

Report on Alleged CSA Breaches

Compliance Program

Reporting Period – May 2002

Identified Alleged Public Service Breaches

Date : 20th May 2002

Report Reference : MRACSACP-001

Prepared by : Special Projects Group

Reference	Issue	Identified Alleged Breaches
MRA1	<p>The father had a letter from his doctor saying that he was to reduce his hours of work for his health. Child Support said that they acknowledge all this but the letter does not say that he can't work more than he is now. In the ex's response she states that she is a doctor and she saw the father many times and at no time did she see him suffering from ill health. The CSA accepted the mothers statement (although she did not examine him) and rejected the fathers medical report from a doctor who did examine him. The decision was appealed and the following occurred.</p> <p>When questioned by the Objection officer about statements made by the SCO she said at the interview she either had no recollection or didn't make any notes about it. It is interesting that we didn't get a copy of these notes in our FOI request.</p> <p>Regarding the CS making the father now increase his hours so as to satisfy this demand the International Convention on Civil and Political Rights which is what the Human Rights and Equal Opportunity Commission Act uses, states "No one shall be required to perform forced or compulsory labour" it was listed in the same Article (8) as slavery.</p> <p>CS Staff Michelle Buck</p>	<p>The CSA have acted to accept an opinion from a party with a vested interest based on speculation over that of an official record of examination of the father concerned.</p> <p>In this case the CSA has rejected the view of a doctor and accepted the view of the mother.</p> <p>Incorrect application of policy</p> <p>Failure of duty of care</p> <p>Breach of CSA charter</p> <p>Making judgement without being qualified to do so</p> <p>Breaches of Public Service Act</p>
MRA2	<p>An SCO decided that she would not alter the fathers income (decreasing it to its true amount) nor alter his ex's income (increasing it to it's truer amount) and I quote "there are currently no arrears of child support and to make a change to either of the parties' child support incomes will mean the creation of a debt or an "overpay" situation". Not only can CSA admit that they took too much money but they can also decide not to give it back. The father is also penalised for not being in arrears! And the reason for applying was because there is an overpay situation. He now pays a higher rate of child support assessed on husband's deemed income.</p> <p>CS Staff Michelle Buck</p>	<p>Withholding of monies without due cause</p> <p>Failure to act without bias</p> <p>Failure of duty of care</p> <p>Breaches under the Public Service Act Code of Conduct by not acting in impartial and consistent manner</p>

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MRA3	<p>Father sent in a MBF statement showing out of pocket expenses for dental bills for the children. CSA disallowed it as a NAP even though dental bills are a prescribed payment. The reason they disallowed it was because the ex had responded saying that the father is fully reimbursed by MBF of the entire amount of the dental bills. CSA accepted this even though they had the MBF statement in front of them showing otherwise.</p> <p>CS Staff Michelle Buck</p>	<p>Failure to accept documentary evidence as presented.</p> <p>Gender bias by accepting the word of the mother and ignoring the evidence as presented</p> <p>Failure to act without bias</p> <p>Failure of duty of care</p> <p>Breaches under the Public Service Act Code of Conduct by not acting in impartial and consistent manner.</p>
MRA4	<p>Ex of father quit her job recently to avoid paying child support and child support did not deem her income as they do in the case of men who change positions or resign. They also ignored the fact she had over 7 months long service, annual and sick leave giving her a substantial payout.</p> <p>CSA accepted her income as zero from the day she resigned. She had been threatening to resign for months to avoid paying the father child support (father was terminated in August 2001 and by FLC orders has most of the kids). CSA were fully aware of this beforehand. It is on their records that father asked CSA to warn her that she risked being "deemed" if she quit her job for no "good" reason.</p> <p>She did have a medical certificate saying she was incapacitated due to her recent failed suicide attempt. In her employment she is in constant contact with the medical profession.</p> <p>This attempt took place after she learned she would have to pay child support to the father. She was assessed to pay the father but never has and according to the father has no intention of doing so. She could have taken half a year off work on full pay to get over it if she wanted.</p> <p>CSA make unfair judgements against men on the justification that they act "in the best interests of the children" and that it has nothing to do with the gender of the payee. Clearly it does. This has been raised with the Ombudsman and he expressed his perception that CSA do not have a gender bias. The integrity of the Ombudsman is therefore in question</p> <p>CS Staff Not provided at this stage</p>	<p>Failure of application of the Child Support Act on the basis of gender and discrimination against the father.</p> <p>Failure to apply the act against the mother is in direct contravention of the charter of the best interests of the children.</p> <p>Breaches of Public Service Act</p>

