

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 11 February 2013

**Public Authority:** Department for Work and Pensions  
**Address:** Caxton House  
4<sup>th</sup> Floor  
6-12 Tothill Street  
London  
SW1H 9NA

### Decision (including any steps ordered)

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1. The complainant requested from the Child Support Agency (CSA)<sup>1</sup> a full and complete list of all its departmental, section, team and sub group email addresses however defined. This information was withheld by the Department for Work and Pensions under the exemption in 36(2)(c) of the FOIA.
2. The Commissioner's decision is that section 36(2)(c) of the FOIA applies to the requested information with the public interest in maintaining the exemption outweighing the public interest in disclosure.
3. The Commissioner therefore does not require the DWP to take any steps to ensure compliance with the legislation.

### Background

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4. On 1 August 2012, the work of the Child Maintenance and Enforcement Commission (the Commission), including the Child Support Agency
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<sup>1</sup> The Child Maintenance and Enforcement Commission was responsible for the Child Support Agency until its responsibilities were transferred to the Department for Work and Pensions on 1 August 2012.

(CSA), was transferred to the Department for Work and Pensions (the Department).

## **Request and response**

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5. On 5 July 2012 the complainant wrote to the CSA and requested information in the following terms:

*'Under the Freedom of Information Act and the principles of the right to know I would like to request a full and complete list of all Departmental, Sectional, Team and sub group email addresses within your organisation however they are defines within your organisation.*

*For example [CASTTeamxx@xxx.xxx.xx] which is a non-specific example for illustration purposes only to demonstrate that I am requesting departmental and sectional e-mail addresses rather than personal e-mail addresses'.*

6. The Child Maintenance and Enforcement Commission (the CMEC) which was responsible for the CSA at the time, responded on 26 July 2012 stating that it was withholding the requested information under section 36(2)(c) of the FOIA.
7. On 26 July 2012 the complainant requested an internal review as he was unhappy with the CMEC's response.
8. Following an internal review the DWP (having taken over the CMEC's responsibilities on 1 August 2012) wrote to the complainant on 23 August 2012. It stated that it was upholding the CMEC's decision to apply section 36(2)(c) of the FOIA to the requested information.

## **Scope of the case**

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9. The complainant contacted the Commissioner on 24 August 2012 to complain about the way his request for information had been handled and in particular the DWP's application of section 36(2)(c) of the FOIA to the requested information.
10. The scope of the Commissioner's investigation is to assess whether the DWP has correctly applied and engaged the exemption in section 36(2)(c) of the FOIA.

## **Chronology**

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11. On 25 October 2012 the Commissioner wrote to the DWP and requested copies of the withheld information together with further evidence and arguments in support of its application of section 36(2)(c) of the FOIA, including copies of the qualified person(s) opinion(s).
12. The DWP responded on 9 November 2012 with copies of the withheld information together with its further and more detailed evidence in relation to the application of section 36(2)(c) of the FOIA including copies of the two qualified persons' reasonable opinions.
13. On 13 November 2012 the Commissioner contacted the DWP and asked for its consent to share its further and more detailed arguments with the complainant which it agreed to do so on 16 November.
14. On 19 November 2012 the Commissioner sent the complainant copies of the DWP's further arguments and asked whether this information had persuaded him that section 36(2)(c) of the FOIA was now engaged.
15. The complainant responded on 20 November 2012 stating that he was not persuaded by the DWP's further arguments and invited the Commissioner to issue a Decision Notice.

## **Reasons for decision**

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### **The exemption**

#### **Section 36(2)(c) of the FOIA - prejudice to the effective conduct of public affairs**

16. Section 36(2)(c) of FOIA provides that information is exempt if in the reasonable opinion of the qualified person, disclosure of the information would, or would be likely to, prejudice the effective conduct of public affairs. It is a qualified exemption, so subject to a public interest test. The Commissioner will first consider whether the exemption is engaged and, if so, will move on to consider where the balance of the public interest lies.

