Commonwealth OMBUDSMAN

Submission by the Commonwealth Ombudsman

DELIVERING QUALITY OUTCOMES REVIEW: CHILD SUPPORT PROGRAM

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INTRODUCTION AND SUMMARY

Background

The Commonwealth Ombudsman safeguards the community in its dealings with Australian Government agencies by:

- correcting administrative deficiencies through independent review of complaints about Australian Government administrative action
- fostering good public administration that is accountable, lawful, fair, transparent and responsive
- assisting people to resolve complaints about government administrative action
- developing policies and principles for accountability, and
- reviewing statutory compliance by law enforcement agencies with record keeping requirements applying to telephone interception, electronic surveillance and like powers.

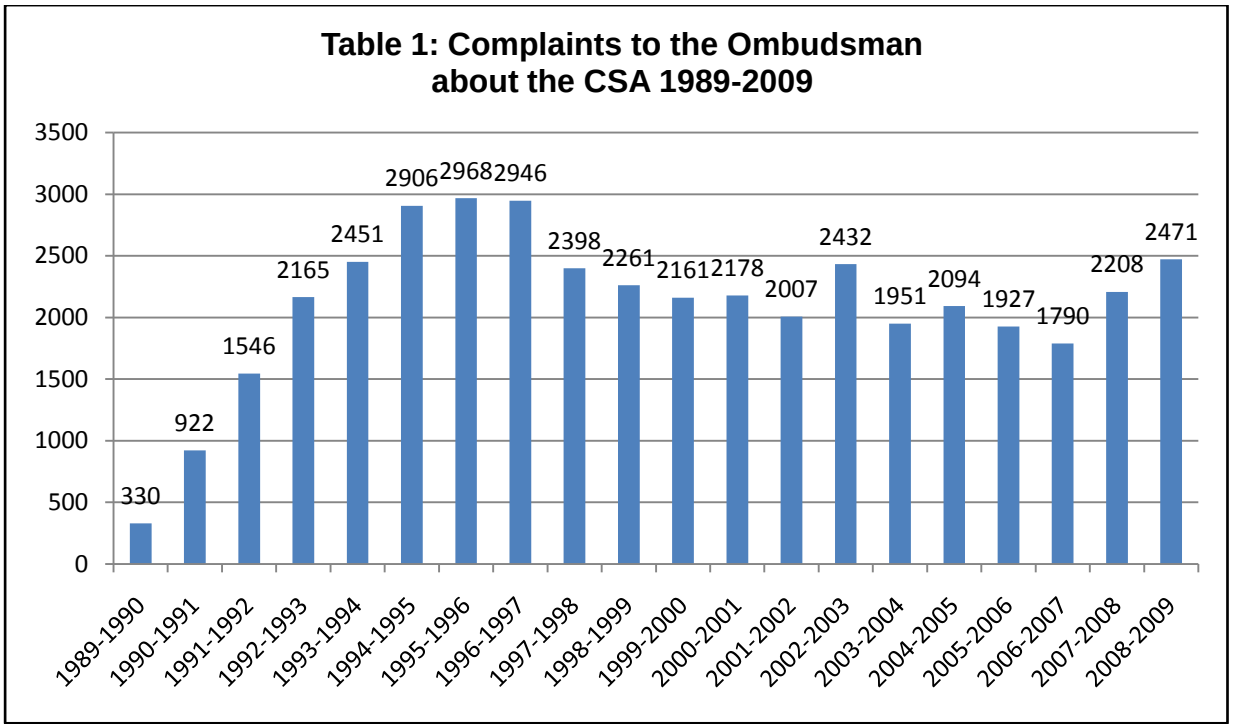
The Commonwealth Ombudsman's unique position in the Australian administrative law landscape provides us with an understanding of many individual experiences of members of the public, who are dissatisfied with the way that government has dealt with their issue. The Commonwealth Parliament has given the Ombudsman's office the power to investigate those complaints by obtaining records and information from the agency that would not ordinarily be available to a person acting on their own behalf. Over time, through investigating complaints about the actions of a particular Commonwealth department or agency; the Ombudsman's office is able to build up a detailed picture of an agency's operations. This includes information about new complaint trends and also about the persistent problems that repeatedly crop up, despite changes intended to address them.

Complaints to the Ombudsman about the CSA

The child support scheme commenced on 1 June 1988, with the establishment of the Child Support Agency (CSA) within the Australian Taxation Office (ATO) The CSA has continued to operate since then, in substantially similar configurations, but located within the Department of Family and Community Services (FACS), and then moving to the Department of Human Services (where it is now referred to, internally, as the Child Support Program).

The Ombudsman began receiving complaints about the CSA almost as soon as the Agency commenced operation. Our 1988-89 report included a discussion of three significant problems identified through our investigation of complaints about the CSA.[1] In the following year, the Ombudsman received 330 complaints about the CSA. We received a total of 922 complaints about the CSA in 1990-91 and 1546 complaints in 1991-92. Since then, the number of complaints received about the CSA each year has varied from a high of 2968 (in 1995-96) to a low of 1790 (in 2005-06). Complaints to this office about the CSA increased in the following three years, with the most likely reason being the CSA's increased interactions with its customers for the purposes of implementing scheme reforms introduced by government in response to the Parkinson report. In 2008-09 we received 2471 complaints about the CSA.

[1] *Commonwealth & Defence Force Ombudsman Annual Report 1988-89* at pp 42-44.



The final stage of the scheme reforms commenced on 1 July 2008. It seemed reasonable to assume that 12 months later, the CSA would have overcome many of the 'teething problems' that inevitably occur with new legislation and policies. Accordingly, we expected that the number of complaints to this office about the CSA would have reduced, or at the least, settled to stable levels. However, in the first quarter of the 2009-10, we received a total of 674 approaches and complaints about the CSA, which when annualised, is greater than the total for 2008-09. It would suggest that customer dissatisfaction with the CSA has not reduced since the implementation of the reforms.

The statistical information presented above provides a solid basis for our observations, which have been furthered through the rigorous analytical work undertaken as part of our own motion investigations. Some of the weaknesses existed in the CSA's pre-reform administration. Some are historical deficiencies with effects exacerbated by the scheme reforms. A few are entirely new.

We have attempted to highlight in this submission only those serious problems which appear to have a systemic basis. All of them have already been brought to the CSA's attention in the context of our investigation of individual complaints. In many cases the CSA has accepted our assessment of the problem, and remedied the complaint for the individual customers concerned. However, in some cases, it would appear that the CSA has not rectified the underlying causes of complaint. In a number of instances, the CSA has attributed this to resource constraints. With this in mind, there is a question about whether the CSA may have failed to appreciate the impact of fundamental service delivery problems upon its customers, and the costs associated with failing to address those problems.

RESPONSE TO TERMS OF REFERENCE

Overview

Based on our complaint and own motion investigations, we have identified a number of areas where the CSA could improve its processes and procedures, resulting in enhanced service delivery and efficiency outcomes. We have grouped these areas thematically below.

Internal administration

- Records management.
- Computer generated correspondence.
- Over-reliance on telephone contact with its customers.

Decision-making

- Administration of complex rules about assessing a parent's level of care of a child for the purposes of assessing child support for that child.

Customer service

- Response to customers who exhibit difficult or challenging behaviour in their interaction with the CSA.
- Failure to satisfactorily balance the requirement to protect a customer's privacy with the need to provide an appropriate customer service.
- Reluctance to advise payees of action taken to collect child support.
- Lack of a consistent, systematic and co-ordinated approach to debt collection.
- Inferior level of service provided to International Child Support customers.

Working with other government agencies

- Centrelink.
- Australian Taxation Office.

Accountability

- Accessibility and efficiency of the CSA's complaints service.
- Internal arrangements to identify systemic problems.

Benchmarking/best practice

- Failing to draw on the experience of other agencies, and in particular other DHS agencies.

We discuss each of these aspects below. We have not covered in detail all those matters identified as CSA complaint themes, particularly where these were explored in own motion investigations, which are referenced in Annex One. Details of complaint themes in 2008-09 are included in the relevant excerpt from our Annual Report, a link to which can also be found at Annex One.

