

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 January 2022

Public Authority: DWP
Address: Caxton House
Tothill Street
London SW1H 9NA

Decision (including any steps ordered)

1. The complainant has requested information relating to Child Maintenance Service (CMS) Cases.
2. The Commissioner's decision is that Department for Work and Pensions (DWP) is entitled to rely on section 12(2) to refuse the request.
3. The Commissioner does not require DWP to take any steps as a result of this decision notice.

Request and response

Request 1 - FOI2021/4972 - originally had 7 questions.

4. On 20 January 2021, the complainant wrote to DWP and requested information in the following terms:
*"1. How many open cases do the Child Maintenance Service currently have?
1A. How many open cases did the CMS have at the end of the last reporting year?
2. How many cases were closed voluntarily in the last reporting year?
3. Please give the dates used for the "reporting year" detailed in these requests.*

4. *How many cases were closed in the last reporting year because the non-resident parent died?*
 5. *How many cases were closed in the last reporting year because the resident parent died?*
 6. *How many parents (according to CMS records) have current cases with a 6 nights over 14 night care arrangement with 2 children?"*
5. DWP requested clarification with regard to part 2 of the request on 5 February 2021. The complainant responded the same day advising that DWPs understanding was correct and further expanded stating:
- "It may be useful to further develop this question into getting a division between how many cases have been closed at the request of the Resident Parent and how many have been closed at the request of the Non Paying Parent."*
6. DWP also requested clarification for part 6. The complainant advised that he needed to seek further advice and was therefore happy to extend the deadline for a response to that point.

Request 2 - FOI2021/10063

7. DWP contend that the clarification provided for part 2 was, in effect a new request with seven slightly different questions:
- "1. How many open cases do the Child Maintenance Service currently have?*
- 1A. How many open cases did the CMS have at the end of the last reporting year?*
- 2. How many cases were closed voluntarily **at the request of one or both parents in the last reporting year?***
- 2A. How many cases have been closed at the request of the Resident Parent and how many have been closed at the request of the Non Paying Parent.***¹
- 3. Please give the dates used for the "reporting year" detailed in these requests.*

¹ Commissioner's emphasis

4. How many cases were closed in the last reporting year because the non-resident parent died?

5. How many cases were closed in the last reporting year because the resident parent died?"

** DWP interpreted the request for part 2A as asking for the data to be split by Paying Parent and Receiving Parent."*

8. DWP responded on 2 March 2021 citing section 12, primarily with regard to part 2A. It stated:

"The reason being that information regarding which parent requested to close the case is not readily available. We estimate the time taken to obtain this information would exceed 3½ working days."

9. Under section 16 DWP also suggested a different way to request the data for part 2, and to cover part 3, it suggested a suitable time period of July 2019 to June 2020. It also suggested that this should be used in any refined request for parts 2, 4 and 5.
10. DWP further suggested the complainant ask for the number of cases closed from July 2019 to June 2020 (inclusive), where the recorded reason for closure is "Death of Client" (broken down according to which parent's death triggered the closure). It pointed to the published CMS statistics which could provide an answer for parts 1 and 1A to the end of September 2020.
11. The complainant then raised a complaint about the response and instructed DWP to answer parts 3 to 6.

Request 3 - FOI2021/18356:

"3. Please give the dates used for the "reporting year" detailed in these requests.

4. How many cases were closed in the last reporting year because the non-resident parent died?

5. How many cases were closed in the last reporting year because the resident parent died?

6. How many parents (according to CMS records) have current cases with a 6 nights over 14 night care arrangement with 2 children?"

12. DWP replied that it still required the complainant to specify questions 3 to 5 more precisely (as per the section 16 guidance, and specific suggestions it provided). It further advised that it was still waiting for

clarification of question 6 so were unable to provide a substantive response.

13. DWP considered the correspondence as three requests due to the elements clarified regarding 2A and the subsequent clarification of parts 3 – 6. Accordingly, DWP has provided three responses and internal reviews.

Scope of the case

14. The complainant contacted the Commissioner on 20 February 2021 to complain about the way their request for information had been handled.
15. The Commissioner considers the scope of this case to be to determine if the public authority is entitled to rely section 12(1) of the FOIA in response to the request.

Reasons for decision

Section 12 – cost of compliance

16. Section 1(1) of FOIA states:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds the information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him"

17. Section 12(2) of the Act states:

"Subsection (1) [of section 12] does not exempt that public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone will exceed the appropriate limit".

18. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Fees Regulations') at £450 for public authorities such as the university.
19. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that

section 12(1) effectively imposes a time limit of 18 hours for the public authority.

20. Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
 - determining whether the information is held;
 - locating the information, or a document containing it;
 - retrieving the information, or a document containing it; and
 - extracting the information from a document containing it.
21. DWP confirmed that relevant information does exist on datasets used by analysts, but these variables are not commonly used in day-to-day analysis and are not well understood. It has therefore proposed a method which it thinks should provide the information requested, but this is subject to the investigation steps (listed in column 4 of the attached annex) not uncovering any major issues.
22. It explained that if the investigations show that it is not possible to proceed via querying the datasets, then DWP would have to consider individual case checking. As the Official Statistics indicate that approximately 42,000 cases were closed in the suggested period (July 2019 to June 2020) then to assess all these cases manually and extract the required information would considerably add to the already exceeded cost limit.
23. DWP provided a table giving the details of the estimated time it would take to provide the information for questions 2 to 5 – a total of 4.9 days. DWP was unable to provide a cost estimate for question 6 as it has not yet been clarified. The table is provided in an annex at the end of this notice.
24. DWP confirmed that it had not undertaken a sampling exercise in order to determine this estimate but it had been based on the use of digital/electronic data.
25. In conclusion, DWP explained that it had heard nothing more from the complainant since advising that it would exceed the cost limit to comply with the request and it considered it had gone as far as it could with the requests. The only change it could make to its previous responses would be updating the time period if the request were asked now, namely the year to June 2021.

