

Department for Work and Pensions (DWP)
Central Freedom of Information Team

freedom-of-information-request@dwp.gsi.gov.uk

Our reference: IR543

Date: 8 November 2017

Dear A. James

Thank you for your Freedom of Information (FOI) review request, ref VTR3653, which we received on 26 October 2017.

I am of a senior grade to the person who dealt with your request; I was not involved previously, and can confirm that I have carried out an internal review. I am now in a position to respond to you.

You asked:

Firstly, you have provided an incomplete (redacted) organisational chart. In an earlier response to VTR3653 you claimed there were 58 employees within the FIU. However, your organisational chart only shows 10 employees of the FIU (I have excluded Marc Gill as he is clearly not a full time employee within the FIU. Please reissue the chart showing a complete picture of the headcount within the FIU.

Secondly, your response to the refusal to supply the policies and procedures of the FIU is not accepted. Firstly, I did not ask the DWP for an assessment of what they consider to be "fair" child maintenance. Nor do I have any interest in such an opinion.

You also say

"This information could also be used as a guide for individuals who wish to commit fraud"

To use such logic is a total nonsense and would be similar to someone saying "we are not going to tell you how we investigate theft as it may encourage people to steal". Presumably the FIU follows a process when a case is passed to them by others in the Child Maintenance Service. This process may include things like requesting banking information from banks, building societies etc. It may also involve credit checks, internet history searches and other intrusive methods in an attempt to implicate someone.

None of this would be harmed by the disclosure of the information I have requested and your reliance on

I have reviewed the legislation you have cited (2012 Child Support Maintenance Calculation Regulations and The Child Support (Collection and

Enforcement) Regulations 1992) and can see nothing in there about a general intrusive power granted to the Child Maintenance Service to fish around in the affairs of law abiding citizens who happen to have a case with the Child Maintenance Service. Thus, it is my belief that the FIU is a department acting Ultra Vires within the Department of Work and Pensions and should you not disclose the documents I have requested for this department of the Civil Service then I will be making a comprehensive complaint to the ICO and am willing to take this to a Tribunal should the circumstances warrant it.

You say "For non criminal complex earner cases and variations we use the Policy, Law and Decision Making Guidance (PLDMG) and the relevant tax legislation for self-employed which is the Income Tax (Trading and Other Income) Act and the Child support maintenance calculations regulations 2012.

With regards to applying Section 42; some of these cases will involve criminal activities which are highlighted through the investigations; if these investigations enter into criminal proceedings, lawyers will be involved. Section 42 is exempt information."

You have also made reference to PLDMG in the response. To be clear, are you saying this is exempt information under Section 42? Is this information not available to all caseworkers in the Child Maintenance Service so it is unclear what further "advice" the FIU would be able to offer? At no point did I request information on SPECIFIC CASES where legal action may be in place but concerned by request with departmental policies and process.

So, once again;

- Please disclose the policies and procedures used by the FIU in handling cases from the point at which it is passed to their hands to the point at which it leaves their responsibility.

DWP Response:

It may be helpful if I start by clarifying the remit of the Freedom of Information Act (FOIA). The FOIA gives any person legal right of access to any and all recorded information which is held by a public authority. The FOIA does not oblige a public authority to create new information to answer questions; nor does it require a public authority to give advice, opinion or explanation in relation to issues/policies under question.

I have reviewed the response to your Freedom of Information request (ref: VTR3924) please find included with this response at Annex A, an organisation chart showing the structure of the Child Maintenance Groups Financial Investigations Unit (FIU). With this version we have included the number of investigators on each team.

Please note, in our previous correspondence (ref: VTR3653) we stated there were 58 investigators. There has since been a reduction in the numbers of

FIU Investigators and as of October 2017 there were 54 staff employed by the Child Maintenance Group as investigators for the FIU.

As previously advised names of staff below Senior Civil service grade are considered (as confirmed by the Information Commissioner's Office) exempt from release under section 40(2) of the Freedom of Information Act as this constitutes their personal data. The Senior Civil Servant who leads Child Maintenance Group Legal Enforcement is Marc Gill, Arrears and Enforcement Director.

As previously stated the FOI Act does not require a public authority to provide opinion or explanation in relation to issues and policies under question. I have reviewed your previous correspondence and uphold the decision made to apply both Sections 42 and 31 (a) and (b) to the release of policies, procedures and legal guidance used by the FIU. On this occasion we have nothing further to add.

If you have any queries about this letter please contact me quoting the reference number above.

Yours sincerely,

DWP Central Fol Team

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwpgsi.gov.uk or by writing to: DWP, Central Fol Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF
www.ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745