Internal administration

Records management

The CSA's principal means of records management is its computer database, Cuba. The CSA relies almost exclusively upon Cuba for a record of the communication, actions and decisions in a case. Most CSA cases do not have a physical file. Any documents that the CSA receives from or about its customers are 'receipted' on Cuba. It is important to note that receipting a Cuba does **not** mean storing an image of the document on the customer's case record, which would be readily retrievable.

When receipting a document, the CSA officer records the date of receipt and the type of document on the Cuba record for the customer/case. The CSA officer then transcribes verbatim the content of the document into the document screen in Cuba. If the document was received via email, the CSA officer will copy and paste the content in Cuba. If the document was received by mail, fax, or in person, the CSA officer must physically type the text of the document into the Cuba document screen. Long documents may have to be recorded over several screens and if very long, are sometimes summarised. Once the document has been transcribed, the CSA usually relies on the transcribed version on Cuba as the basis for any action. The paper copy of the document is sent off site to be held in batch storage in the date order it was received, although objections and Change of Assessment applications are held by the owning team until the process is completed.

We consider the CSA's practice of manually transcribing incoming documents is inefficient and prone to cause problems. Firstly, it is time consuming and can lead to delays, especially for complex legal documents, court orders and child support agreements. Secondly, the transcription process, especially where the text is manually re-typed, is open to error. Also, the appearance and layout of a document can give important context to the content and this can be missed when reading just the transcribed words. In some cases, the CSA officer will summarise or abbreviate content that they consider irrelevant and this may actually be important and relevant information.

Of course, disputes about the actual content of a document should be able to be resolved by retrieving the original document and comparing it to the transcribed version in the CSA's records. However, in a small but significant number of complaints, the CSA has been unable to locate and retrieve an important document, such as a court order or child support agreement, to verify the accuracy of its transcribed version of the document in Cuba. In such cases, the complainant is usually alleging that the CSA has incorrectly administered their order or agreement, to their financial detriment. The CSA's inability to produce the original document can be a barrier to the satisfactory resolution of the complaint. The complainant is very rarely satisfied with an explanation that in the absence of a copy of the document, the best evidence of the content is the CSA's record on Cuba.

Case Example One

Ms Z is a child support payee. Her child support is assessed at $15 per week. She complained to us that the CSA told her she would have to go to court if she wanted to receive more child support. The CSA told her that it could not increase her assessment because it was obliged to use the amount that Ms Z and her former partner had specified in a child support agreement. Ms Z told us that she did not believe that she had signed a child support agreement. The CSA had not provided her with a copy of the document to resolve the dispute.

When we investigated Ms Z's complaint, it advised us that it could not find a copy of the agreement. The CSA was however satisfied that it had received an agreement from Ms Z (or her partner) in 2004, because its computer system (Cuba) contained an entry that showed a document was received on this date, and the CSA had subsequently written to Ms Z and her former partner to advise them that it had accepted the agreement and that they were entitled to object to this decision if they thought it was wrong. The CSA told us that neither Ms Z nor her former partner had lodged an objection.

We did not conclude that it was unreasonable for the CSA to rely upon the entry in its records as evidence that it had received an agreement in this case. However, if Ms Z does wish to change the agreement, and decides to apply to court to have the agreement changed, she will need to include a copy of the agreement with her application. The court will need to consider whether it is satisfied with the CSA's record of the content of the agreement as evidence that the agreement was made and signed by Ms Z and her former partner.

In addition to the problems of accountability, the CSA's inefficient records management arrangements place an unnecessary burden on those CSA staff who are responsible for dealing with applications for access to documents under the *Freedom of Information Act 1982*; and for responding to subpoenas or producing documents for Tribunal hearings.

We have alerted the CSA of our concerns about the adequacy of its present document management arrangements. The CSA has advised us that it intends moving towards the introduction of scanning technology in the future, however, it has not advised a date for this change.

Computer generated correspondence

A common issue in many of the complaints that we investigate is that the complainant either does not understand what decision the CSA has made in their case, the effect of the particular decision, or the reasons for the decision. In some cases, the person does not understand any of these issues, despite having received a letter from the CSA that purports to give them this information.

The CSA has programmed Cuba to generate letters to advise customers of changes to their assessment and of other decisions made on their case. In most cases, the CSA communicates a primary decision to a customer (as opposed to a decision on an objection) via a computer generated letter.[2] This computer generated correspondence is based on templates and often produced and sent without any human intervention.

In 56.4% of the complaint issues that we investigated in 2007-08, one of the remedies that we obtained for the complainant was a better explanation for the CSA's action or decision. It should not be necessary for a CSA customer to have to complain to an external body in order to receive a proper explanation for a decision from the agency who made it. The case studies below illustrate some of the problems we have identified with the CSA's computer generated letters.

Case Example Two

Mr A, a payer received eleven separate assessment notices over a 3 day period, relating to his two child support cases. The notices contained incorrect and conflicting information. There was no covering letter that explained what had changed in each of the assessments, or the overall impact of the changes. Mr A could not understand the letters and nor could our Office. It was actually necessary for the CSA to refer to the Cuba records to work out what had changed and why.

The CSA accepted that the notices were not sufficiently clear. It has advised us that it will arrange for the assessment letters for parents with more than one child support case to be checked by a CSA officer before they are posted. It would be that officer's role to ensure that the letters are correct and to either contact the customer by telephone to provide an explanation of the changes or to write a covering letter. The CSA advised us that it could not readily identify or implement an automated solution.

We do not consider this is an adequate response to the overall problem of confusing letters. While the letters are particularly poor for customers with multiple cases, they are not clear for customers with a single case.

[2] The exception is a decision on a person's application for a Change of Assessment in special circumstances (CoA), where the delegated decision-maker produces a lengthy statement of reasons for their decision. The CSAs objection decision are also communicated via a 'unique' letter, written by the decision maker and containing a statement of reasons. We do not intend dealing with CoA or objection correspondence in this submission.

Case Example Three
Mr B, a payer for two children, received a notice from the CSA which stated:

A CHANGE TO YOUR CARE PERCENTAGE
We are writing to confirm that the Child Support Agency (CSA) has considered your application to change the care percentage used in your child support assessment. We have made an interim decision about your care percentage and changed your assessment, because continuing to base your assessment on your previous care percentage is unjust and inequitable.

Mr B had not asked the CSA to change the care percentage used in his assessment. In fact, he had opposed the payee's application for the CSA to increase the assessment. The payee (the children's mother) had advised the CSA that the children were no longer spending time with their father, despite there being a court order for care. The CSA had formed a view that the payee had acceptable reasons for not complying with the order, but it had not informed Mr B of those reasons, nor given him an opportunity to comment on them. Mr B had advised the CSA that he was taking action to enforce the order, and the CSA had incorrectly told him that it would not change the care percentage in these circumstances. The CSA's letter was inconsistent with that assurance. It was also inadequate to convey the reasons why the CSA considered that continuing to base the assessment on the previous care percentage was unjust and inequitable.

In our recent outreach to CSA staff we have taken the opportunity to emphasise the lack of clarity in the CSA's letters and stressed the importance of an adequate explanation for any decision made. In one site, the CSA team leaders that we spoke to told us that they regularly hear their staff acknowledging to customers the inadequacy of the CSA's computer generated letters. They said that staff feel powerless to change the letters and that they do not feel that it is worth providing feedback internally because nothing will happen. They said that CSA frontline staff expect that it will continue to be part of their role to explain to CSA customers what it is that the CSA's letter was supposed to communicate to them. The CSA's unclear correspondence must contribute to the very high volumes of calls that the CSA deals with each day.

Over-reliance on telephone contact

The CSA describes its culture as 'phone first'. We accept that telephone contact is generally efficient, and that many CSA customers are satisfied with the immediacy of a telephone response. Given the complexity of the child support scheme, it is also often preferable to discuss a range of options with a customer and this may best be done in person or on the telephone.

However, we consider that there will always be a role for written communication, either to confirm a discussion, or to make sure that a person has properly understood something that is technically complex and about which they may need to subsequently seek legal advice. The CSA is often reluctant to write such letters, except by way as a response to an 'escalated complaint'. In our view, providing clear written advice to customers should actually be part of the CSA's 'business as usual', rather than something that happens if people complain.