#### **Is the exemption engaged?**

17. Information can only be exempt under section 36 if, in the reasonable opinion of a qualified person, disclosure would, or would be likely to, lead to the adverse consequences described in that part of the exemption – in this case the prejudice to the effective conduct of public affairs.

18. In order to consider the application of the exemption the Commissioner will first consider whether the opinion was obtained from a qualified person, and the manner in which this opinion was obtained. He will then consider whether the opinion of the qualified person was reasonable.

### **The qualified person(s)**

19. The DWP has explained to the Commissioner that two different qualified persons were approached in this case and has disclosed their opinions together with the information submitted to them.
20. It is apparent to the Commission that the reason why opinions were sought from two different qualified persons was because the initial response was dealt with by the CMEC and the subsequent one, following the internal review, was dealt with by the DWP after it had taken over the CMEC's responsibilities.
21. The initial opinion was provided on 26 July 2012 by Child Maintenance Commissioner and Chief Executive, Noel Shanahan, as CMEC's qualified person.
22. The subsequent opinion was provided on 23 August 2012 by the Rt Hon Chris Grayling MP, Minister of State for Employment as the DWP's qualified person.
23. The Commissioner is satisfied that Noel Shanahan and Chris Grayling MP were the qualified persons for the CMEH and the DWP respectively.

### **The qualified persons' opinions**

24. The DWP has provided the Commissioner with the information submitted to Noel Shanahan and Chris Grayling on 25 July and 23 August 2012 respectively to enable them to provide their opinions.
25. This information included a view on the likely effect of disclosure on the delivery of the DWP's services, the complainant's request and in the case of Chris Grayling the CMEC's response and the internal review request.
26. The DWP has also provided the Commissioner with copies of the respective qualified persons' opinions both of which supported the application of section 36(2)(c) on the basis that disclosure of the requested information would have a detrimental effect on the delivery of its service. Both qualified persons reached the opinion that disclosure of the DWP's internal email addresses and use of them by the public would result in its own internal email accounts being clogged. Such emails from the public would have to be sorted and forwarded to the correct

department. This would take time and distract staff from their core function resulting in an adverse effect on the DWP's delivery of service. The qualified persons supported the view that the public were already provided with adequate access to the DWP's services by the published channels and further access routes were not necessary.

### **Were the opinions reasonable?**

27. In deciding whether an opinion is reasonable the Commissioner will consider the plain meaning of that word, that is, not irrational or absurd. If it is an opinion that a reasonable person could hold, then it is reasonable. This is not the same as saying that it is the *only* reasonable opinion that could be held on the subject. The qualified person's opinion is not rendered unreasonable simply because other people may have come to a different (and equally reasonable) conclusion. It is only unreasonable if it is an opinion that *no* reasonable person in the qualified person's position could hold. The qualified person's opinion does not even have to be the *most* reasonable opinion that could be held; it only has to be *a* reasonable opinion.

### **Section 36(2)(c) of the FOIA**

#### **Would or would be likely to prejudice the effective conduct of public affairs**

28. The DWP has informed the Commissioner that it is applying the lower threshold under section 36(2)(c) that disclosure of the requested information would be likely to prejudice the effective conduct of public affairs.
29. Prejudice to the effective conduct of public affairs could refer to an adverse effect on the public authority's ability to offer an effective public service or to meet its wider objectives or purpose.
30. In *Ian Edward McIntyre v Information Commissioner and the Ministry of Defence*, 4 February 2008, the Information Tribunal said at paragraph 25:

"We take a similar view to the Commissioner that this category of exemption is intended to apply to those cases where it would be necessary in the interests of good government to withhold information, but which are not covered by another specific exemption, and where the disclosure would prejudice the public authority's ability to offer an effective public service or to meet its wider objectives or purposes due to the disruption caused by the disclosure or the diversion of resources in managing the impact of disclosure"

