

# **SERVICE LEVEL AGREEMENT**

**BETWEEN**

**THE DEPARTMENT FOR  
WORK AND PENSIONS  
CHILD MAINTENANCE GROUP**

**AND**

**HOME OFFICE  
for the provision of Immigration  
purposes**

## **SERVICE LEVEL AGREEMENT**

This document is the Service Level Agreement between:

- **The Department for Work and Pensions –  
Child Maintenance Group**
- **Home Office**

*Signed:* .....

*Date:* **13/08/2010**

(On behalf of DWP Child Maintenance Group)

*Signed:* **Richard Quinn**

*Date:* **21/09/2010**

(On behalf of Home Office)

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## **Section 2**

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### **APPENDIX 2 - Data Request template**

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## Section 1

### 1.1 Overview

DWP Child Maintenance Group (DWP CMG) is responsible for the child maintenance system in Great Britain. It took over the functions previously performed by the Child Maintenance and Enforcement Commission on 1/8/2012.

DWP CMG aims to maximise the number of effective arrangements for children who live apart from one or both of their parents by:

- Promoting the financial responsibility that parents have for their children;
- Providing information and support about the different child maintenance options that are available and supporting families in making their own family-based arrangements; and
- Delivering an efficient statutory maintenance service, with effective enforcement support.

DWP CMG delivers its service to clients in Great Britain through the Child Support Agency, which continues to administer the 1993 and 2003 child maintenance schemes and the Child Maintenance Service (CMS) which administers the 2012 scheme.

The Northern Ireland Child Maintenance Service (NI CMS), previously called the Child Maintenance and Enforcement Division, is responsible for the child maintenance schemes in Northern Ireland. It is part of the Department for Communities. Its overall purpose is to promote and secure effective child maintenance arrangements.

Hereafter, all subsequent references to DWP CMG and NI CMS in this document will include Child Support Agency, Child Maintenance Service, Child Maintenance Options, and Child Maintenance Choices.

This Agreement is made between DWP CMG and NI CMS and the Home Office, specifically UK Visas and Immigration, Immigration Enforcement and UK Border Force, sharing three broad strategic objectives:

- secure the border
- control migration
- reduce costs and improve customer service.

In order to more effectively tackle responsibilities regarding immigration crime the Home Office works with organisations, corporations and individuals to establish compliance with immigration legislation. The Home Office is committed to developing closer links with other bodies with common interests in tackling non-compliance with legislation. Where possible the Home Office has sought to develop joint working practices with these bodies to identify and tackle abuse in common locations.

The Home Office has powers to enter premises, arrest and remove those individuals found to be residing in the UK without permission or acting in breach of the conditions of their stay including accessing public funds to which they have no entitlement. To reduce the pull factor of illegal working the Home Office has introduced legislation to encourage compliance with legislation amongst employers. Employers face civil penalties for each worker found to have been employed without the right to work in the UK.

## **1.2 Period of Operation**

This Agreement takes effect from 01/07/2010 and will remain in force until further notice, subject to annual review of terms and operation.

## **1.3 Review/Variation of the Agreement**

The Agreement is not legally binding. It will be formally reviewed on an annual basis, facilitated by the Agreement Co-ordinators listed in paragraph 1.21.

If required, either party may request a review at any time.

Both parties may negotiate ad-hoc variations on individual services within this Agreement. It is essential that planned changes are notified to the other party as early as possible in order to assess the impact. Where both parties agree an ad-hoc variation, the Agreement Co-ordinators will revise and re-issue the relevant paragraph(s) to internal

staff. Each ad-hoc variation will be recorded in the table at Appendix 5.

Either party may terminate or amend this Agreement giving to the other party a minimum of three months written notice.

#### **1.4 Purpose of the Document**

This document describes the relationship that exists between DWP CMG and the Home Office and sets out the nature and standard of services they will provide to one another. The document has a business rather than technical focus, with the detailed means of delivery being for the most part defined in existing procedural instructions.

In certain circumstances, the Home Office may request information from DWP CMG for immigration purposes as defined in the Immigration and Asylum Act 1999 [see 1.6 below].

The purpose of this Agreement is to:

- Ensure effective co-operation by prompting a clearer understanding of DWP CMG Policy in relation to Disclosure of Information; and
- Provide overarching Policy guidelines to support DWP CMG and the Home Office co-operation at an operational level.

This Service Level Agreement does not override the statutory responsibilities, obligations or functions of DWP CMG and the Home Office and is not enforceable in law. The Agreement is a statement signaling the intention of both partners to work together and to support the development of sound and effective working arrangements.