The CSA also tends to gather information from its customers by telephone, rather than in writing. Again, this can be efficient in many cases. However, where the CSA has not been able to contact the customer after two attempts using the numbers available on its system, it will usually proceed to make a decision based on the information that it already has in its possession. In such cases, the person may not be aware that the CSA is considering making a decision to affect their entitlement.

If the CSA's proposed decision is likely to be adverse to a person, we consider that the CSA is obliged to at least give the person an opportunity to comment on the evidence that the CSA has in its possession. A letter advising the person of the proposed decision and offering them the opportunity to talk to the decision-maker before the decision is finalised would satisfy this requirement. Although the CSA does have an internal review process to reconsider decisions, this is time consuming for both parents and resource intensive for the CSA. We consider that a brief letter to the customer before the decision is made and a short delay to allow them to respond would potentially improve the standard of decisions and reduce the need for objections.

Customer service

Assessing levels of care

One of the elements in the child support formula used to assess a parent's child support is the parent's level of care for each child. The CSA must work out how many nights each child is likely to spend with each parent over a 12 month period, expressed as a percentage.

Decisions about a parent's level of care should ideally be made in consultation with both parents. If parents agree about the amount of care that each of them will have over the next 12 months, and do not dispute that the CSA should use this in the assessment, the CSA can quickly make a decision about the appropriate care percentage. However, if there is any element of disagreement, the CSA will classify this as a 'care dispute' and treat this as a complex case.

The complaints that we received about the CSA's care decisions, and the process that the CSA used to make them, indicate that the CSA's frontline staff were having significant problems understanding the rules about 'care disputes'. Some of the problems that we identified include:

- A failure to identify the nature of the dispute between the parents
- A failure to gather appropriate information about likely care arrangements from each parent so that a decision could be made.
- An unwillingness to make a finding of fact in a case where there is conflicting evidence.
- A tendency to suggest that parents needed to resolve the dispute between themselves, or with the assistance of a Family Relationship Centre and then come back to the CSA so that it could make a decision.
- Failing to formally refuse to change the level of care, so that parents could use their objection rights to challenge it.
- Advising parents with more care than was provided under the terms of a court order that they that they had an 'onus' to take action to change the court order.
- In discussions with a parent with more care than was provided under the terms of a court order, suggesting that the parent was obliged to make the child available to the other parent. While this may be true, it is the sort of statement that could be seen as legal advice and the CSA should be restricting its role to gathering information necessary to make a decision about whether to change the care percentage used in the child support assessment.

Given the availability of review via the Social Security Appeals Tribunal (SSAT) and the Administrative Appeals Tribunal (AAT) for decisions about the care percentage used in an assessment, we do not generally investigate complaints about the merits of these CSA decisions. We have investigated a range of complaints about delays in making care decisions; the process followed and the advice that the CSA gave during the process and once it made its decision. Case study three above is one example.

The following case study is another which we consider indicates a lack of knowledge on the part of CSA staff in relation to a fundamental aspect of the child support scheme.

Case Example Four

Mr C contacted the CSA to advise that his son had moved into his full time care following an argument with Mr C's former wife, the payee. This arrangement was inconsistent with the court orders, which provided that Mr C's son would spend 14% of the nights with him over a 12 month period. The CSA officer's notes of the conversation say that he told Mr C that he 'should go to mediation to get care worked out'. 6 days later the same CSA officer had a further conversation with Mr C. At the conclusion of the conversation, Mr C was under the impression that the CSA officer would contact the payee to investigate his reported change in care and that the CSA would make a decision once the investigation was complete. Instead, the CSA officer made notes on Cuba to the effect that Mr C had 'withdrawn' his request for a change to the care percentage, and finalised the action on Cuba. The CSA did not send a letter to Mr C to advise of this action.

Four weeks later, Mr C called the CSA to query the progress of the investigation. He was advised that no action had been taken. The CSA recorded a new application for a change to the care percentage and commenced its investigation.

A further 4 ½ months passed before the CSA finally made a decision to change the care percentage from the date of Mr C's second application. The letter that it sent to Mr C incorrectly advised him that it had decided not to change the care percentage. The assessment notices that accompanied the letter showed that the assessment had changed, but contained incorrect information about the information used to calculate the rate of child support.

In responding to our investigation of Mr C's complaints, the CSA advised us that it did not accept that there was a general lack of knowledge on the part of its staff in relation to the rules about disputed care changes. However, it has subsequently developed and delivered to all CSA staff a new training module about care decision making, and introduced specialist care teams to manage complex and disputed care issues. We will continue to monitor complaints about CSA's processes and the advice that it gives to customers to ensure that the actions the CSA has taken actually lead to an improvement in its service delivery.

The following case studies illustrate some of the difficulties that CSA staff have in applying the rules about care changes in a practical and common sense way.

Case Example Five

Ms D, a payee, contacted the CSA to advise that the payer had moved interstate and that it would no longer be possible for him to have shared care of their children in accordance with the court order that the CSA had used to work out the care percentage for their assessment. The CSA contacted the payer to investigate the reported care change. He denied that he had moved interstate. He said he still had shared care of the children.

The CSA contacted Ms D and told her what the payer said. Ms D said that the payer had definitely moved, gave them his work telephone number and said that the children were staying with him on holidays. The CSA telephoned the payer at work. He denied that there had been a change of care and when asked what he thought the care arrangements would be in future he said he had no idea and terminated the call.

The CSA contacted Ms D and advised her of the payer's response. She said that she did not want to cause an argument and that she would try to reach agreement with him about the care arrangements.

A week later, Ms D told the CSA that she could not reach an agreement with the payer, but that he was presently living interstate. Although he told her he did not have definite plans to stay in his present location, she said that she did not want the assessment to remain at shared care if he only had the children for school holidays. The CSA decided to reject her application for a change to the level of care on the basis of 'both parties disagreeing and no evidence being received to support either party.'

Case Example Six

Ms E, is a payee entitled to receive child support for one child. The payer, Mr F, contacted the CSA to advise that their daughter had left Ms E's care. CSA told Mr F that if Ms E did not confirm the change in care that the CSA would require evidence. Mr F attended the CSA's counter the next day to provide a copy of an email that he said he had received from his daughter that said that she had been 'kicked out' and was trying to find somewhere to live. The CSA contacted Ms E two days later and asked her about the reported care change. She said that her daughter was still living with her and had never left her care. The CSA told Ms E that she would need to provide evidence within a week to support her story.

Ms E did not provide any further evidence to the CSA within the required time. The CSA decided to end Ms E's child support assessment from the date that Mr F had advised the CSA of the care change. The CSA did not make any further contact with either parent before making this decision.

Ms E sent the CSA a statutory declaration from a third party that said that to the best of their knowledge, Ms E's daughter lived with Ms E. The CSA received this evidence 10 days after it decided to end Ms E's assessment. The CSA took no action when it received this document, apart from filing it.

Ms E called the CSA approximately seven weeks later to find out why she had not received any child support. The CSA told her that it received her evidence after it decided to cancel her assessment so it was too late for it to use it. The CSA told her she would have to lodge a written objection to the CSA's decision and ask for an extension of time, as more than 28 days had passed since the CSA advised her that it had cancelled her child support.

Five weeks later, the CSA decided to grant Ms E an extension of time to lodge an objection to the cancellation of her child support. The CSA telephoned Mr F to seek his response to the objection and he said that his daughter's argument with Ms E was short lived and that she had moved back home. It took the CSA a further eight weeks before it decided to reinstate Ms E's child support. The CSA took two weeks to decide to cancel the assessment after the payer showed it the email. It took almost 4 months to decide to reverse its decision after Ms E provided her evidence.

The CSA's objection decision noted that the CSA's policy is not to take account of evidence provided by children and that the original decision was therefore not soundly based. We consider that in the face of Ms E's firm denial that there had been a change in care, that it would have been prudent for the CSA to have checked with Mr F whether anything had changed before proceeding to cancel the assessment.

We understand that from July 2010, staff in Centrelink will commence making decisions about a parent's care of a child to apply to that parent's CSA case, as well as to Family Tax Benefits administered by Centrelink. This change will require alignment of currently inconsistent CSA and Centrelink policy.