31. In deciding whether section 36(2)(c) is engaged the Commissioner has considered the nature and type of prejudice disclosure of the requested information (which he has seen) would cause to the effective conduct of the DWP's public affairs.
32. The DWP has explained to the Commissioner that the requested information comprises of 2,350 email addresses which were created solely for internal CMEC purposes to support the administration of the child support scheme and for wider business support functions. Many of these have specific functions and are only used by staff in the relevant part of the business. Furthermore, the DWP has stated that because many of these email addresses are group ones and are used for many different purposes, they change all the time in response to changing business needs. In fact, it has pointed out that some of the 2,350 email addresses requested were already out of date by November 2012, 4 months after the request was made.
33. The DWP has argued that if these email addresses were published there would be a significant risk that its clients and members of the public would attempt to use them for case work correspondence or malicious purposes and this would have a detrimental effect on the delivery of its child maintenance service for a number of reasons.
34. Firstly, the DWP has argued that disclosure of its internal email addresses would prevent it from providing good customer service. It has pointed out that although it is fully resourced to respond to and channel all postal and telephone enquiries to the right team, it is not able to do this in the same way with email communications sent to internal addresses. It does have a central email address for any clients who choose to contact or complain about it via electronic means<sup>2</sup> and this is managed by a resource within its National Helpline who check it every hour. However, it does not have the resources and facilities to regularly access, monitor and check communications sent to various internal emails addresses from external sources. It therefore believes that there would be a very significant risk that emails sent to addresses other than the central one or ones would not be dealt with promptly (especially if the recipient is absent) or at all, if the address has ceased to be active.
35. The complaint has stated it is a matter of public record that the level of customer service from the CSA is exceptionally poor. He has also stated

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<sup>2</sup> <https://www2.dwp.gov.uk/contact-cmoptions/en/contact.asp>

<https://www.gov.uk/child-maintenance/how-to-complain>

that most organisations experience problems with misdirected emails which have to be forwarded on to the correct person or department.

36. The DWP has argued that if it was to publish 2,350 internal email addresses this would present a highly confused picture for its clients who would not know which address to use or which team to approach. In all likelihood this would result in emails being misdirected with the consequential re-routing resulting in delays and a detrimental effect on the customer's perception and experience of the DWP's service.
37. The complainant believes that forwarding the right message to the right department is efficient. Also he has pointed out that correspondence from the DWP on existing cases already includes the 'team'<sup>3</sup> dealing with the matter and he believes that direct access to that team using a list of email addresses would help efficiency.
38. Secondly, the DWP has pointed out that dealing with the misdirected emails would interrupt its internal processes as staff in specialised non-client facing roles would have to redirect the enquiries compromising their ability to carry out their own work. This would result in an extremely inefficient use of public resources and a waste of significant amounts of public money.
39. The complainant does not accept that the DWP would incur additional costs re-directing emails as it is already doing this with communications received via its generic email address.
40. Thirdly, the DWP believes that publication of the internal email addresses would increase the risk of electronic threats which in turn would further compromise its customer service and value for money. It has pointed out that the publicised email addresses could be used to make an email DOS (denial of service, also known as a spam DOS) where either the email server or the mailbox owners are overwhelmed by the volume of emails received. In the past the Child Support Agency (CSA) has been the focus of anti CSA internet campaigns and in the DWP's opinion there is a risk that such groups might use these addresses maliciously. Furthermore, the DWP has said that even if a concerted attack did not materialise, the internal email addresses if published on the web could be farmed to provide targets for incoming spam. The DWP accepts that a proportion of these could be filtered but

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<sup>3</sup> <https://www2.dwp.gov.uk/csa/v2/en/contact/index.asp>

there would still be an increased risk that email boxes could become clogged up and virtually un-useable.