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MRA5	<p>Description of Issues</p> <p>CSA have advised that their procedures require them to confirm the change of care when notification is made by one parent claiming to be entitled to a higher level of care. CSA claim that the father confirmed the information by signing the "End" for on 21 September 1999. But this is incorrect. The CSA "Notice to stop collection of payments / End Assessment" dealt with ending the previous assessment only and does not mean, express or implied, that the father consented to the mother becoming the payee. It certainly does not mean father confirmed the arrangements as CSA allege. This is a CSA mis-interpretation of facts to justify their own ends. CSA (deliberately?) did not investigate the custody orders in place at the time and did not provide information or explain the consequences of their actions to the father at the time. As a result of CSA's inappropriate actions in 1999, the CSA interpretation of events is based on a lack of informed decisions in those events.</p> <p>CSA Staff :</p> <p>Brenton Lochert is handling case since original errors by CSA. Names of original case officers not known.</p>	<p>Duty of Care</p> <p>CS Charter</p> <p>Breaches of Public Service Act</p>
MRA6	<p>Description of Issue</p> <p>CSA failed to advise father of his rights in relation to Legal Vs Actual care of children. CSA have advised that they do not send policy guidelines to all clients as a matter of course. The problem with this approach is that it ensures clients are not informed of their legal rights. This is a breach of CSA's duty of care owed to its clients and a breach of its charter where it undertakes to act professionally and objectively. The result of these breaches is uninformed consent.</p> <p>CSA Staff :</p> <p>Brenton Lochert is handling this fathers case since original errors by CSA. Names of original case officers not known.</p>	<p>Duty of Care</p> <p>CS Charter</p> <p>Breaches of Public Service Act</p>
MRA7	<p>Description of Issue</p> <p>CSA have admitted using the wrong application form on 19 July 1999. A form that did not reflect the new legislated changes that became effective 1 July 1999. The application form was amended in July 1999 to add a question 11 "Do you have an existing parenting plan or court based custody order in place?" The use of the correct application form would have highlighted the issue to be investigated but CSA claim this to be an administrative oversight and they regard the matter as fully investigated. CSA have failed to comply with the law as at 1 July 1999. It is more than an administrative oversight, it is an illegal act and has been a major contributing factor in enormous problems in the relationship of the father with ex wife and the children.</p> <p>CSA Staff :</p> <p>Brenton Lochert is handling this fathers case since original errors by CSA. Names of original case officers not known.</p>	<p>Legislation amendments 1/7/99</p> <p>Duty of Care</p> <p>CS Charter</p> <p>Breaches of the Public Server Code of conduct.</p>

