

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

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

Our reference: Fol 4327

Date: 15 December 2016

Dear Tarquin Hopefull,

Thank you for your Freedom of Information request received on 15 November 2016.

You asked:

I am writing to you for clarification on points of concern that are not being answered nor administered by the child maintenance service (CMS).

- 1. Are the telephone operators aka client service managers advised to refuse the request of escalating a complaint and also providing information on the complaints procedure as an injured party aka not responding to letter/notices?*
- 2. What is the time scale for responding to letters sent to CMS namely requesting further details regarding allegations and presumptions?*
- 3. What is the procedure and time scale for the CSA responding to DNA requests by an alleged parent?*
- 4. Under what LAW can the CMS assume liability and administer a garnishment of private income where no evidence of lawfulness, liability, debt or contract has been given.*
- 5. Under what LAW can the CMS continue to administer a client case, under civil procedures (Child Support Act 1991) where there is no contract; expressed, implied, stealth, tacit or otherwise.*

Our response:

It may be helpful if I start by clarifying the remit of the Freedom of Information Act (FOIA). The FOIA gives any person legal right of access to any and all recorded information which is held by a public authority. The FOIA does not oblige a public authority to create new information to answer questions; nor does it require a public authority to give advice, opinion or explanation in relation to issues/policies under question.

- 1 & 2 Section 21 of the FOIA provides an exemption to the requirement on public bodies to provide information, if that information is readily accessible within the public domain. Our customer charter explains what you can expect from the Department and what your

responsibilities are in return. Our Customer Charter can be accessed online at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221162/child-maintenance-our-client-charter.pdf

- 3 Attached Annex A is guidance that is available to case work when handling cases where parentage is being disputed.
- 4 & 5 You asked about the legislation which allows the CMS to make and enforce maintenance liability decisions.

Acts of Parliament and Statutory Instruments, such as regulations and orders provide the legal framework for decision making. The overriding framework of all three schemes for maintenance, and the power to make specific provisions within statutory instruments, is derived from the Child Support Act 1991. The Act has been amended over the years, as subsequent schemes were introduced, such as the amendments brought about by the Child Maintenance and Other Payments Act 2008, which created the framework for the 2012 scheme.

Please find below links to this legislation:

- [Child Support Act 1991](#)
- [Child Support Maintenance Calculation 2012](#)

Specifically, the regulations applicable to the 1993 scheme are:

[The Child Support \(Maintenance Assessment and Special Cases\) Regulations 1992](#)

[The Child Support \(Maintenance Assessment Procedure\) Regulations 1992](#) and

[The Child Support Departure Direction and Consequential Amendment Regulations 1996](#)

Specifically, the regulations applicable to the 2003 scheme are:

[The Child Support \(Maintenance Calculation and Special Cases\) Regulations 2000](#) (S.I. 2001/155)

[The Child Support \(Maintenance Calculation Procedure\) Regulations 2000](#) (S.I. 2001/157); and,

[The Child Support \(Variation\) Regulations 2000](#) (S.I. 2001/156)

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

Yours sincerely,

DWP Central Fol Team

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwpgsi.gov.uk or by writing to: DWP, Central FoI Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF www.ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745