

Parents have a legal responsibility to provide financially for their children even if they no longer live with them. When child maintenance is paid it can make a significant difference to the lives of families. This guide sets out the various types of child maintenance arrangements available to parents.

## Terminology

**Parent** - Usually the parent will be the biological parent of the child, but you do not have to be biologically related to the child to be considered a parent. For more information see **Children and the law: parental responsibility**.

**Non-resident parent /paying parent** – The parent who does not have day-to-day care of the child and pays child maintenance to the resident/receiving parent.

**Resident parent /receiving parent** – the parent or person who has day-to-day care of the child and receives the child maintenance. Resident parents are sometimes referred to as the **parent with care**.

**Child Maintenance Service (CMS)** – This is a service run by the Government to arrange and collect child maintenance from the **non-resident parent** and pay it to the receiving parent if this is necessary.

**Child Support Agency (CSA)** – This is also a service run by the Government to arrange and collect child maintenance but only deals with old applications set up before December 2013. All new applications are dealt with by the Child Maintenance Service.

## Private agreements for child maintenance

You can agree child maintenance with the other parent by negotiating with them directly or through your solicitor. You can record this in a private agreement form available from Child Maintenance Options (see **Useful contacts**).

The benefits of an agreement are that neither party will have to pay Child Maintenance Service fees and the parents can change the maintenance rates by agreement as their circumstances change.

Arrangements for child maintenance made by way of agreement are not legally enforceable. This means

that if the **non-resident parent** decides to reduce or stop their maintenance payments you cannot force them to stick to the agreement. If the **non-resident parent** stops paying or reduces maintenance you should contact the Child Maintenance Service. The **non-resident parent** will only be required to make payments from the date you apply to the Child Maintenance Service.

## Domestic violence and private arrangements

Private agreements may not be appropriate or safe if you have experienced domestic violence. It may be safer to ask the Child Maintenance Service to arrange and collect the maintenance for you. For further information contact our legal advice line (see **Useful contacts**).

## Will receiving child maintenance affect my benefits?

Child maintenance will not affect your social security benefits. You should, however, let the relevant benefits agency know about the child maintenance you receive.

## Applications for child maintenance

If you are unable to agree arrangements for child maintenance with the other parent then you can make an application for child maintenance.

There are currently three different schemes in place to calculate child maintenance. The scheme that applies to you depends upon when you applied and whether you applied to the CSA or the CMS.

Applications opened before 25 November 2013 will be dealt with by the Child Support Agency (CSA). Over the next few years parents who use the CSA will have their cases closed and they will be given the option of using the CMS or making arrangements privately with the **non-resident parent**.

## Applications to the courts for child maintenance

If you are involved in Court proceedings to divide assets following a divorce or dissolution of a civil partnership and can agree child maintenance you can apply to court to have this agreement turned into a consent order. If the non-resident parent fails to pay the maintenance agreed in the consent order, then the Court has powers to enforce the order. 12 months after the consent order has been in place either parent can “opt-out” of the agreement in the consent order and choose to go through the CMS instead.

There are also certain limited circumstances when a resident parent can seek orders from the Court under Schedule 1 of the Children Act 1989 (CA) in addition to seeking maintenance through the CMS, or if a CMS assessment is not available. This includes when:

- the non-resident parent lives abroad
- the income of the non-resident parent is greater than the statutory scheme’s upper limit, which is currently £3,000 per week before income tax and national insurance
- the application concerns costs for a child’s education or to support a child with a disability
- the resident parent is seeking a sum of money, for example, to provide a home for the child

Under the Children Act 1989 you can apply to the court for maintenance payments, a lump sum or the transfer of property into your sole name. When deciding an application the court will consider all the circumstances in the case including the welfare of the child and the following factors:

- the income, earning capacity, property and financial resources of both parties now and in the future
- the financial needs, obligations and responsibilities of the parties now and in the future;
- the financial needs of the child
- the income, earning capacity, property and other financial resources of the child;
- the physical or mental disability of the child and
- how the child is or is expected to be educated or trained.

Any financial provision that the court orders will last until your child reaches 18 unless she or he is, or would be, in full time education or training or there are special reasons why the provision should continue (e.g.

because your child has a disability and requires further support).

Before applying to the court parties are expected to try to resolve their issues through negotiation and mediation. Any person wishing to apply for an order under Schedule 1 of Children Act 1989 will be required to attend a Family Mediation Information and Assessment Meeting before making the application.

See **A guide to Alternatives to the Family Court for further information.**

## Child maintenance from someone living abroad

As detailed above an application can be made to Court under Schedule 1 of the Children Act 1989 to secure child maintenance from a non-resident parent who is living abroad.

The CSA and CMS only deal with applications for child maintenance where both parents are habitually resident in the UK with certain exceptions. The exceptions are where one of the parents is working abroad for the Government (e.g. a diplomat), the Armed Forces, a UK based company or on secondment for certain organisations (e.g. local authority).

You or the non-resident parent are **habitually resident** in the UK if you are allowed to live in the UK, have made it your home and intend to live here for the time being. It is possible for a person to be habitually resident in more than one country.

The UK has arrangements with over 100 countries and overseas territories that enable someone from one jurisdiction to claim maintenance from someone in another. The Reciprocal Enforcement of Maintenance Orders (REMO) is the process by which maintenance orders made by UK courts can be registered and enforced by courts or other authorities in other countries.

For more information seek legal advice by contacting our legal advice line or from a family law solicitor (see **Useful contacts**).

**The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice.**

**Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.**

For free, confidential, legal advice on family law including domestic violence, divorce and relationship breakdown and issues relating to children:

Women living and working in London: call **020 7490 2562** the advice line is open Monday 11am-1pm, Tuesday, Wednesday and Thursday 2-4pm.

For all women: call **020 7251 6577** the advice line is open Tuesday to Thursday 7 – 9pm and Friday between 12 and 2pm

For free, confidential, legal advice on immigration and asylum law or criminal and sexual violence visit [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk) for our advice line details.

### Useful contacts

Child Maintenance Service  
**0845 266 8792**  
[www.gov.uk/child-maintenance](http://www.gov.uk/child-maintenance)

Child Support Agency  
**08457 133 133**  
[www.csa.gov.uk](http://www.csa.gov.uk)

Child Maintenance Options  
**0800 988 0988**  
[www.cmoptions.org](http://www.cmoptions.org)

Reciprocal Enforcement of Maintenance Orders  
**020 3681 2757**  
[www.dca.gov.uk/family/remo/contents.htm](http://www.dca.gov.uk/family/remo/contents.htm)

Gingerbread (advice for separated parents)  
**0800 018 4318**  
[www.gingerbread.org.uk](http://www.gingerbread.org.uk)

Working Families  
**0800 0130313**  
[www.workingfamilies.org](http://www.workingfamilies.org)

Legal Aid Agency  
**0345 345 4345**

The Law Society (to find a solicitor)  
[www.lawsociety.org.uk/find-a-solicitor/](http://www.lawsociety.org.uk/find-a-solicitor/)

Resolution (to find a family law specialist lawyer)  
**01689 820272**  
<http://www.resolution.org.uk/>

Citizens Advice Bureau  
[www.citizensadvice.org.uk/index/getadvice.htm](http://www.citizensadvice.org.uk/index/getadvice.htm)

National Domestic Violence Helpline (domestic violence support)  
**0808 2000 247**  
[www.nationaldomesticviolencehelpline.org.uk](http://www.nationaldomesticviolencehelpline.org.uk)

Court forms and locations  
<http://www.justice.gov.uk/about/hmcts>

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