

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

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

Our reference: IR2018/14931

Date: 4 January 2019

Dear Mr A. J. Wilson

Thank you for your Freedom of Information review request received on 20 December. You asked:

I am writing to request an internal review of Child Maintenance Service's handling of my FOI request 'FIU Appraisal Criteria'.

In the answer provided you make the following errors which I am highlighting:

In respect of the index of policies and procedures you claim that the FIU does not operate under any internal policies and procedures. I believe this to be incorrect as paragraph 1.1 of the CPIA code of practice says the following

"Persons other than police officers who are charged with the duty of conducting an investigation as defined in the Act are to have regard to the relevant provisions of the code, and should take these into account in applying their own operating procedures."

Thank you for the information on the course run by Portsmouth University however, as an external course it was not relevant to the content of the request.

Finally you say "With regards to your questions regarding performance measurement criteria, appraisal criteria , complex earners investigations, the Department does not release information in relation to investigation and detection of fraud under section 31 (1) (a) and (b) of the Freedom of Information Act 2000. "

I would make the following points:

- 1. Section 31(1) (a) and (b) of the FOIA act provide an exemption from disclosure for the "prevention and detection of crime" and the "apprehension or prosecution of offenders".*
- 2. I was very specific in limiting the request to "materials relevant only to activities relevant to procedures used in the non criminal element of the FIU's work" Section 31(1) can not be used to prevent disclosure.*
- 3. Complex earner investigations are not fraud investigations and are now undertaken as a matter of routine.*

4. Performance measurement and appraisal criteria are not subject to Section 31(1).

In any case, Section 31(1) is a prejudice based exemption and a public interest test must be completed. Your response makes no mention of such a test having been applied so you have utilised the exemption incorrectly in any case.

A full history of my FOI request and all correspondence is available on the Internet at this address:

https://www.whatdotheyknow.com/request/fiu_appraisal_criteria

I look forward to receiving the materials originally requested in the interests of open and transparent government.

DWP Response:

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.

I am content that your original request 11546 was dealt with appropriately and therefore I uphold the original response.

You asked about an index of policies and we advised in our earlier response that FIU does not operate under any internal policy or guidance; therefore there is no index we can provide. You also asked about performance measurement criteria, appraisal criteria and we advised, the Department does not release information in relation to investigation and detection of fraud under section 31 (1) (a) and (b) of the Freedom of Information Act 2000.

This section is considered and exempts information whose disclosure would, or would be likely to, prejudice certain specified law enforcement matters including, but not exclusively:

- the prevention or detection of crime;
- apprehension or prosecution of offenders;
- the administration of justice and
- the assessment or collection of any tax or duty.

With regards to complex earners investigations, we have confirmed that whilst FIU investigate suspected criminal activities, it also deals with complicated issues around both employed and self-employed income known as Complex Earners. On receipt of referral the FIU will conduct an investigation to test the information provided and will determine whether criminal activities have taken place. Therefore as with all cases referred to FIU, Complex Earners are investigated within FIU and Section 31(1) (a) and (b) of the FOIA act provides an exemption of the investigative actions and activities taken on these

cases as explained previously in earlier responses VTR2047 refers where we provided you with information with regards to income considerations. .

You have referenced a new point regarding CPIA code of practice in this review and I can confirm applies to criminal investigations and therefore FIU investigations comply with the CPIA.

I hope this is helpful but 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 content with the outcome of this 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

ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745