Customers who exhibit difficult or challenging behaviour

The CSA has a Personalised Services option for customers with intensive case management needs. Customers are allocated a Personalised Services Officer (PSO) at the discretion of the CSA, usually for a defined period, to identify and address specific issues in their case, with an aim of returning the case to the CSA's usual case management arrangements when things are stabilised. A substantial proportion of CSA customers who complain to this office already have a PSO, or are allocated one as a result of our investigation. The CSA will

routinely allocate a PSO to a CSA customer who exhibits difficult and challenging behaviours, in an effort to build trust and a constructive working relationship with that person.

If the CSA is unable to turn the customer's behaviour around, it may decide to withdraw or limit service to that person. The usual response is to make the customer 'write only'. This is a serious limitation of service, given what we have said above about the CSA's emphasis on the telephone as its primary means of communication with its customers and the inadequate nature of much of its written communication. The following case study illustrates some of the difficulties that can arise when a customer is made 'write only'.

Case Example Seven

Mr G is a payer who is very dissatisfied with the amount of child support he is required to pay. He has been in frequent communication with the CSA about his assessment and a range of associated issues. In August 2008, in an effort to address and resolve his issues, the CSA allocated a PSO to Mr G. In November 2008, the CSA decided to make Mr G a 'write only' customer.

Despite Mr G's write only status, every letter that the CSA sends him contains an invitation for him to telephone the CSA if he wants to discuss his case. Mr G has received a number of letters from the CSA which he has not understood. He has telephoned the CSA to seek clarification, but the CSA officers terminate the conversation when they realise that he is a write only customer.

The CSA acknowledges that it is sending Mr G letters that are inconsistent with his write only status. However, The CSA told us that Mr G should realise that the 'manual letter' that it sent to him saying that he is not to telephone the CSA would override any general invitation to telephone the CSA in a computer generated letter.

We have advised the CSA that we do not accept its explanation: all of the CSA's letters are produced on CSA letterhead, and most are sent out in the name of the CSA's State Manager. It is not reasonable to expect Mr G to know which ones he should follow and which he should ignore.

In the course of our investigation of Mr G's complaint, the CSA advised us that it does not have any specific procedures or policy documents to guide staff about when it is appropriate to make a CSA customer a 'write only' client. The CSA told us that these decisions are made at or above the level of the relevant State Manager and that they are not made lightly. However, the CSA does not currently have any specific arrangements for documenting, communicating or reviewing 'write only' decisions.

We accept that there may be times where it will be necessary for the CSA to limit service to particular customers to ensure the safety of its staff. There will also be occasions where limiting access for those customers who make unreasonable demands is necessary to ensure that the CSA can provide reasonable levels of service for its other customers. However, such instances should be rare, and the limitation should be proportionate to problem and also subject to review over time.

We remain concerned about the CSA's capacity to provide reasonable access to its customers on a 'write only' basis. We recommended that the CSA develop national guidelines for its 'write only' arrangements, and referred it to this office's *Better Practice Guide to Managing Unreasonable Complainant Conduct* and the report of our 'own motion' investigation into Centrelink's arrangements for withdrawing face-to-face contact with its customers.[3] We also suggested that the CSA may find it helpful to consult with Centrelink

[3] *Centrelink: Arrangements for the Withdrawal of Face-to-Face Contact with Customers* – August 2008 - Report 09|2008 http://www.ombudsman.gov.au/files/investigation_2008_09.pdf

about the arrangements that it has implemented following the publication of our own motion report.

A further problem that we have identified with the way that the CSA deals with difficult cases, is that cases escalated outside of the usual service delivery arrangements may not be managed with the same degree of attention to record-keeping. For example, some entrenched child support problems might be referred to the State Manager, or be the subject of a complaint to the CSA's Minister, or raised directly with the CSA's General Manager. We also note that the CSA's former General Manager had a direct email address and that he would invite CSA customers to send messages to him during radio interviews. In our view, it is important that the CSA keeps appropriate detailed records of any communication that it has with customers about their case, in case there is any subsequent dispute about what was said, or what decisions were made. This is especially important at more senior levels.

The CSA's call recording arrangements provide a record of any telephone conversations between a CSA customer and a Customer Service Officer (CSO). However, if a CSA customer talks to the General Manager or State Manager in person, there will be no recording of the conversation. If the State Manager or the General Manager talks a customer on the telephone, it is also unlikely that the call would be recorded, as the CSA's executive staff do not ordinarily use the CSA's call recording technology. Our investigation of a series of complaints about the CSA's actions in one particular child support case where the Minister's office, several State Managers and the General Manager were involved was significantly complicated by the lack of adequate contemporaneous records of the CSA's communication with the parties.

Balancing customer privacy and customer service

The CSA collects and uses large amounts of personal information about its customers and their children. It is obliged to manage that personal information in accordance with the Information Privacy Principles under the *Privacy Act 1988*. The CSA is also obliged to comply with the secrecy provisions in the child support legislation.[4] The CSA takes customer privacy very seriously. This concern is entirely appropriate, given the potential risks of accidentally and inappropriately passing personal information about a person to their former partner. In particular, where there is a history of family violence, and a person has chosen to avoid or limit direct contact with their former partner, and kept their place of residence or work a secret, it is imperative that the CSA does not erroneously disclose that information.

However, it is necessary and appropriate for the CSA to disclose some personal information to third party in order to administer the child support legislation. Some obvious examples are:

- Including the amount of each parent's taxable income in a notice of assessment sent to both parents.
- Sending a copy of a person's in application for a Change of Assessment (CoA) to the other parent in their case, so they can respond to it.
- Including a child support debtor's date of birth in a notice sent to a financial institution, so that the institution can identify the correct customer.

While we do receive complaints about the CSA disclosing personal information in these circumstances, we would not ordinarily investigate them, as the CSA's actions would seem to be lawful and reasonable.

At times, the CSA is reluctant to provide a customer with a proper explanation of the action it has taken or the reasons for a decision, citing 'privacy' as justification for that reluctance. In

[4] Section 16 *Child Support (Registration and Collection) Act 1988* and section 150 *Child Support (Assessment) Act 1989.*

our view, this is not always appropriate. One significant area of customer dissatisfaction relates to the level of detail that the CSA is prepared to disclose to a payee about the action it has taken to collect child support from the payer. This is discussed in some detail under a separate heading below.

Another area where we consider the CSA's processes do not strike the right balance between protecting privacy and delivering an appropriate customer service is its arrangements for confirming and changing a person's postal address. The CSA's *Customer Location (Tracing) Procedural Instruction (PI)* provides that the CSA must verify any address for a CSA customer before using it, unless the CSA customer has provided it to the CSA themselves. The CSA considers an address verified when it is provided/confirmed with two independent sources. The CSA has explained to us that it uses these procedures to ensure that its customer's privacy is not accidentally breached through CSA mail getting into the wrong hands. We understand that the CSA's procedures are based on those used by the Australian Taxation Office (ATO), presumably because they were carried over from the time when the CSA was part of the ATO.

The following case studies illustrate why we doubt whether the procedures are actually appropriate for the CSA, given the difficult relationships that it has with many of its customers and the importance of providing them with written notice of decisions, so they can seek clarification and promptly challenge them, if they disagree.

Case Example Eight

Mr H is a payer. He is very suspicious of the CSA. At his own request, the CSA has made him a 'write only' customer. Mr H complained to us when the CSA failed to meet its commitment to send him a letter by a nominated date, which would respond in detail to his earlier letter of complaint.

When we contacted the CSA it acknowledged that it had not met its commitment to Mr H. The CSA told us that it was unable to send the letter to Mr H because it did not have a secure address for him. Mr H had recently instructed the CSA to send all correspondence to him at the head office of his place of work. He did not give the CSA his residential address. The CSA had already sent several letters to Mr H at his work address (including the letter acknowledging his complaint and promising a detailed response to it within 28 days) before it decided that someone might open his mail by mistake thinking that it was work-related, rather than personal. The CSA decided to suppress all correspondence to Mr H until it could find out his residential address. The CSA did not write to advise Mr H of its decision.

A CSA officer telephoned Mr H to find out his address, but he refused to speak to them. The CSA continued investigating possible residential addresses. We were unable to persuade the CSA that it would be appropriate to write to Mr H at the address that he nominated.