#### **1.5 Confidentiality**

DWP CMG will treat information received as confidential and will not permit disclosure to any other party except as required for the purpose of fulfilling any legal obligations including those under the Child Support Act 1991 ( supplemented by the Child Support Information Regulations 2008), the Child Support (Northern Ireland) Order 1991 (implemented by the Child Support Information Regulations (Northern Ireland) 2008, the Social Security Administration Act 1990, the Data Protection Act 1998 and the Freedom of Information Act 2000.

DWP CMG and the Home Office recognise the value to both organisations of clearly identifying the legislative, policy and practical implications of disclosing information.

It is essential that DWP CMG and the Home Office embrace the principles set out in this Agreement. It is the duty of DWP CMG to maintain the confidence in which customers provide the Department with information whilst at the same time co-operating with the Home Office investigations where internal DWP CMG policy and the law allows the Department to provide data.

## **1.6 Legal Background**

The Data Protection Act, Human Rights Act, Child Support legislation and common law protect personal information. These are cumulative and must always be considered together.

### **Human Rights Act**

The Human Rights Act (1998) requires DWP CMG to comply with Article 8 of the European Convention on Human Rights, which allows interference with the right to respect for private and family life only when it is in accordance with the law and pursues a legitimate public interest in a proportionate manner. For this reason, DWP CMG will only disclose information where legal provision exists to do so or if there is substantial evidence that disclosure is in the public interest.

### **Common law**

The principle underlying all Home Office and DWP CMG co-operation is the common law duty of confidentiality owed to the public. This requires that personal information given for one purpose cannot be used for another, and places restrictions on the disclosure of that information. This duty can only be broken if the public interest requires it. Statutory provisions on disclosure override common law provisions.



## **Child Support legislation**

Section 50 of the Child Support Act 1991 and Article 46 of the Child Support (Northern Ireland) Order 1991 provides that persons employed by DWP CMG, carrying out any of its functions or certain people carrying out functions related to child maintenance are guilty of an offence if they disclose customers' personal information without lawful authority. Regulation 14 of the Child Support Information Regulations 2008 and Regulation 14 of the Child Support Information Regulations (Northern Ireland) 2008 extends the list of types of employment to which section 50 of the 1991 Act also applies.

## **Home Office (Immigration) Legislation**

Section 20 (1) of the Immigration and Asylum Act 1999 (as amended) permits the Secretary of State for the Department for Work and Pensions to provide information to the Home Office for Immigration purposes.

Immigration purposes as defined at Section 20(3):

- (a) The administration of immigration control under the Immigration Acts;
- (b) The prevention, detection, investigation or prosecution of criminal offences under those Acts;
- (c) The imposition of penalties or charges under Part II of the IA (Immigration and Asylum) Act 1999;
- (d) The provision of support for asylum seekers and their dependents under Part VI of the IA Act 1999;
- (e) Such other purposes as may be specified [DWP have been specified in relation to its functions relating to social security].

Immigration purposes as added by the Immigration (Supply of Information to the Secretary of State for Immigration Purposes) Order 2008:

- (a) Determining whether to impose, or imposing, penalties under Section 15 of the Immigration, Asylum and Nationality Act (IANA) 2006 (restrictions on employment);
- (b) Providing facilities, or arranging for the provision of facilities, for the accommodation of persons under Section 4 of the 1999 Act.

Information may also be supplied following amendments to the above (under S131 of the Nationality, Immigration and Asylum (NIA) Act 2002 and S43 of the UK Borders Act 2007) for the following purposes:

- (a) Determining whether a person applying to be naturalised, under the British Nationality Act 1981, is of good character;
- (b) Determining whether an applicant for registration under S52(2) of IANA 2006 is of good character; or
- (c) Determining whether to deprive a person of their citizenship.

## **Data Protection Act**

Even allowing for a statutory provision allowing disclosure of information from DWP CMG to Home Office, obligations under the Data Protection Act must still be complied with and every disclosure must be compliant with the eight data protection principles.

All requests for data should be on the standard Appendix 2 template, countersigned by a line manager (a grade no lower than Executive Officer or equivalent)

### **1.7 Meeting Data Protection Act provisions**

The Data Protection Act (1998) requires that all transfers of information fall within the eight data protection principles and all other requirements of the Act.

Please see the Information Commissioner's Office website for details of the eight principles:

<https://ico.org.uk/for-organisations/guide-to-data-protection/>

Information provided to the Home Office can be requested by individuals under Data Protection Act provisions except where appropriate exemptions apply.

