the Child Support Act comes into effect. This section states, where a person who is alleged to be a parent of a child with respect to whom an application for a maintenance calculation has been made or treated as made denies that he is one of the child's parents; (the Secretary of State) concerned shall not make a maintenance calculation on the assumption that the alleged parent is one of the child's parents unless the case falls within one of those set out in subsection 2. These included, the alleged NRP being named on the birth certificate and refusal to take a DNA test. If any of these apply the Secretary of State can assume parentage.
16. Once a maintenance calculation is in force, a schedule is sent to the NRP giving details of how the calculation was made, taking into account earnings, income and other relevant information.

Analysis

Procedural matters: Section 1 'General Right of Access'

17. Section 1 requires that any person making a request for information is entitled to be informed by the public authority if the information is held and if so to have that information communicated to them.
18. The CSA informed the complainant that it did not hold the specific information requested, however, during the course of the investigation, the CSA has, in response to each of his questions attempted to provide further information and explanation as to why the information is not held.
19. In response to the complainant's first and second questions for:

"1. In how many cases in the years 2006 and 2007 to date has the CSA enforced claims against a total stranger / outsider, despite the fact that the father is married to the mother, is named on the birth certificate, and has parental responsibility, and where both parents have maintained in law and in legal matters that the father is the father?"

2. In how many cases have the CSA during 2006 and to date in 2007 started a second claim against a man where the first claim was already in existence.

The CSA explained that this information is not routinely recorded by the CSA but explained the procedure, policy and legislation used to assess parentage of a child (as outlined in the background section of this DN). The CSA also provided a link to the Agency's Quarterly Summary of Statistics.

20. The Commissioner understands that in relation to question one, the information is not held because the Child Support Agency only acts on a claim for child maintenance if the PWC (parent with care) alleges that there is a NRP (non resident parent). Therefore if the mother, assuming she is the PWC, maintains that the person married to her is the father there would be no case. In relation to question two, the CSA explained that it is not possible for a second claim to start for the same qualifying child (QC, a child for which there is a PWC and an NRP and an active claim for Child Support Maintenance) against a second NRP. In a situation where a PWC names an NRP; if she withdraws this assertion and names another man as the NRP then the first case would need to be closed before proceeding with a new claim against a different father.

21. In response to the complainant's third question for:

"How many cases in 2006 and 2007 to date have the CSA continued to target a man whilst the Independent Examiner was scrutinising the case."

The CSA explained that if a case is under investigation by the Independent Case Examiner, the Agency can still continue to collect maintenance, until the case has been resolved. The CSA informed the complainant that as at the end of November 2007 the Agency had a total of 982 cases with the Independent Case Examiner. This information is therefore held and has been communicated to the complainant.

22. In response to the complainant's fourth question for:

"In how many cases in 2006 and 2007 to date have the CSA refused to give the criteria under the law on which they based their claim to the non resident parent."

The CSA explained that it is not Agency procedure to refuse to communicate the criteria on which the maintenance calculation is based. When a maintenance calculation is implemented, a schedule is sent to the NRP giving details of how the calculation is made. If a NRP requests an explanation over the phone then this information is provided.

23. In response to questions five, six and eight:

5. In how many cases in 2006 and 2007 to date have the CSA deliberately and maliciously acted on a false claim by a woman against a man, and issued a claim against the man on false information.

6. In how many cases in 2006 and 2007 to date have the CSA implemented maintenance against a man within days of claiming to send him a questionnaire and where they were informed within days of their first communication, of the true facts, still proceed to corrupt the law and their practice.

8. In how many cases during 2006-2007 has the CSA acted on a malicious and invalid claim to enforce an unlawful claim against an innocent party.

The CSA explained that statistics to answer this request are not held by the CSA and are not recorded. At the time of any PWC making an application the CSA act in good faith and follow its procedures to identify the NRP, therefore there are no circumstances in which a claim is invalid. Every claim by a PWC is treated as valid and the information provided regarding the NRP is accepted as accurate. It expects an alleged NRP to co-operate with the CSA and provide information and evidence within a reasonable timescale to refute the claim, enabling the CSA to resolve the issue more efficiently.

