

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

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

Our reference: FoI IR271

Date: 28 May 2017

Thank you for your Freedom of Information request received on 31 May 2017.

In response to your internal review (reference IR242) you asked:

1. *In your response you say "if the average fuel cost is considered excessive..." please provide your policies and guidance on what constitutes "excessive". In other words please clarify what would trigger an assessment of "excessive" when a claimant submits a cost to you.*
2. *In your response you said "the decision to use the advisory fuel rates is a policy rather than legal or regulatory decision".*

The rates you are using are for company care use. HMRC themselves provide guidance on these rates and they say "when you can use the mileage rates: the rates only apply when you...reimburse employees for business travel in their company cars"

Please provide any internal documents that relate to your organisations internal and external discussions around the formulation of this policy including details of stakeholders involved or consulted, internal and external, and the relevant dates. I am specifically looking for documentation that supports the decision that supports the decision point for your organisation to use company car rates and not personal car rates.

3. *In your response you say "the figures are developed and reviewed using data from the Department for Business Energy and Industrial Strategy and data from organisations such as the Automobile Association...". Please provide the dates of your last review of the data from the DoBE and IS, and the data from the AA that you are using to benchmark your figures against.*
4. *In your response you say: "...It was not deemed appropriate to use the simplified expense rates for self employed..." I am not sure why you have referenced rates for self-employed. My question specifically asked why you were using HMRC rates for company vehicles and not HMRC rates for private vehicles. Again, HMRC's own guidance on usage of these rates says "When you can use the mileage rates: The rates only apply when you...: reimburse employees for business travel*

in their company cars". Your own expense policy for your own employees allows claims using HMRC's private car mileage rates when using their private vehicles. Please review your response and provide an answer in relation to private car rates, not self employed rates.

- 5. In your response you say "protection to ensure contact is maintained..." please provide any of your policies, procedures, or guidelines where you make decisions taking into account "protection to ensure contact is maintained" specifically with regard to claims for variations for Special Expenses*
- 6. Please provide the number of cases so far in 2017 where you have specifically utilised the guidelines on "protection to ensure contact is maintained". In other words, how many cases so far in 2017 have you made a decision in favour of a claim where otherwise you would not because you have decision to protect and maintain contact?*

Our response:

1. I refer you to the response issued to you on 12 June 2017 (reference VTR2247) where we explained that the Child Support Maintenance Calculations Regulations 2012 section 63 and 68 (3) and (4) provide the legislation in relation to contact costs, how to deal with excessive contact costs and protection to ensure contact costs are maintained.

Regulation 68 (3) enables the Child Maintenance Service to implement a lower amount where it considers the expenses to be unreasonably high or unreasonably incurred. This is a discretionary decision.

2. I am unable to provide you with the internal documents that you have requested as no such document exists. The decision to use HMRC Advisory Fuel rates was a Department for Work and Pensions policy decision.
3. On this occasion I would be unable to provide you with the information that you have requested as the review process is not completed by the Department for Work and Pensions therefore we would not be able to provide comment.
4. The legislation relating to allowable costs in Contact Cost Variations makes provision for the cost of fuel used in maintaining contact, as per Regulation 63(1) (b) of the CSMC Regulation 2012. In the first instance the Child Maintenance Service will always endeavour to base any contact cost decision on the actual costs incurred, requesting evidence in the form of receipts from the non-resident parent. Only where there is insufficient evidence provided by the non-resident parent will the Child Maintenance Service turn to HMRC's advisory fuel rates.

The Child Maintenance Service does not use HMRCs Mileage Allowance Payments (MPAs) (*what you refer to as Personal car rates*) in determining the cost of contact. These rates reflect general running costs, not simply the cost of fuel (as the law requires). Therefore it would be unlawful to use this as a proxy for these costs as the law states that we can only use fuel costs in respect of a person's vehicle.

5. One of the aims of the Child Maintenance Service is to ensure that contact is maintained between parents and their children. In order to help maintain this contact we allow for paying parents to make applications for special expenses variations, including contact costs. In response to your Freedom of Information request, reference VTR1187 dated 11 May 2017, we provided in Annex E the relevant extract of our policy and decision making guidance related to contact costs.

6. The information you have requested is not routinely recorded.

To comply with your request individual cases would need to be checked and we estimate that this would exceed the appropriate cost limit, which for central Government has been set in Regulations at £600. This represents the estimated cost of one person spending 3.5 working days in determining whether the Department holds the information, and locating, retrieving and extracting the information. Under section 12 of the Freedom of Information Act the Department is therefore not obliged to comply with this part of your request and will not be progressing it further.

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 Fol Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information

Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House,
Water Lane, Wilmslow Cheshire SK9 5AF
www.ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745