



HM Revenue  
& Customs

**Child Benefit Office  
Benefits & Credits**  
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[www.gov.uk/contact-hmrc](http://www.gov.uk/contact-hmrc)

**Section** Customer Relations Unit

**Web** [www.gov.uk](http://www.gov.uk)

**Date** 22 April 2016  
**Our ref** FOI 1576/16

Dear Mr Pybus

Thank you for your request, which was received on 29 March 2016 for the following information made under the Freedom of Information Act 2000 (FOIA):

*"I understand that in cases where an award of child benefit is disputed HMRC can use it's discretion to determine who receives the child benefit.*

*I understand that HMRC have an internal document giving guidance to decision-makers on the exercise of the discretion.*

*Can you send me a copy of that internal document",*

**For Part 1 of your question:**

Our Child Benefit Technical manual which can be found at the following link <http://www.hmrc.gov.uk/manuals/cbtmanual/index.htm> explains the criteria that all customers must fulfil to allow them to get UK Child Benefit. Paragraphs 08000 onwards explains the extra steps we must consider when customers have submitted competing claims to Child Benefit.

In addition I would like to explain in general terms that the law provides a set of rules to help determine who should have priority of entitlement for Child Benefit where more than one person satisfies the conditions to receive the benefit. These rules ensure first that the original recipient continues to be paid the benefit for the first three weeks following the week in which a claim is received from another party.

The law does allow for the parents of children to decide between them who should receive the Child Benefit. If they cannot reach an agreement it then falls to an Officer of HMRC acting for the Commissioners of HMRC to impose a decision. These decisions are discretionary and as such, carry no rights of appeal.

Child Benefit law does not provide any guidance on how we should decide which customer in a disputed claims case should receive the benefit and only stipulates that the decision is

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seen to be reasonable. Although there is no statutory guidance, we have produced internal guidance to help the decision makers to arrive at a decision in disputed claims cases.

In disputed claims cases the decision makers will look at:

- The pattern of care and living arrangements for the child.
- Any court orders in force covering the arrangement for the child's care.
- The child's official address.
- Where the personal possessions are kept.
- Where the child would stay if he or she were ill.
- The effect on the level of financial support from other state benefits for the child if the Child Benefit claim was disallowed.

The guidance is not prescriptive and intended only as a pointer to the kind of information that would have a bearing on the decision. But the final decision will be a matter of judgement about the relevance and significance of each item of information provided, in the circumstances of the individual case.

### **For Parts 2 and 3 of your question:**

The procedural guidance you have requested is contained in the Child Benefit Procedural Guide (CBPG). The CBPG is only available internally for use by officers within HMRC. The CBPG is currently being re-written and, at a future date, will be published on the HMRC website for customer information, in line with guidance for other areas of HMRC.

Because of that the current drafts are exempt from disclosure under section 22 FOIA which exempts information which is held by a public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not).

Section 22(1) FOIA applies if 3 conditions are met:-

- a) There was an intention to publish at the time the request was received; there was, and
- b) It is reasonable to withhold the information until the planned publication date, and
- c) It is not in the public interest to disclose the information.

In considering (b) and (c) above I have taken account of a number of factors. I accept that it is reasonable and in the public interest that HMRC is open about its procedures and practices. But the public interest will be met by our planned future publication.

The public interest in permitting public authorities to publish in a manner and form and at a time of their own choosing is important. It is a part of the effective conduct of public affairs that the general publication of information is a conveniently planned and managed activity within the reasonable control of public authorities.

Where they have taken the decision in principle to publish, public authorities do have a reasonable entitlement to make their own arrangements to do so.

I also think that favouring a single applicant with the information could result in unfairness to others who might be interested and I believe it is fair and thus reasonable for the information to be disclosed to everyone at the same time. It would not be in the wider public interest to favour one single applicant. Premature disclosure could undermine any relevant pre-publication procedures, such as consultation with or pre-disclosure to particular bodies.

On balance I therefore conclude it is both reasonable and in the public interest to withhold this information.

If you are not happy with this reply you may request a review by writing to HMRC FOI Team, Room 1C/23, 100 Parliament Street London SW1A 2BQ or email [foi.review@hmrc.gsi.gov.uk](mailto:foi.review@hmrc.gsi.gov.uk). You must request a review within 2 months of the date of this letter. It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of an internal review, you may apply directly to the Information Commissioner for a decision. The Information Commissioner will not usually consider a case unless you have exhausted the internal review procedure provided by HMRC. He can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or by their website at [www.ico.org.uk](http://www.ico.org.uk).

Yours sincerely

**Dorothy Brown CBE**

Director

Benefits & Credits