### **1.8 Provision of DWP CMG Information to the Home Office**

DWP CMG colleagues are authorised to supply information to the Home Office when one of the following applies:

1. DWP CMG is satisfied the disclosure is for an immigration purpose as defined in Section 20(3) of the Immigration and Asylum Act 1999;
2. DWP CMG's customer has given consent;
3. It is required to by law or order of the court, or
4. In the absence of any of the above DWP CMG disclosure guidance otherwise authorises disclosure; for example where DWP CMG has an interest or where disclosure is in connection with the prevention or detection of crime or the apprehension or prosecution of offenders. DWP CMG will only assist where non-disclosure would result in a substantial chance, not merely a risk, that the investigation, prosecution etc would be prejudiced.

In either instance, the Home Office will need to give sufficient reasons to satisfy DWP CMG as to why they consider the disclosure falls within the non-disclosure exemptions of the Data Protection Act 1998 and to provide those reasons in writing (see standard request form at Appendix 2).

### **Witnesses or victims**

Information will not normally be provided if DWP CMG customer is a witness to, or victim of, crime. In such cases DWP CMG may consider either forwarding a letter on behalf of the Home Office or telephoning the person concerned. DWP CMG will need to see and approve the contents of the Home Office letter and cannot be held responsible for the safe delivery of letters.

### **Requests for lists**

DWP CMG will not normally provide the Home Office with information on lists of customers. However it is accepted that in certain circumstances, the Home Office may believe that a list of individuals is the only manner in which an enquiry or investigation may be furthered. Decisions on the release of information relating to a range of persons will not be handled at a local level. These will be considered by DWP CMG's Subject Access Request Team.

If information about a number of individuals is necessary to an enquiry or investigation, the Home Office must narrow down any list of individuals to the absolute minimum necessary before submitting it to DWP CMG. DWP CMG wish to see any list reduced, wherever possible, to the minimum of clearly identifiable individuals needed to

further the enquiry or investigation. It is for the Home Office, and not DWP CMG, to take appropriate steps to ensure that a list of individuals is sufficiently narrowed for DWP CMG to consider assistance.

## **1.9 Complaints/Challenges**

In the event that an individual questions or challenges the Home Office about the passing of information by DWP CMG, the Home Office will contact DWP CMG's officer who responded to the original request. DWP CMG's officer will consider whether the correct instructions have been followed and respond as appropriate. If necessary, further guidance will be obtained from either DWP CMG's Advice and Guidance Team, or DWP CMG's Subject Access Request Team.

## **1.10 DWP CMG Review of Decisions**

If the Home Office wishes to query a DWP CMG decision, either because insufficient or no information is provided, contact should be made with DWP CMG's officer who made that decision. The decision will then be reviewed by a more senior officer. The reviewing officer will consider any additional information supplied by the Home Office in support of the re-submission of the request.

It is accepted that without a court order or customer consent, it will always be up to the discretion of DWP CMG whether DWP CMG feels that the public interest argument in favour of disclosure has been adequately addressed.

## **1.11 DWP CMG and Home Office Commitments**

(1) DWP CMG will:

- ensure that any request from the Home Office satisfies the criteria laid down in this document. Any request not meeting the criteria will be returned to the originator;
- ensure the enquiry is treated in confidence;
- provide the information asked for within the agreed timescale, provided that this is considered reasonable (see Appendix 4);

- consider appropriate action where the Home Office informs DWP CMG that the information provided by DWP CMG is believed to be incorrect;
- consider inclusion of DWP CMG reply form in response to a Subject Access Request under the Data Protection Act (1998) unless it is specifically exempt;
- if there are any doubts about whether to comply with the request in full or in part, DWP CMG colleagues will, in the first instance, consult internal guidance contained in disclosure guidance and if still unsure, from either the CMG Advice and Guidance Team, or the Data Protection Unit; and
- ensure that where appropriate, appropriate guidance is issued to all DWP CMG colleagues.