The CSA eventually located a residential address for Mr H, via a third party. The CSA advised us that it needed to confirm the address before it could use it, as it was not supplied to the CSA by Mr H. It sent a letter to him by registered post, requiring a signature upon receipt. This strategy worked. After nine months, the CSA was able to respond to Mr H's letters.

We appreciate that Mr H did not cooperate with the CSA and that he must bear some of the responsibility for the difficulties that he experienced. However, we are not persuaded that the CSA's reaction to Mr H's lack of cooperation was reasonable or proportionate. During the period of the impasse, the CSA had not sent Mr H any correspondence about his child support case, including notices that it was legally obliged to serve upon him and important information about the new child support scheme. We consider that this was a case that should have been managed with greater flexibility.

The CSA's inflexible approach to this complaint meant that it did not explore other ways of resolving the communication problems. The CSA did not attempt to encourage Mr H to register to receive his

correspondence securely through *CSAonline*. We also learned that Mr H had originally requested that the CSA communicate with him in writing because he had been denied permission to record telephone conversation with CSA officers. The CSA had also failed to inform Mr H when it introduced its own call recording arrangements, which would have been available to resolve any disputes about what was said in any telephone conversation, and perhaps made it possible for him to resume telephone communication with the CSA.

Case Example Nine

Mr I is a payer whose child support case ended several years ago with arrears still to be paid. The CSA became aware that Mr I had moved overseas in 1999. It updated his address on its records, using the address that Mr I had written on a passenger movement card completed for the Department of Immigration and Citizenship (DIAC). The address he recorded was *Unknown, Manila, Philippines*.

In 2008, Mr I returned to Australia. The CSA obtained from DIAC a copy of the passenger movement card that Mr I completed on arrival. Mr I had recorded an Australian residential address and a telephone number on the card. The CSA was unable to reach Mr I using the telephone number that he provided to DIAC. The CSA did not update Mr I's address in its records because it says he had not provided it to the CSA direct, but to DIAC, so it did not consider it verified. It is not clear why the CSA used the address recorded in Mr I's outgoing passenger movement card , but was not prepared to update it with the information in the incoming passenger movement card .The CSA took no further steps to try to verify Mr I's address.

As Mr I still had a child support debt, and he had made no payments to the CSA for the entire period he was overseas, the CSA decided to issue a Departure Prohibition Order (DPO). The DPO was intended to stop Mr I leaving Australia without making arrangements to settle his debt. The CSA is obliged to send a copy of the DPO to a child support debtor as soon as it is made. The CSA's standard letter advising that a DPO has been made also tells the person of their right to appeal the DPO. The CSA issued the letter and a copy of the DPO to Mr I at the address in its records: *Unknown, Manila, Philippines*. Not surprisingly, Mr I did not receive the CSA's letter.

Mr I lodged an Australian tax return for 2007-08. He did not receive the tax refund that he had expected. Mr I's tax agent told him that this had happened to another of his clients, because he had a child support debt. In early 2009, Mr I contacted the CSA, to find out whether the CSA had intercepted his tax refund. During this conversation, the CSA advised Mr I of his debt and the DPO. The CSA also confirmed that it had intercepted Mr I's tax refund and applied it to his child support debt. Presumably the CSA's letter advising him of that action was also sent to the Philippines.

Case Example Ten

Mr J is a payer. In August 2007, his former wife, Ms K, made an application to the CSA for a child support assessment. The CSA telephoned him at work to discuss the application. Mr J refused to speak to the CSA and asked the CSA to write to him. The CSA sent him an information package and a letter asking him to call to discuss the application. Several weeks later, when Mr J failed to call the CSA, it rang him again. Mr J refused to speak to the CSA. The CSA called him again in November 2007 and Mr J terminated the call. The CSA proceeded to accept the application and sent letters to Mr J advising him of the amount of his child support assessment. Each month, it sent him an account of his growing debt.

Mr J made no payments to the CSA over the next four months. In March 2008, the CSA called him at work to discuss his debt. He refused to talk to the CSA officer. The CSA wrote to his employer seeking information about his salary, payment period and to confirm his address. The employer's response included a different residential address for Mr J. In June 2008, the CSA commenced deductions from Mr J's salary. The CSA's letter to Mr J advising him of the deductions was sent to the address recorded for him in Cuba, rather than the address provided by his employer.

Mr J complained to this office about the CSA's action in deducting money from his salary for his child support assessment. He said that he had asked the CSA to write to him about his wife's application for child support because he did not consider it was something that was appropriate for them to discuss with him on the telephone at work. He said that he had never received any correspondence from the CSA and he assumed that they had not made an assessment.

Our investigation of Mr J's complaint revealed that he did not reside at the address that the CSA had used for him. The CSA told us that none of its letters had been returned, so it assumed that Mr J had received them. The CSA told us that it had not taken any action to check or verify the address that his employer provided. We established that Ms K had given the CSA Mr J's correct address when she applied for child support, but that the CSA had failed to record it on Cuba. The CSA had started the case using an address that it obtained from the ATO for Mr J in 2004. The CSA has now apologised to Mr J for not writing to him at his correct address.

The following case study is another example of the CSA allowing its concerns about security of customer information to get in the way of prompt and responsive service delivery for a customer in a remote location.

Case Example Eleven

Mr Y is a payer who works in a mine. He stays in the remote mining community when he is working and returns home every few weeks according to his roster. Due to his frequent absences from home, Mr Y registered to receive correspondence from the CSA via CSAonline.

Mr Y received an email telling him that a new letter was waiting for him on CSAonline. He accessed his CSAonline account and found that the CSA had made a Change of Assessment decision that affected his child support assessment for specified periods. There was no detail in the letter explaining the reasons for the CSA's decision.

Mr Y telephoned the CSA to find out more about the change. The CSA told him that the delegate who made the decision had prepared a detailed statement of reasons for him, but that the CSA had sent this to his home address by ordinary post. The CSA officer explained that the CSA could not send the letter to Mr Y through CSAonline because of system limitations.

Mr Y asked the CSA officer to send him a copy of the letter by email. The CSA officer said that the CSA could not send the letter to Mr Y's personal email address because email was not a secure means of communication. The CSA officer summarised the letter briefly for Mr Y during the telephone call and told him that he had 28 days to object to the decision if he disagreed with it. Mr Y said that he would need to see the letter quickly to make his objection in time. He was not due to return back home for several weeks. Mr Y was not satisfied with the CSA's offer to send the letter to his workplace by fax, post or courier, as he believed that this was not secure.

The CSA officer referred Mr Y to a CSA complaints officer. The complaints officer investigated Mr Y's complaint and decided that it should not be upheld, because the CSA officer had correctly applied the CSA's external email protocol.

When we investigated Mr Y's complaint, the CSA maintained that it had provided Mr Y with appropriate options for his case. The CSA said that it believed its policy was appropriate to protect customer privacy. In May 2008) the CSA advised us that it was not currently considering an update to allow CoA decisions available to customers via CSAonline, but that it would review that position in the next 18 months. We have not heard anything further.

Advising payees of action taken to collect child support

One very common cause of complaint to this office is the CSA's failure to collect arrears of child support. This is the most common issue that this office has investigated about the CSA for the last two financial years.

In such complaints, the payee has often been assured by the CSA that it has taken all reasonable steps to collect child support from the payer, but the CSA is not prepared to discuss details of the specific action taken with the payee, on the basis that this would breach the payer's right to privacy. The payee is usually not in a position to know whether to believe the CSA. It would seem that in some cases, the CSA's efforts to protect the payer's privacy can be a barrier to proper accountability for its collection activities.

Sometimes, the CSA has negotiated a payment arrangement with the payer, with an amount payable towards the arrears, in addition to the regular ongoing child support. The CSA is prepared to disclose to the payee the details of the payment arrangement, but not to divulge any information about the reasons why the particular payment arrangement was considered appropriate, as this would involve disclosure of the payer's financial information.