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MRA8	<p>Description of Issue</p> <p>CSA COAT assessment in July 1999 resulted in an assessment that relied upon outdated data used to calculate the cost of caring for children. These costs are an essential aspect of Child Support as CS payers should not be required to pay more than the gross cost of caring for children.</p> <p>In CSA letter dated 19 December 2001, it was stated:</p> <p>“The cost of children was also taken into account as research suggests that the child support formula requires paying parents on higher incomes to provide more financial support than the total costs of their children.”</p> <p>CSA have also confirmed as true (letter dated 3/5/2002):</p> <p>“That the Joint Select Committee 1994 recommendation 116 was that the Minister for Social Security commissions an independent study into the costs of children to enable a critical evaluation of the current child support formula percentages.”</p> <p>“That the Government response to recommendation 116 was: “The Department of Social Security commissioned the Social Policy Research Centre at the University of New South Wales in 1995 to undertake costs of children research as part of a larger research project on indicative ‘budget standards’ for different households. The Social Policy Research Centre is contracted to produce a final report on its research by the end of 1997. It is expected that the report will be publicly available in early 1998.”</p> <p>“That the BSU report was published in March 1998.”</p> <p>“That Senior Case Officers who make Change of Assessment determinations can refer to other information to guide them in determining what reasonable expenses for children are. The Lee, Lovering and Saunders (BSU) studies are reproduced in the CCH Handbook and are therefore available for the Senior Case Officer to consult. The CSA regards the Lee study as a guide. The CSA regards the BSU study as a guide.”</p> <p>CSA have also confirmed (letter dated 3/5/2002):</p> <p>“The CSA cannot determine spousal maintenance. You can only be a liable parent in regard to your biological or adopted children (s 25 Child Support (Assessment) Act 1989).”</p> <p>There are several outstanding issues in relation to this matter as at May 2002. CSA have deliberately avoided answering any questions to date on this topic and where they have provided answers they have not been open and frank in their responses.</p> <p>CSA Staff :</p> <p>Brenton Lochert is handling this fathers case since original errors by CSA.</p> <p>Names of original case officers include: Carolyn in Brisbane; SCO J R Williams Regional Registrar: Angela Tillmanns</p>	<p>Duty of Care</p> <p>CS Charter</p> <p>Breaches of the Public Server Code of conduct</p>

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MRA9	<p>The ex of one father was found guilty of 89 counts of breaching an intervention order against her, which included threats of violence, damage to property and extortion. She got off with a good behaviour bond.</p> <p>She was also assessed by CSA to pay the father child Support but she refused then quit her job. CSA have let her off.</p> <p>She also re-directed, opened and withheld the fathers mail for 3 weeks. DPP have also done nothing. No wonder the incarceration rate for men is higher than women. Women get let off. The woman who drowned her kid was let off, the woman who stabbed her daughter was let off, the woman who shot her husband through the head in his sleep was let off. The guy who videoed his flatmate in the shower without her permission got 3 months.</p>	<p>Failure of application of the Child Support Act on the basis of gender and discrimination against the father.</p> <p>Failure to apply the act against the mother is in direct contravention of the charter of the best interests of the children.</p> <p>Breaches of the Public Server Code of conduct</p>
MRA10	<p>Description of Issue</p> <p>Father has identified 2 errors in the CSA COAT assessment dated July 1999. CSA have refused to correct these errors despite acknowledging they have ability to correct errors in the Registry.</p> <p>CSA Staff :</p> <p>Brenton Lochert.</p>	<p>Duty of Care</p> <p>CS Charter</p> <p>Breaches of the Public Server Code of conduct</p>

Extract of the Public Service Act code of conduct.

- (1) An APS employee must behave honestly and with integrity in the course of APS employment.
- (2) An APS employee must act with care and diligence in the course of APS employment.
- (3) An APS employee, when acting in the course of APS employment, must treat everyone with respect and courtesy, and without harassment.
- (4) An APS employee, when acting in the course of APS employment, must comply with all applicable Australian laws. For this purpose, Australian law means:
 - (a) any Act (including this Act), or any instrument made under an Act; or
 - (b) any law of a State or Territory, including any instrument made under such a law.
- (5) An APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction.

- (6) An APS employee must maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff.
- (7) An APS employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment.
- (8) An APS employee must use Commonwealth resources in a proper manner.
- (9) An APS employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment.
- (10) An APS employee must not make improper use of:
 - (a) inside information; or
 - (b) the employee's duties, status, power or authority; in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person.
- (11) An APS employee must at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS.
- (12) An APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia.
- (13) An APS employee must comply with any other conduct requirement that is prescribed by the regulations.

Distribution List

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