



Helpline
Monday to Friday 8am to 8pm
Saturday 8am to 4pm
0845 302 1444

Andrew Hooper
[request-59950-
xxxxxxxx@xxxxxxxxxxxxxxxx.xxx]

Child Benefit Office
PO Box 1
Washington
NE88 1AA

Section Customer Relations Unit

www.hmrc.gov.uk

Date 18 March 2011
Our Ref Fol 1240/11
Your Ref:

Freedom of Information Act (FOIA) 2000.

Dear Mr Hooper

HM Revenue & Customs (HMRC) has now completed its search for the information that you requested under the above act about Child Benefit.

In your request you have asked:

- Could we please clarify whether it is possible for each parent with joint custody of a child alternating a week at a time to receive Child Benefit for the week they have the child
- Has any family ever had an arrangement of alternative periods of custody agreed with HMRC such that the parents alternate the receipt of Child Benefit on a regular basis. If so please provide details of these arrangements.

Because you mentioned the Freedom of Information Act 2000 (the Act), your request was put into our FOI process, allocated a reference and acknowledged as such. Having considered your e-mail which asks for a clarification rather than, as envisaged by the Act 'describes the information' you want I do not think it is answerable under the terms of the Act. For the future you may find the Information Commissioner's guidance on making requests useful; it's at this link

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/practical_application/fop100_how_to_make_a_request_v1.pdf

Had we answered under the terms of the Act we would only have been obliged to answer based on recorded information held at the date your request arrived rather than; the Act would not have required us to create a 'clarification' to answer your specific enquiry. And because we don't have a pre-existing clarification of your specific enquiry the answer would

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Director: Paul Gerrard



simply be 'information not held'. Consequently I think it would be more helpful if I answered your enquiry in general terms. I hope you find this approach helpful

If you want more specific technical information you may wish to look at our website concerning the rules we apply at <http://www.hmrc.gov.uk/manuals/cbtmanual/Index>. You can also find more information about the laws we apply at www.ospi.gov.uk.

As previously explained to you where more than one person is responsible for a child and each satisfy the entitlement conditions, we can only make payment in any one week to one person for that child. We do not enter into agreements with families that allow customers to get Child Benefit on regular alternative periods of custody. The law does allow for the parents of children to decide, between them, who should receive the Child Benefit. Should they not be able to reach an agreement, then it falls for 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 of the rival claimants in a disputed claims case should receive the benefit and only stipulates that the decision is seen to be reasonable. This is because Parliament considers that setting down such rules would restrict our powers of discretion and could lead, in some cases, to an unfair decision.

Although there is no statutory guidance, we have produced internal guidance to help the Decision-Makers, who are statutory office holders duly authorised by HMRC, 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.

It may also help if I explain briefly, to be entitled to Child Benefit for any week, a person must satisfy one of two conditions. Either that the child is living with them in that week or they are contributing towards the child's upkeep at the rate to which Child Benefit would be payable. In cases where a child spends time with each parent, we consider that both may satisfy the conditions for Child Benefit for that child. There is no provision for paying Child Benefit on a part week basis.

The law provides a set of rules to help determine who should have priority of entitlement for Child Benefit where more than one person is able to satisfy the conditions to receive the benefit. These rules ensure, first, that the benefit continues to be paid to the person to whom it was originally awarded for the first three weeks following the week in which a claim is received from another party. The law does not provide for the splitting of Child Benefit – it can only be paid for complete weeks – neither does the legislation provide for Child Benefit to be paid to different people for alternate weeks.

Therefore we cannot pay on an alternatively weekly basis.

It is possible for Child Benefit to be paid to one person for 6 months then another person for 6 months. However this would necessitate a claim being made by one person and the subsequent agreement of the person in receipt of the benefit to relinquish that benefit. The process would have to be repeated at 6 monthly intervals and again could only go ahead with the agreement of the person in receipt of the benefit to relinquish it and the conditions for an award being satisfied.

We do not keep any information on the number of cases we have where customers are paid this way as their arrangements may change at any given point in the claim. As a although splitting the support may appear straightforward the reality is likely to be quite different as where, under current arrangements, parents cannot agree who shall receive the support, they are as likely, as not, to disagree about how the payments should be split.

If you are not happy with this reply you may request a review by writing to HMRC FOI Team, Room 1C/25, 100 Parliament Street London SW1A 2BQ. You must request a review within two 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 your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by the department. He can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

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Yours sincerely

Yvonne Aubrey
Freedom of Information Officer
Child Benefit Office.