24. The Commissioner, in relation to question six, considered if the CSA were able to provide the information by examining files to see in how many cases the MEF was returned and the NRP disputed any of the facts asserted and then proceeded to issue a maintenance calculation based on the original information supplied by the PWC. In doing so the Commissioner has considered the Information Tribunal case *Johnson v Ministry of Justice EA/2006/085*. In this case the complainant requested a number of statistics that the Ministry of Justice claimed were not held. However, the Tribunal found that whilst the particular statistics requested had not been compiled the information could be compiled by going through the individual files. In this case the Commissioner considers that by going through individual cases it may be possible for the CSA to establish the number of cases in which information was supplied to the CSA within a few days of the MEF being issued disputing aspects of the claim. However, the Commissioner has also considered that if the CSA were to consider that this was possible and attempt to do so, compliance would clearly exceed the cost limit.
25. Section 12 of the Act does not oblige a public authority to comply with a request if the authority estimates the cost of complying with the request would exceed the appropriate limit. The appropriate limit is set out in the Appropriate Limit and Fees Regulations 2004. These regulations set a limit of £450 to the cost of complying with a request for all public authorities subject to the Act not listed Schedule 1 part I. In estimating the cost of complying a public authority can take the following into account:
- determining whether it holds the information requested,
 - locating the information or documents containing the information,
 - retrieving such information or documents, and

- extracting the information from the document containing it.

The Regulations state: *'any of the costs which a public authority takes into account are attributable to the time which persons undertaking any of the activities mentioned in paragraph (3) on behalf of the authority are expected to spend on those activities, those costs are to be estimated at a rate of £25 per person per hour'*.

26. The Commissioner considers that in this case going through each file to establish the information requested in part six of the request would clearly exceed this limit. In September 2007 the Child Support Agency had a total active caseload of 1,363,700 this figure does not include cases which were received and closed or which have now ceased to be active (such as those where the qualifying child has left school and ceased to be a child for the purposes of the Child Support Act). If the request was limited to new intake received in 2006 this would still result in a total number of 279,200 files which would need to be viewed to establish the information requested.
27. In response to questions seven:

7. In how many cases in 2006 and 2007 to date have the CSA acted in a racist manner by using one criteria against a non British ethnic minority person compared with a British person, in effect operating a two tier system, one for the dominant community and another for minority communities.

The CSA explained that statistics of this kind are not recorded by the CSA. The CSA has developed corporate values, based on the core values of the Department for Work and Pensions to influence how everyone in the Agency will act.

28. The Commissioner understands that the CSA operates two different sets of rules based on when the case was received by the Agency, cases received prior to 2003 and those received afterwards. The rules do not differentiate between races and are applicable to all PWC and NRPs involved with the Agency. The CSA uses a computer system into which certain data is entered such as wage details, children in the different parties' households, shared care of any children to whom the case relates and in the older cases housings costs. Once this information is input the computer calculates the amount of maintenance due. The Commissioner is satisfied that the information requested in question 7 would not be held by the CSA as it cannot treat applications from different ethnic groups in a different manner.
29. The Commissioner has considered these responses in line with the background information provided by the CSA and considers that the CSA has responded appropriately by informing the complainant that the specific information is not held. The Commissioner also notes that the CSA provided some additional information to the complainant and links to the CSA's Quarterly Summary of Statistics.

30. The Commissioner is satisfied that the information requested is not held by the CSA and that by informing the complainant of this the CSA complied with the requirements of section 1(1) (a) of the Act. In relation to part 6 of the complainant's request the Commissioner considers it may be possible for the CSA to provide the information requested by reviewing all the files it holds, however, he accepts that to do so would exceed the cost limit at section 12 of the Act.

The Decision

31. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.

Steps Required

31. The Commissioner requires no steps to be taken.

Right of Appeal

32. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@tribunals.gsi.gov.uk.
Website: www.informationtribunal.gov.uk

If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 27th day of May 2007

Signed

**Gerrard Tracey
Deputy Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**