26. In correspondence to the Commissioner the complainant stated that the same information had been provided to another individual. The Commissioner therefore asked DWP to investigate if this had been the case, and if so, the information should already be easily accessible.
27. DWP stated that the complainant did mention in his final complaint to it on 6 March 2021 that he had acquired the information from elsewhere but did not say what that "information" actually was, or if it answered all of his questions.
28. It further stated that in the 12 months prior to 6 March 2021 it could confirm that it had not supplied any information outside of the FOIA that would answer the questions raised. However, it referred to two FOI requests with information that could be used, or be readily updated, to answer part 4 of the request, i.e. *"How many cases were closed in the last reporting year because the non-resident parent died?"*
29. On 18 February 2021 it provided information for FOI2021/5771 via the WDTK website which answered the following request:

"Please provide the number of cases closed in the financial year 2019/20 due to the death of the paying parent."
30. An earlier request FOI2020/11488 was answered on 3 April 2020 and gave the same information for the previous year, i.e.

"Please provide the number of cases on collect and pay for 2018 to 2019..... Please provide the number of cases ceased during the same period due to death of paying parent"
31. In its response to FOI2021/10063 DWP also pointed to the published CMS statistics which at that time provided the information requested in questions 1 and 1A to September 2020.

The Commissioner's decision

32. It is at DWP's discretion how it records the information it holds to meet its business and statutory requirements. The Commissioner cannot require DWP to hold Child Maintenance cases in formats that can be searched by any specific scenario.
33. The Commissioner notes that DWP has referred to two other responses provided on WDTK relating to cases closed due to the death of the paying parent that could be updated for the year requested, and therefore provide a response to part 4 of the original request. However, it has not confirmed if this has been done, or whether it would include this in its cost calculation for this case.

34. Nevertheless, the Commissioner accepts that in order to determine whether DWP holds the requested information, it would be required, minimally, to carry out the work detailed in the attached table. Furthermore, having completed this it would then need to locate, retrieve and extract any information within the scope of the request adding to the time already taken. Clearly this would increase the costs in excess of the appropriate limit
35. The Commissioner therefore finds that DWP is entitled to rely on section 12(1) in this case.

Right of appeal

36. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

37. 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.
38. 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

Susan Duffy
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

Estimate of costs

Question	Step	Programming required	Investigation required	Time (days)
2/2A	Preliminary investigation into how to deliver the information for Q2/2A	N/A	This work has been carried out.	0.5
	1. Get GB CMS cases that were closed during the relevant year	1a. Aggregate each monthly CASE dataset (which would give all cases that were active during the end of each month) in the year, pick out GB cases that closed during the year and ensure no double counting.	Nil	0.2
		1b. Apply methodology used in Official Statistics to filter out cases which were CSA Arrears only	Nil	0.2
		1c. Ensure results corroborate	Nil	N/A

		with Official Stats table 4. (This cannot be included in the cost estimate.)		
	2. Find Service Request (SR) 'Case Closure' records which were completed during the relevant year	2a. Aggregate each monthly SR dataset (which would give all active SRs during each month).	Nil	0.2
		2b. Deduplicate, ensuring only the final (latest) record for each SR remains. Filter to SRs which were fully implemented.	i) Liaise with Operations colleagues to investigate and determine appropriate criteria for ensuring only fully implemented SRs are counted.	0.3
	3. Cross-reference results of (2) with results of (1)	3a. Match final dataset from step 2 with step 1, to find out which closure SR relates to which case closure	ii) Initial testing suggests the number of case closure SRs is significantly different from the number of case closures recorded by official stats. This will require liaison with Operations colleagues to investigate and determine the reason for this, and to understand how best to resolve the mismatching	1

			numbers.	
	4. Tabulate closures according to whether closure was 'voluntary' and 'which parent requested the closure'	4a. Tabulate resultant dataset from Step 3, by "Reason for Closure" code and "Source"		0.1
		4b. Recode "Reason for Closure" to determine to whether closure was 'voluntary'.	iii) "Voluntarily" is not well defined by the question so we suggested a possible interpretation but the requestor has not confirmed if this is acceptable. We would need to check with Operational colleagues whether an alternative approach is possible.	0.2
			iv) Understand why there are many 'blank' records and whether these should be considered 'voluntary' or not again by liaising with Operational colleagues.	0.5
		4c. Recode "Source" to determine 'which parent requested the	v) Liaise with Operations colleagues to determine whether the 'Source' of the closure SR can	0.3

		closure'	generally be assumed to be the parent who requested the change	
			vi) Work out if and how we should classify cases where the source is Blank / 'BANCS' / 'System'.	0.5
Q4	Working under the assumption that the interpretation suggested in our S16 advice to 10063 is acceptable to the requestor (which he did not confirm)	Update the code from FOI2021/5771 and run off the data and draft response	N/A	0.5
Q5	Working under the assumption that the interpretation suggested in our S16 advice to 10063 is acceptable to the requestor (which he did not confirm)	Amend and update the code from FOI2021/5771 to cover Receiving Parents and run off the data and draft response	N/A	0.5
Total				4.9