Section 113(2) of the *Child Support (Registration and Collection) Act 1988* provides that the CSA may take such steps as it considers appropriate to keep the payee informed of the action it has taken to collect child support from the payer. However, the complaints that we receive indicate that the CSA does not routinely provide reports to a payee about collection activity. It is usually necessary for the payee to seek this information from the CSA. Furthermore, although the CSA sends a payer a statement each month advising of the amount of their child support debt, it does not provide a similar statement to payees. Again, it is necessary for the payee to seek this information from the CSA. Some complainants have commented that they feel like they have to 'hassle' the CSA to find out what they are owed and what is being done to collect it for them.

If a payee complains to this office that the CSA has not taken sufficient action to collect child support for them, and the CSA has not provided what seems to be an adequate explanation of the action that it has taken, we have very little alternative to investigating the complaint. Sometimes, we find that the CSA has taken reasonable action and provided a sufficient explanation to the payee, taking into account its obligations to protect the payer's privacy. However, in many cases, we find that there has been delay or inaction, or an insufficient explanation to the payee. At times, we have found that the CSA has not kept an adequate record of its negotiations and decisions about payment arrangements.

In 2007-08 we investigated 134 complaints which included as an issue the CSA's failure to collect child support. This represented 18% of investigated issued in 2007-08. In 2008-09, we investigated 117 complaints which included as an issue the CSA's failure to collect child support, representing 12% of investigated issues.

A significant number of complaints investigated in 2008-09 were recorded as being about the collection method used by the CSA (112 investigated issues, or 11%). This category includes complaints from payees about the CSA not using particular enforcement options, as well as complaints from payers about the CSA choosing to use particular enforcement options. We achieved at least one remedy in 76% of those complaints. The most common remedy was a better explanation (61%), followed by expedited action (21%).

Case Example Twelve

Ms L is a payee, who has applied to the CSA for collection of her child support. Following an SSAT decision which increased the assessment, the payer, Mr M, became liable to pay arrears of $10,000. Ms L contacted the CSA to ask when she would receive the $10,000. The CSA told her that it had made an arrangement with Mr M that he would pay off the arrears at $50 per month.

Ms L asked the CSA officer to explain why the CSA had agreed to this arrangement. She was told that she was not entitled to this information. However, the CSA officer told Ms L that the arrangement was 'in accordance with recover rates as advised by parliament'. Ms L was not satisfied with this explanation. She complained to this office. She said that she believed that Mr M was in a much better financial position than her and she said she needed her child support urgently.

When we contacted the CSA it acknowledged that there were no recovery rates set by Parliament for child support debts. The CSA's written debt negotiation procedure contains a table with standard recovery amounts, which are intended for use as a guide in negotiations. The recommended amount varies in accordance with the size of the debt and the payer's current income. The CSA advised us that the amount that Mr M had offered to repay each month ($50) was significantly less than the recommended recovery rate, but that the CSA had decided to accept the offer on the basis of the evidence that Mr M provided.

We obtained copies of the CSA's written records of its communication with Mr M and the assets and liabilities form that he completed when he made his offer to repay his arrears at $50 per month. The CSA officer who had decided to accept the offer had recorded the reasons for their decision: 'as debt will be finalised within 12 months'. The CSA conceded that this was incorrect – the arrangement would take more than 16 years to recover the debt.

The CSA agreed to renegotiate the payment arrangement with Mr M, to regularly monitor it and to provide Ms F with better information about the action that it was taking to collect her child support. Her case was allocated to a PSO. Our investigation of Ms L's complaint took almost a year, but when we closed our file, there was only $3542.22 remaining to be collected.

Lack of a systematic approach to debt collection

One of the most significant categories of complaints to this office about CSA is that of payees complaining of lack of enforcement action. In investigating a complaint from an individual payee, however, we can only consider whether the CSA's decision not to take a particular enforcement option is reasonably based. We are not in a position to judge whether that case was any more or less deserving than others which the CSA is also obliged to pursue.

We also receive complaints from payers that allege that the CSA has taken harsh or oppressive enforcement action. In many cases, the facts as presented by the complainant do not suggest that the CSA's actions are unreasonable. If the circumstances seem unusual, we would be likely to investigate the complaint. The purpose of the investigation would be to establish whether the CSA's decision to take a particular enforcement option in that specific case was reasonably based. Again, we are not in a position to judge whether that case was any more or less deserving than others which the CSA is also obliged to pursue.

Having said that, in a small number of cases, we have formed the view that the CSA has taken enforcement action which appears to have been unduly harsh. We have also found cases where it appears CSA has failed to take actions which appear to be warranted to ensure that a payer does not manage to openly flout his or her child support obligations, for example, through transferring property into another person's name or alienating income through the use of a corporate structure. Problems at either end of the spectrum have the potential to undermine public confidence in the child support scheme.

The CSA has acknowledged that it reduced its focus on debt recovery over the period that it was implementing the scheme reforms. We understand that much of the 'business as usual' debt collection activity was overtaken by the necessity of training staff in the mechanics of the new Scheme, and improving customer service generally. However, with CSA's recent acknowledgement that child support debt has now exceeded $1billion, we welcome the CSA's announcement that it intends to increase its emphasis on ensuring compliance at the very earliest stage possible and to consistently remind parents with child support debts of their obligations. We consider appropriate the CSA's intention to use every possible opportunity to discuss any outstanding debt with parents and negotiate a payment arrangement.

We accept that in the majority of cases the CSA will be able to ensure voluntary compliance through frequent and consistent messages to payers about the need for them to pay their child support debt. Promptly targeting first-time defaulters and paying parents new to CSA collection should build early and voluntary compliance. However, we also consider that it is necessary for the CSA to strategically use its coercive powers and other more intensive and expensive debt collection options to build and maintain public confidence in the scheme. This requires a proportionate and systematic approach to cases with child support debt. Some of the cases that we investigate suggest that the CSA's arrangements for identifying and escalating cases for more intensive debt collection measures may be lacking in rigour.

To date, this office has not conducted a detailed analysis of the CSA's processes for identifying and assessing cases for more intensive debt collection. However, the payee complaints that we do investigate about failure to collect often result in further collection action, or expedited collection action. Some cases are referred to litigation because of our involvement; others are subject to further investigation to identify income streams or assets in the payer's name. In others, the CSA is able to take administrative action to collect the debt using the information which the payee has already provided to it, but which had not previously been acted upon. It is difficult to assess whether these cases receive preferential treatment because of our investigation, or whether the action would have been taken anyway, as long as the matter had been brought to the attention of the right person within the CSA.

We appreciate that court recovery action is an expensive option for the CSA, even when it is able to recover part of its legal costs from the debtor. It is ultimately a process which the CSA must embark upon at its own discretion, after assessing the other alternatives available, the prospects of success, and the likely expense. However, we also consider that court action has a function above and beyond the collection of child support. The pursuit of appropriate child support debts through legal action generally increases confidence in the child support scheme itself. We believe this higher function should be one of a suite of considerations in determining which cases warrant pursuit through litigation.

International Child Support customers

Since 1 July 2000, the CSA has had greater responsibility for administering Australia's international maintenance arrangements. The CSA is now responsible for collection of maintenance payable by Australian payers under overseas orders and assessments as well as making assessments of amounts payable by overseas payers for children who are in Australia.

We have been receiving increased numbers of complaints about the CSA's administration of international child support cases. The underlying technical issues in these cases are often very complex. However, putting those complex technical problems aside, we believe there are some simple service delivery problems with these cases. The complaints that we have

investigated suggest that the CSA's service to the customers with international cases is inferior to that which it provides to customers with domestic cases.

There are significant cultural differences between Australia and most reciprocating jurisdictions. The Australian child support scheme is very different to the arrangements that apply in many reciprocating jurisdictions. A payer in a foreign jurisdiction will have difficulty understanding the principles underpinning the Australian child support formula. Many of the assumptions built into the formula are simply not relevant to a payer living overseas.

However, the CSA uses the same standard assessment notices (and in most cases, letters) for all its customers. For a parent living overseas, the CSA's assessment notices show the person's child support income in Australian currency, without quoting the exchange rate that it used to convert it, or the date upon which it was converted. The notices refer to the period of income using Australian taxation years, even where the CSA has actually used a figure for a different foreign tax year. In one complaint that we recently investigated, the CSA acknowledged that the notices that it sent to a payer residing in Hong Kong were not adequate to allow him to check whether the information that the CSA had used was accurate.