41. The complainant does not believe that the risk of electric threats is as great as the DWP suggest. He expresses the view that government department e-mail servers are already secure and are set up to prevent denial of service, malware or malicious requests. Also he points out that any new and evolving electronic threats can affect any organisation and its technology would evolve to prevent or reduce the risk of these. The complaint does not believe that any anti-CSA internet campaigns in the past have resulted in malicious or deliberate attacks of their email system.
42. Fourthly, the DWP has stated that the disclosure of the internal email addresses might result in the accidental release of personal contact details. Apparently it is not uncommon for the group email addresses to respond to incoming communications with an 'out of office' message to staff which redirects them to personal email addresses and telephone numbers of junior CSA colleagues many of whom will not be in public facing roles. The DWP has pointed out that if members of the public had access to these this would create further disruption to its business and put the affected members of staff at risk of harassment.
43. The complainant accepts that publication of the DWP's internal email addresses may result in emails being redirected to personal email addresses and staff put at risk of harassment. However, he argues that this could and does happen with other government organisations and furthermore would happen with post and telephone conversation as well. However, he does not believe that the actions of a few misguided individuals should be grounds for withholding the internal email addresses requested.
44. Finally, the DWP has pointed out that if it publishes its internal email addresses in response to the complainant's request it would be faced with the prospect of incurring additional costs and time in keeping them up to date in order to avoid some of the potential problems identified above. Any changes required would attract new costs from the DWP's IT suppliers and would impact on the CSA procedures, training and possibly some of its automated systems.
45. Having seen the requested information in this case and carefully considered the arguments advanced by both the DWP and the complainant the Commissioner is satisfied that the Qualified Persons' opinions were objectively reasonable in substance. This is because he is satisfied that it was reasonable for the Qualified Persons to conclude that disclosure of the requested information (comprising of in excess of 2,000 internal email addresses) to the public would be likely to cause an



detrimental effect on the DWP's ability to carry out one of its core functions of administering the statutory child maintenance service. He considers that the evidence advanced by the DWP supports the opinions of the Qualified Persons that disclosure of the requested information would be likely to cause an increased and inappropriate use of email traffic resulting in the clogging up of its internal email system. Furthermore, the requested information, if disclosed, would present a confused picture to its clients, increase the risk of electronic threats through malware and spam, put personal data at risk and increase costs associated with updating the database to ensure service standards are maintained.

46. The Commissioner has concluded that the opinion of the qualified person appears to be both reasonable in substance and reasonably arrived at, and he therefore accepts that the exemption found in section 36(2)(c) is engaged.

### **The public interest test**

47. For the reasons outlined above the Commissioner is satisfied that the qualified persons opinions are reasonable ones. He therefore considers that section 36(2)(c) is engaged. He has now gone on to consider whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **The public interest arguments for disclosure**

48. The DWP accepts that there is a public interest in disclosing information which will make it more accountable and give the public a greater understanding as to how its operates and the services it provides. It might be argued that disclosure of a detailed directory of internal email addresses would assist with this. However, the DWP believes that as the internal email addresses are so extensive and varied the opposite would be true. In fact some of its internal email groups are not even related to client services. Furthermore, it has pointed out that organisational charts and other information regarding its structure are readily available on its website<sup>4</sup>.
49. The DWP recognises there is a public interest in improving the transparency and effectiveness of its services increasing accessibility to them by various means including the use email addresses for specific

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<sup>4</sup> <http://www.dwp.gov.uk/about-dwp/how-we-are-organised/>

departments and/or services. However, the DWP does not believe that the disclosure of the requested information will assist with this. It has pointed out that there are already a number of routes published on its website through which members of the public can access and complain about its services, including the use of email<sup>5</sup>. The DWP has added that its preferred method of contact is by telephone as it allows the gathering and processing of information quickly to achieve the right outcome for its customers. Also, it ensures that clients experience little delay with any queries or problems raised and confidential information is kept secure. The DWP cannot answer enquiries about existing child support cases by e-mail due to the security of customers' personal data. Where the DWP is required to respond to a client's email enquiry which includes personal information it will respond by telephone or post.

50. The complainant has stated his belief that as the DWP's IT system does not record telephone calls, the use of emails would provide a written record of any communications. In his opinion this would increase efficiency and therefore be in the public interest. However, the DWP has stated that its preferred method of communication is by phone and letter for the reasons indicated above.