(2) The Home Office will:

- clearly state the reason for a records check to be made, including (if necessary) explaining as fully as possible the reason(s) why the non-disclosure exemptions of the Data Protection Act (1998) apply;
- ensure all other more appropriate lines of enquiry have been pursued to locate the subject/obtain relevant information (unless absolutely necessary, DWP CMG should not be the first or only port of call);
- forward the request to DWP CMG using the template in Appendix 2;
- treat all responses in confidence;
- observe all obligations under the Data Protection Act (1998) in relation to information supplied by DWP CMG;
- not transfer the provided information onwards unless it is necessary for the investigation or legal proceedings;
- include information supplied by DWP CMG in any response to a Subject Access Request under the Data Protection Act (1998) unless it is specifically exempt;
- for certain requests where surplus information has been provided to the Home Office, provide DWP CMG with confirmation of the destruction of that data for DWP CMG's own records (for example when DWP CMG have provided a list of customers), as per DWP CMG data handling process.
- only keep information supplied by DWP CMG for as long as necessary for the specific purpose of the individual enquiry or investigation, any subsequent legal proceedings or if appropriate, the limit of any relevant appeal period has expired, whereupon it will be the responsibility of the Home Office to destroy that data in a secure manner and to record that this has been done on their file;
- notify DWP CMG if the information provided proves to be incorrect;
- distribute this Service Level Agreement as appropriate; and

- copy/print/reproduce and distribute the standard request form as necessary.
- forward requests to and from both parties via secure GSI email with the subject line marked as “Official” in accordance with GSC protective markings
- send all referrals from Criminal Casework Officers (of at least EO grade or equivalent), via the Home Office dedicated E-mail account –  
.....  
• send appropriate referrals by E-mail directly to the following E-mail account – [DPU.SARS@DWP.GSI.GOV.UK](mailto:DPU.SARS@DWP.GSI.GOV.UK)

## 1.12 Diversity/Equality

Both DWP CMG and the Home Office are committed to providing services that embrace diversity and promote equality of opportunity and are embedded in day to day working practices with clients, colleagues and partners. Both parties to this Agreement will:

- Treat each other fairly and with respect;
- Promote an environment that is free from discrimination, bullying and harassment and tackles inappropriate behaviours; and
- Recognise and value differences and individual contributions people make.

## 1.13 Risks

Risk Management Teams from each part of the organisation will work together to facilitate effective management of joint risks. Where DWP CMG risks are identified that impact the Home Office and DWP CMG, joint resolution will be sought. Where appropriate, any joint risks will be escalated via The Corporate Risk Management Team, and subsequently brought to the attention of Departmental Executive Team and DWP CMG Executive Team.

#### **1.14 Business Continuity**

This Agreement may be reviewed or suspended in the event of an emergency involving the implementation of a Business Contingency that will affect the provision of services.

Each party to this Agreement will consult the other as to the possible impact of their Business Continuity plans on the business of the other, and each will assist the other where viability of the plan depends upon mutual assistance.

#### **1.15 Liaison Arrangements and Disputes Instructions**

Close liaison is essential to ensure effective and economic delivery of services.

Liaison should take place between the Agreement Co-ordinators in DWP CMG and the Home Office **before** any operational or organisational changes are implemented which impact on staff or customers. Agreement Co-ordinators may be contacted for advice on questions of interpretation of the Agreement where issues cannot be resolved locally.

#### **1.16 Monitoring Arrangements**

Both DWP CMG and the Home Office will jointly monitor the services that are provided within this Agreement on a monthly basis.

Where DWP CMG considers that services are not being delivered to the required standard, this should be raised via line management to the Agreement Co-ordinators for resolution.

#### **1.17 Volumetrics**

Both parties will be given an indication of the likely projected volumes of work, to assess the capability to deliver both the service and standards expected.

Both parties will promptly discuss any projected changes to workload.

Any proposed increases to workload volumes will be subject to discussion and agreement between DWP CMG and the Home Office.

Any changes in volumes will be recorded in Appendix 3 and 5.

#### **1.18 Charging**

There are no charges/penalties included in this Agreement;

#### **1.19 Escalation Instructions**

Disagreements or lapses in service should be dealt with urgently.

If matters cannot be resolved, the issue should be escalated via line management at which point the Agreement Co-ordinators may be contacted for advice. If further escalation proves necessary, the disagreement should be fully documented before being passed to the next level.

#### **1.20 Freedom of Information**

Both DWP CMG and the Home Office are subject to the Freedom of Information Act (FOIA) 2000. In the majority of cases information exchanged between signatories will be sensitive in nature and likely to be exempt from disclosure. However, in the event that one of the signatories to this Agreement receives a request for information which it reasonably considers it is required to respond to in accordance with its obligations under the FOIA or other statutory requirement, and the information has originated from the other signatory, then the request will be discussed with the other signatory prior to any disclosure to consult upon the application of any relevant exemptions under the FOIA.



**1.21 Agreement Co-ordinators**

Contact between DWP CMG and the Home Office on the operations and terms of this Agreement should normally be directed through:

DWP CMG

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Home Office Immigration and Enforcement (Criminal Casework Directorate)

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