The CSA's 'phone first' culture is not appropriate for many customers located overseas. Quite apart from any language barriers, there is a basic problem with the cost of ringing the CSA and the difference in time zones. Although the CSA can deal with its customers in writing, the level of service that it provides in this way is inferior to that for those customers who can conveniently deal with it by telephone. We have found a concerning trend in the CSA's International team in Hobart of delayed responses to letters and emails from customers overseas. In some cases, the CSA has simply lost or ignored correspondence. Its record keeping practices have failed in a number of cases and it has been unable to locate copies of orders or applications from overseas. We have even had an instance where a central authority in a reciprocating jurisdiction resorted to complaining to us because the CSA was not responding to its correspondence at all.

We consider that the CSA needs to improve the standard of the correspondence that it sends to customers located overseas. The most urgent issue in our view is ensuring that the information in the CSA's assessment notices is presented accurately and in a fashion that allows the person to check whether it is correct.

We suggest that the CSA explore alternative arrangements for communicating with customers located in reciprocating jurisdictions, perhaps in conjunction with the relevant central authorities. Our investigation of a complaint from CSA payer in a Pacific Island nation revealed that his community had limited telephone and internet access and the cost of calling the Australia was prohibitive. The letters that he received from the CSA incorrectly stated that the CSA had made an assessment of child support payable under Australian law in addition to the court order for child maintenance that he was already complying with. The CSA's failure to respond to an email sent on his behalf by a third person seeking time to challenge the CSA's apparent assessment was a serious problem for him.

If the payer in an international case resides overseas, the CSA may refer the case to the reciprocating jurisdiction for enforcement. Every reciprocating jurisdiction has its own arrangements, and the CSA has limited control over the way that they enforce a debt. We consider that it is important for the CSA to manage the expectations of its customers, by providing them with reliable advice about the process, including any delays that are likely to occur. Incorrect assumptions can impact upon a parents relationship with their former partner and perhaps event their child or children.

Case Example Thirteen
Mr N is a payer who lives in New Zealand. The CSA has referred his case to the New Zealand Inland Revenue Department (NZIRD) for collection. The NZIRD collects child support and then transfers it to the CSA in Australia. The CSA then transfers the payments to the payee in Australia.

Mr N was upset that the CSA's accounts always showed that he was behind with his child support, because of the delays involved in the transfer from the NZIRD to the CSA in Australia. He said that his former wife and his daughter believed that he was avoiding or delaying his obligations and that this affected his relationship with his daughter.

As a result of our investigation, the CSA provided Mr N with a better explanation of his child support account and the payment cycle. It also undertook to prepare a suite of country–specific fact sheets to send to CSA customers with international cases to explain the issues that can arise with international enforcement of child support. These fact sheets will be prepared for the five largest 'reciprocating jurisdictions', assisting CSA customers in more than 24,000 cases and covering 59% of all international cases.

We are not aware of the CSA's progress in developing these fact sheets.

Working with other government agencies

Centrelink

The CSA and Centrelink each have a role in the administration of the child support scheme. In particular, they work together to administer the 'reasonable maintenance action' test. Centrelink requires a person seeking Family Tax Benefit (FTB) for his or her children after separation to apply for and collect child support in order to receive more than the basic rate of FTB. Any child support that the CSA collects and pays to the payee is reported to Centrelink so it can apply the maintenance income test, which reduces a person's FTB entitlement according to the amount of child support they receive. If the payee chooses to collect his or her child support privately, Centrelink will take into account the CSA's assessment in calculating the person's FTB entitlement.

To efficiently perform their interlocking responsibilities, the CSA and Centrelink need an open and accurate exchange of information. Ideally they should also work together to resolve problems that arise, rather than leaving it to their customers to sort things out with one or both agencies. We have investigated a range of individual complaints that highlight problems in the way that the CSA and Centrelink administer mutual cases. We intend conducting a more detailed exploration of the systemic causes underpinning those complaints. However, it is worth including in this submission some of the problems that we have identified to date.

Problems with the automated data exchange between the CSA and Centrelink

- Delays in information transmission, often by several years.
- Inconsistencies in information held on the two systems.
- Failure to transmit data.

Human Error

- Mistakes in CSA's data entry leading to Centrelink cancelling FTB or raising overpayments.
- Significant CSA delays in identifying and correcting information

Customer Service Issues

- Failure to act on Centrelink advice of care changes.

- CSA providing advice to customers, sometimes incorrectly, about the effect that a change to their CSA entitlement will have on their FTB.
- Failure by both Agencies to work co-operatively to resolve problems and identify remedies.

Australian Taxation Office

The CSA was originally part of the ATO. With its move to FACS (as it then was) and subsequently to DHS, the CSA has formalised arrangements for it to continue to have access to information from the ATO that is necessary to administer the child support scheme. This includes information about the taxable income of CSA customers and continued arrangements for intercepting and applying tax refunds to child support debts.

Most child support customers are obliged to lodge tax returns. The CSA needs up to date information about a parent's taxable income, as assessed by the ATO, so that it can correctly calculate child support assessments. However, the CSA has no right to demand that a parent lodge his or her income tax return. This is the ATO's responsibility.

In the May 2006 Budget, the CSA was provided with additional resources to fund the Non Lodger Project, which aimed to compel non-compliant payers to lodge their tax returns so that the CSA would have accurate income information to make the child support assessment. Under the program, which we understand will run from 1 July 2006 to 30 June 2010, the CSA refers details of non lodgers to the ATO. The ATO then takes action to compel those people to lodge their tax returns. We understand that the CSA and the ATO have an agreement that each year the ATO will make contact with up 125,000 CSA customers who have not lodged their returns. The agreement also provides for the ATO to take prosecution action in a certain number of cases and to provide regular reports to the CSA.

Many of these cases are ones where the person may actually be entitled to a refund of tax after they lodge their return, rather than be obliged to pay additional tax to the Commonwealth. This means that in the absence a CSA referral, the ATO would be unlikely to demand that the taxpayer lodge his or her return in accordance with its usual criteria for such cases.

Our investigation of several complaints where the CSA has referred a case to the ATO for lodgement enforcement suggests that the CSA does not receive regular reports from the ATO about its progress with a referred case. If the CSA has advised the other parent of the referral it is unable to give clear advice about the dates that particular actions were taken. Some complainants suspect that vagueness is actually a cover-up for having failed to act.

We have also been advised that the ATO is reluctant to take action beyond sending a letter of demand to the taxpayer, if the case is one where there is no evidence to suggest the person has evaded his or her obligation to pay tax as a result of the delay in lodging the relevant returns. We believe that it may be appropriate for the ATO to consider possible evasion of child support as a factor in deciding whether a case warrants additional action to ensure that the taxpayer meets his or her obligation to lodge income tax returns on time. We recommend that the CSA continue to review the arrangements that it has with the ATO to ensure that they address the objectives of the child support scheme.

Accountability

The CSA's complaint service

The CSA's internal complaints service has operated for more than 10 years. Since its establishment, it has operated as a three step process, with the CSA encouraging, but not

requiring, its customers to make their complaint by telephone. It is the practice of this office to check whether a person making a complaint to us has already used the internal complaints service of the organisation that they are complaining about. In most instances, if the person tells us that they have not used the internal complaints process, we will decline to investigate their complaint and give them the contact details for the relevant complaint service. We invite them to contact us if they are dissatisfied with the agency's response to their complaint.

We frequently find that CSA complainants who contact us believe they have used the CSA's complaints service, but the CSA subsequently advises us that they have not. While there are many possible reasons for this confusion, we consider that it is partially attributable to the fact that CSA customers rarely have a have a dedicated case officer and can speak to several people about a single issue. They are not always aware of the difference between a simple variation to their assessment, a CoA application, an objection and a complaint and they assume that one of the processes they have been through is a complaint.

We are not confident that CSA staff actively and appropriately encourage dissatisfied customers to use the CSA's complaints service. It may be that CSA staff are accustomed to unhappy customers and do not always expect to be able to satisfy them within the restraints of the child support scheme. During the period of the CSA implementing the scheme reforms, many CSA customers contacting us to complain about the impending changes to their assessment told us that the CSA had referred them to this office, rather than to the CSA's internal complaints service on the basis that their dissatisfaction was with the new legislative scheme rather than the way the CSA was implementing it.