### **The public interest arguments against disclosure**

51. There is a strong public interest in the DWP being able to operate in an efficient and cost effective manner in the way in which it administers the statutory child maintenance scheme. The DWP believes that by publishing the requested information comprising of 2,350 internal email addresses there is a significant risk that its clients and members of the public will use some of them for casework correspondence or even malicious purposes. This would be likely to damage that CMEH/CSA's efficiency which in turn would incur additional costs to the taxpayer. These additional costs would include staff being taken away from their core functions to redirect misdirected and incorrectly emails and the IT department/contractor having to review and update the internal database. It is not in the public interest for the effective operation of the CSA to be put at risk of serious disruption or its customer strategy to be compromised through inappropriate email traffic being sent to the internal email addresses requested. The DWP does not believe that

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<sup>5</sup> <https://www2.dwp.gov.uk/contact-cmoptions/en/contact.asp>

<https://www.gov.uk/child-support-agency>

<https://www.gov.uk/child-maintenance/how-to-complain>

disclosing the internal email addresses will enhance its efficiency and make it more costs effective.

52. The DWP believes that there is a public interest in taking steps to minimise the risk of electronic threats to its IT systems through various channels such as malware and spam. One way to do this is to keep the number of external email access points to a minimum. The DWP do this by having a single port on its website through which email enquiries on child maintenance can be channelled<sup>6</sup>. It also has an email access portal through which complaints about child maintenance may be directed<sup>7</sup>

### **Balance of the public interest**

53. When considering the balance of public interest arguments, the Commissioner is mindful that the public interests test as set out in the FOIA relates to what is in the best interests of the public as a whole as opposed to interested individuals or groups.
54. When making a judgement about the weight of the DWP's public interest arguments, the Commissioner considers that he is correct to take into account the severity, extent and frequency of prejudice to the effective conduct of its public affairs.
55. The Commissioner notes that the main public interest arguments advanced by the DWP against disclosure include the clogging up of its internal email system caused by incorrectly addressed communications requiring redirection and attention, the exposure of its IT systems to electronic attacks in the form of malware and spam, the need to constantly review, update and publish its internal email directory and the risk to its staff of harassment and disclosure of personal data.
56. The Commissioner is satisfied that the above arguments would amount to a fairly severe prejudice to the effective conduct of its public affairs and extent and frequency of this would be potentially unlimited. He has therefore given significant weight to these public interest arguments which support the requested information being withheld.
57. The Commissioner has given some given weight to the public interest arguments of organisations being transparent and accountable and recognises that that this could be enhanced by the publication of certain specific internal email addresses of customer facing departments or

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<sup>6</sup> <https://www2.dwp.gov.uk/contact-cmoptions/en/contact.asp>

<sup>7</sup> <https://www.gov.uk/child-maintenance/how-to-complain>

staff. However, he does not believe that the publication of the requested information comprising of 2,350 internal email address, many of which are for individuals or groups not in public facing roles and some of which are already redundant or out of date would enhance the transparency and accountability of the DWP which already has a range of contact methods on its website. It also publishes on its website organisational charts and other information regarding its structure and functions.

58. The Commissioner recognises that there is a public interest in allowing the public to contact the DWP and access its child maintenance services with ease and efficiency by providing appropriate communication channels in which to do so. However, he believes that such access is already provided by phone, post and email as set out in detail on its website<sup>5</sup>. The Commissioner does not believe that this access will be improved or enhanced by the publication of the requested information. On the contrary he believes that the publication of 2,350 internal email addresses will present a confused picture to the DWP's clients and customers and increase its administration and IT expenses by re-directing emails sent to incorrect addresses and keeping the email directory up to date and protecting personal data while minimising the risk of electronic threats through malware and spam.
59. In the light of the above the Commissioner finds that the public interest lies in maintaining the exemption in section 36(2)(c) of the FOIA and therefore withholding the requested information outweighs the public interest in disclosure.
60. The Commissioner is therefore satisfied that the requested information was correctly withheld by the DWP and upholds its application of 36(2)(c) of the FOIA.

## Right of appeal

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61. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

62. 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.

63. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
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**Cheshire**  
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