

# Child Maintenance Payments

## Family

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The process of calculating child maintenance payments is complicated. Our recommendation would always be to seek advice if in any doubt in order to avoid surprises at a later date.

We've tried to set out some of the essential information you need to help you understand this complicated area better.

Child maintenance is paid by the parent who does not have day-to-day care of a child or children ('the non-resident parent') to the parent (or other care-giver) who does have the day-to-day care of the child ('the parent with care'). The receiving parent or care-giver and the child must live in the UK. Generally speaking the paying parent must also live in the UK but there are exceptions where they work for certain types of organisations, for example, the Armed Forces.

The amount of child maintenance payments can be decided in various ways:

### **A family-based arrangement**

This is essentially a private arrangement agreed between the parents, tailored to their own particular circumstances. It may be that the parents have reached an agreement to pay for specific items for the child or children, for example, clothes, food or holidays as well as, or instead of, a regular payment.

If the parents are both in agreement then it is not necessary for any statutory agency, for example the Child Maintenance Service, to become involved.

### **The Child Maintenance Service (replacing the Child Support Agency)**

The responsibility for child support has been transferred to the Child Maintenance Service (CMS). If parents are unable to agree a private arrangement an application is now made to the CMS as the Child Support Agency (CSA) is being phased out. Eventually, all those currently using the CSA will transfer to the CMS.

The CMS will carry out an assessment to ascertain the minimum amount of maintenance that should be paid.

The CMS charge for their services, although there are exceptions. Generally speaking there is an application fee of £20. There are also set charges for enforcing the payment of maintenance if the non-resident parent fails to pay.

Once the CMS assesses the amount of maintenance payable the payments can be made directly between the parties, preferably by standing order. The CMS can still enforce missed payments.

Alternatively, the CMS can be asked to collect the payments through their "Collect & Pay" service but they charge a fee of 20% from the paying parent on top of their regular payments and 4% from the receiving party, deducted from their regular payments. It is therefore far better to avoid using the CMS to collect the payments if you can.

The CMS scheme uses a formula that is based on the non-resident parent's gross income. Gross income is defined as all income from employment, self employment and pensions. Dividends exceeding £2,500 gross per annum are also taken into account.

It is possible to deduct pension contributions from gross income but the CMS have a discretion to reduce the level of deduction if it is concluded that income is being diverted in order to reduce the liability to pay child support. This is known as "diversion of income". The CMS can include as income payments, for example, to another person, where it is determined that income has been "diverted".

An individual's income is generally calculated by reference to the information held by HM Revenue and Customs (HMRC). The CMS will confirm which tax year is being used to calculate income. It is therefore possible that the information being used by the CMS could be out of date. If an individual's income has changed dramatically the CMS can take this into account but, generally speaking, it has to be at least 25% more or less than the HMRC figure.

In certain cases "special expenses" can be taken into account, for example, the travel expenditure incurred in having contact with the child in question, debts being paid which arose from a previous relationship and expenses relating to a disability.

Where the gross weekly income of the non-resident parent does not exceed £800 the payments will be calculated as:

- One child 12% of gross income
- Two children 16% of gross income
- Three or more 19% of gross income

Where any non-resident parent's gross weekly income is between £800 and £3,000, payments will be increased for income in excess of £800 by the following percentages:

- One child 9%
- Two children 12%
- Three or more 15%

Any gross weekly income in excess of £3,000 is ignored but an application can be made to court for a top up order beyond this sum. There is a minimum payment of £7 per week for gross incomes of less than £100 per week and a reduced rate is payable for gross incomes of between £100-£200 per week.

The CMS define a child as under the age of 16, or under the age of 20 and still in full-time education (A' levels or equivalent but not higher) or under the age of 20 where Child Benefit is received for that child.

Where the non-resident parent shares care with the resident parent, there is a deduction made to the amount of maintenance payable. The level of the deduction depends on the number of nights that the child spends with the non-resident parent.

- For 52 -103 nights per year the sum is reduced by 1/7th
- For 104 -155 nights per year the sum is reduced by 2/7ths
- For 156 -174 nights per year the sum is reduced by 3/7ths
- For 175+ nights per year the sum is reduced by 50% plus a further deduction of £7 per week per child.

Where care is truly shared no maintenance is payable

If the non-resident parent has any other children living with him or her and Child Benefit is paid to that household, then the gross weekly income is assessed with the following deductions:

- One child 11%
- Two children 14%
- Three or more 16%

### **The Child Support Agency (CSA)**

(From 2008 until August 2012 this was known as the Child Maintenance Enforcement Commission or C-MEC). For those currently involved with the CSA, the amount of maintenance depends upon the level of the non-resident parent's net income. Essentially, net income is defined as being net of tax, National Insurance and pension contributions. Income from savings, investments, benefits and student grants and loans is excluded as are dividend payments.

For incomes of less than £100 per week there is a minimum flat rate of £5 per week. For any parent whose income is between £101 per week and £2,000 per week the calculation is as follows:

- One child – 15% of net income.
- Two children – 20% of net income.
- Three or more children – 25% of net income.

As with the CMS, there is a deduction to the level of maintenance payable where the non-resident parent shares care with the resident parent.

An allowance is also made if the non-resident parent has other children living with them, whereby the net weekly income is reduced as follows:

- One child – 15%
- Two children – 20%
- Three Children – 25%

## **The Courts**

In very limited circumstances child maintenance can be decided by the Courts. This only occurs in unusual family situations or, for example, if the parent with care and child is living abroad where the CMS is not allowed to carry out an assessment.

Family based agreements can be approved by the Courts as Consent Orders. However, on the 13th month after the order has been made, either party to the Order can ask the CMS to carry out an assessment, and that assessment will supersede the provisions for child maintenance in the Court Order.

## **More information**

For further details about setting up a child maintenance arrangement or in calculating the amount of child maintenance that is currently payable you can visit Child Maintenance Options at [www.cmoptions.org](http://www.cmoptions.org) or call 0800 988 0988. If you wish to make an application to the CMS you are now required to notify Child Maintenance Options who will provide you with a reference.