In our view, the volume of CSA complaints made to this office indicates an unmet need. If the CSA wishes to receive a return on its investment in its complaint service, it needs to make sure that it is widely publicised, readily accessible and that its staff encourage people to use it and actually refer them there. The CSA needs to ensure that its staff talk about the complaints service to customers in a positive way, so that customers feel like their complaint is important, has been heard and will be investigated and acted upon.

The Ombudsman's office has recently released its *Better Practice Guide to Complaint Handling*, which identifies the five elements of an effective complaint service. We recommend that the CSA review its current complaint service against that document. We have been giving presentation to CSA complaint staff and team leaders around the country over the last few months. The presentations have been very well received.

In addition to the concerns noted above about the visibility of the CSA's complaint service and the level of commitment that CSA staff display to it, we also consider the CSA could improve its accessibility.

As noted above, the CSA's complaints service is a three step process, with the CSA receiving most complaints by telephone. We believe that for many people, the three step process may be a barrier, especially if the CSA officers they speak to at steps one and two are very strongly of the view that the person's complaint is unmeritorious and attempt to discourage the person from taking the matter further. One of the important features of an effective complaints process is its independence. It is not appropriate to require someone to make their complaint in the first instance to the officer whose actions they are complaining about, as is currently the case with Step One of the CSA's complaints process. It can also be challenging for a CSA officer handling a complaint at Step one to encourage the complainant to escalate their concerns to the CSA officer's supervisor.

We also note that, consistent with its overall 'phone first' culture, the CSA tends only to publicise the telephone number Step Three of its complaints service. We consider that the

CSA should routinely publicise all the possible ways for people to make their complaint, which we understand include by letter, fax or email. This information should be prominently available on all CSA correspondence and prominently displayed on, or accessible from, the front page of its website.

We understand that the CSA has set a target for 2009-10 of reducing the number of complaints made to Step Three of the CSA's complaints service. The CSA has assured us that it intends to do this by dealing with complaints earlier, so they do not need to be escalated to step three. However, we would stress that it is important for the CSA to ensure that staff understand the intention behind the target and that they do not attempt to dissuade people from using the complaints service, in a misguided attempt to achieve that target.

Internal arrangements to identify systemic problems

This office acknowledges that complaints will not always reveal the flaws in an agency's processes. It is also necessary for an organisation to have other measure in place, such a program of internal audit, and regular reporting arrangements across its full range of operations, to identify areas of systemic weakness, significant delay or resource deficiency. We are not aware of all the reporting and auditing arrangements within the CSA. However, certain CSA complaint trends give us reason to question the effectiveness of the existing reporting arrangements.

For example, in our 2008-09 annual report, we identify as a matter of concern the CSA's substantial backlog of estimate reconciliations. This backlog commenced to develop after legislative change in 1999. We became aware of the backlog only when the CSA started to address it. Not surprisingly, CSA customers who were told that they owed extra child support for period up to ten years ago were very unhappy to be asked to pay those debts. Our 2008-09 annual report also included information about the improving timeliness of the CSA's objection decisions. While the CSA has made significant improvements in this area, it is still not meeting the legislated timeframe of 60 days in all cases, despite the fact that we have reported this issue publicly and continue to monitor its performance.

Benchmarking and best practice

Drawing on the experience of other agencies

Given the Ombudsman's very broad jurisdiction, we are well placed to compare the way that different agencies deal with the same or similar issues. We have noticed that the CSA often deals with things differently to other agencies within the DHS portfolio. It is not apparent to us that the CSA routinely seeks to draw upon the expertise of other agencies, and especially those within the DHS portfolio, such as Centrelink. However, as noted earlier, the CSA has carried across certain processes from the ATO, which may not be as well suited to the CSA's operating environment. In other cases, the CSA has departed from the processes used by the ATO for the administration of very similar powers.

We think it is important to note that there are some aspects of the CSA's administration that are innovative and approaching best practice. For example, the CSA's call recording technology enables it to efficiently resolve disputes about oral advice or rudeness. The CSA also has an active and effective program of stakeholder engagement. It has also developed a range of targeted information products to meet the needs of its customers and their children.

Based on the complaints that we have investigated, we offer the following as examples where the CSA has procedures that are markedly different to those used in other agencies. It may be possible for the CSA to improve its own procedures by drawing on the experience of those other agencies.

- CSA and Centrelink have inconsistent rules about making decisions about levels of care. We receive far less complaints about Centrelink's processes.

- CSA and Centrelink have vastly different approaches to the investigation and prosecution of customer fraud.

- The CSA and the ATO have very different approaches to the administration of Departure Prohibition Orders (DPOs).

- The CSA's requirements for verifying a customer address provided by a third party before including it in its records are cumbersome and are inconsistent with those used by Centrelink.

- The CSA conducts almost no investigations in the field, whereas Centrelink and the ATO do this frequently.

- The ATO routinely uses insolvency proceedings to collect tax debts, whereas the CSA does so very rarely, if at all.

- Deeds of release for payments of compensation under the CDDA scheme. Centrelink does not usually require a customer to sign a deed of release before settling a compensation claim below a designated threshold. The CSA routinely requires a deed of release and this has proved to be a sticking point in the resolution of some matters.

- Centrelink has national procedures for withdrawing face to face service from customers and for reviewing those decisions, built on its long experience in delivering social support payments to large numbers of people in enormously varied and often challenging circumstances. The CSA developed its practice of making customers 'write only' without any apparent consultation with Centrelink, or other DHS agencies.

- The CSA has developed a procedure for retrieving and replacing misdirected bank payments (of child support for payees) which was different to that used by Centrelink. The CSA advised us that it could not replace a misdirected payment until it retrieved the amount from the account of the person to whom it was paid by mistake, which caused hardship to a payee, in circumstances where her Family Tax benefit was reduced to take into account the money that the CSA had collected but not yet paid to her.

ANNEX ONE: COMMONWEALTH OMBUDSMAN REPORTS AND GUIDES RELEVANT TO THE REVIEW

Commonwealth Ombudsman Annual Report 2008-2009
http://www.ombudsman.gov.au/pages/publications-and-media/reports/annual/ar2008-09/download/PDF/annual_report_2008_09.pdf

Australian Federal Police and the Child Support Agency, Department of Human Services: Caught between two agencies: the case of Mrs X - Report 14|2009—August 2009
http://www.ombudsman.gov.au/commonwealth/publish.nsf/AttachmentsByTitle/report_2009_14/$FILE/reports_caught_between_two_agencies.pdf

Putting things right: compensating for defective administration—Administration of decision-making under the scheme for compensation for detriment caused by defective administration - Report 11|2009—August 2009
http://www.ombudsman.gov.au/commonwealth/publish.nsf/AttachmentsByTitle/report_2009_11/$FILE/online-CDDA.pdf

Child Support Agency: Administration of Departure Prohibition Order powers - Report 08|2009— June 2009
http://www.ombudsman.gov.au/commonwealth/publish.nsf/AttachmentsByTitle/report_2009_08/$FILE/onlineCSA_DepartureProhibOrders_20090603.pdf

Child Support Agency, Department of Human Services: Responding to allegations of customer fraud - Report 12|2008—November 2008
http://www.ombudsman.gov.au/commonwealth/publish.nsf/AttachmentsByTitle/reports_2008_12/$FILE/CSA_DHS_customer+fraud+report_20081027_online.pdf

Child Support Agency Change of Assessment Decisions – Report 01|2004 – May 2004
http://www.ombudsman.gov.au/files/investigation_2004_01.pdf

Better Practice Guide to Complaint Handling
http://www.ombudsman.gov.au/commonwealth/publish.nsf/AttachmentsByTitle/better_practice_guide_to_complaint_handling/$FILE/onlineBetterPracticeGuide.pdf

Better Practice Guide to Managing Unreasonable Complainant Conduct
http://www.ombudsman.gov.au/docs/better-practice-guides/Online_UnreasonableComplainantConductManual_CwthOmb.pdf

Fact Sheet 7: Complaint Handling: Multiple Agencies
http://www.ombudsman.gov.au/docs/fact-sheets/onlineFactSheet7_multi-agency.pdf