

DWP Central Freedom of Information Team

e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our Ref: VTR219

Date: 29 January 2015

FAO: Mr N Parker

By email to: request-248751-6a89c642@whatdotheyknow.com

Dear Mr Parker,

Thank you for your Freedom of Information request received at the Independent Case Examiner's (ICE) office on 18 January 2015.

It may be helpful if I start by clarifying the remit of the Freedom of Information Act. The Act gives any person legal right of access to any and all recorded information which is held by a public authority. The Act does not require the Department to provide opinions or explanations, generate answers to questions, or create or obtain information it does not hold. In cases where a person asks a question, rather than requests recorded information, we do our utmost to provide the recorded information that best answers the question. Once the public authority has provided the recorded information, it has met its obligations under the Act; interpretation of the information provided is left to the requestor.

You asked:

The law in the UK I believe states that an Ombudsman must investigate maladministration. The term maladministration is wide and ranging.

Towards the end of the year 2014 the ICE did not uphold my complaint in relation to CSA civil servants violating the Civil Service Code, whilst in the same paragraph of the same ICE report the ICE agreed it was maladministration. This is obviously a complete contradiction and I feel a further violation as you have not upheld my complaint whilst agreeing it was maladministration without a remedy!!!!

Based on the first two paragraphs could you explain the following;

a) Could the ICE please explain as it is in the Ombudsman's association what is the ICE policy, remit and definition of maladministration in conformity of UK law?

b) As you are an Ombudsman, I believe you must investigate maladministration if maladministration has been carried out as per UK law, does the ICE legally have to rectify the maladministration so that a citizens rights are not further violated. If so, could I have a copy of your policy documents in relation to remedies associated to maladministration. Could I also have, if the ICE has it, a guideline that the ICE uses of policy documents in relation to maladministration and UK law.

c) According to your records and knowledge has a citizen ever used one of your reports in a court of law for his/her defence?

d) Based on the first two paragraphs, as you are an Ombudsman and must investigate maladministration, have you any policy documents which you must adhere to in relation to justice and violations of maladministration to be rectified in compliance with the United Nations, the European Court of Human Rights and the UK justice system and my Human Rights to an effective remedy. If you have any policy documents could you please provide them.

e) Based on the first two paragraphs, could you please explain for freedom of information purposes, within your remit on what grounds can you not uphold a complaint in relation to maladministration whilst at the same time stating and agreeing that it was maladministration in your report, whilst it is the Ombudsman's purpose to investigate maladministration and provide an effective remedy in compliance with UK law.

The ICE office definition of maladministration is as stated in the English Oxford Dictionary. This shows the definition of as being *inefficient or dishonest administration; mismanagement*.

I can confirm that the ICE is not an Ombudsman. The ICE is an independent office holder appointed by the Permanent Secretary of the Department for Work and Pensions to provide an impartial complaint handling service to customers who are dissatisfied with the Department's responses to their complaints, her role is non-statutory and ICE investigations carry no weight in law. The ICE office does not have policy documents in relation to maladministration and UK law.

With regard to your points C and D the ICE office does not hold information within the description specified in your request. At point E you have asked for an explanation, within our remit, on what grounds the ICE office cannot uphold a complaint yet still agree that there has been maladministration. I can confirm that a complaint considered by the ICE office is investigated on its own merits based on evidence provided by the relevant business and the complainant. The format of Freedom of Information does not allow for responses to individual cases to be provided, this is because Freedom of Information requests and replies are published in the public domain. Therefore any response regarding your specific case would breach Data Protection Policies. However if you have concerns regarding the ICE investigation into your complaint, all ICE reports explain that a complainant can contact the ICE Customer Service Team to raise their concerns. Their contact details are ICE Customer Service Team, PO Box 209, Bootle, L20 7WA. If they have already provided a response, this would provide details of how to contact the Parliamentary and Health Service Ombudsman.

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

Yours sincerely,

DWP Strategy 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.gov.uk