



Child Maintenance

There are a few options available to parents when dealing with child maintenance

Option 1: Private Agreement

If you and the other parent can agree the amount and when and how the payment will be made you can enter into a private agreement. A sample form can be downloaded from the Child Maintenance Options website at www.cmoptions.org. The agreement is not however legally binding and therefore if the agreement breaks down you will have to consider options 2 and 3 below.

Option 2: Consent Order

Only an option if you are divorcing or going through a dissolution.

If you and your partner are able to agree terms of a financial settlement then the terms can be recorded in a court order (called a consent order). You will be bound by the agreement for a period of 12 months from the date the court approve the order. Thereafter on giving the other parent notice you can either continue with the agreement as per the court order, agree to enter into a private arrangement or apply for a formal assessment by the CSA.



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Option 3: CSA

The Child Support Agency (CSA) is administered by the Child Maintenance and Enforcement Commission (CMEC). You can apply for an assessment if you have a child who is under the age of 16, or between 16 and 19 and in full time, non-advanced education. This means not undertaking a course higher than A-level standard.

The CSA distinguish between the parent with care (the parent in receipt of the child benefit) and the non-resident parent (NRP). Maintenance is worked out as a percentage of the NRP's net weekly income.

No account is taken of the income of the person with care of their partner's income.

Net income is calculated by deducting tax, national insurance and pension contributions from gross income. Any bonus, commission or overtime payments are included, as are receipts from any pension scheme, tax credits, employment credits and disabled person's tax credits. Income from savings, investments, benefits, student grants and loans are excluded. There is an additional asset rule which means that income will be deemed to have been earned by assets that exceed £65,000 at the rate of 8%. This does not however include the home in which the NRP is living.

Where a parent has a net income of less than £100 per week, or for parents in receipt of certain types of benefit a flat liability of £5 per week is paid. A nil liability will arise if the NRP is a student, child, prisoner, in a nursing home and in receipt of benefits or has a net weekly income of less than £5.00.

If you earn over £200 per week you will pay 15% of your net income (up to a maximum income of £2,000 per week) for one child, 20% for two and 25% for three or more. A reduction will be made if you have a relevant other child living in your household. To qualify either you or your partner must receive child benefit for that child. If you have a relevant other child your weekly income will be reduced by 15% for one relevant other child, 20% for two and 25% for three or more.

A reduced rate will apply if your net weekly income is more than £100 but less than £200 per week. You will be required to pay £5.00 plus a percentage of your net weekly income over £100. This will be 25% for one child, 35% for two and 45% for three or more.

The following reductions will also be made depending on the number of nights your children stay overnight with you per year:

- > Less than 52 nights Nil
- > 52-103 1/7th (14.29%)
- > 104-155 2/7th (28.57%)
- > 156-174 3/7th (42.86%)
- > 175+ (50%) and deduct further £7 per week per child spent

»Continued.

Examples of this might be:

Mr X earns £300 per week, has one child with his ex wife and two children with his current partner. He has his child with his ex wife to stay overnight once a week.

- First of all his income of £300 is reduced by 20% to take account of his two relevant children ($£300 \times 20\% = £60$. $£300 - £60 = £240$)
- His liability for one child is 15%. ($£240 \times 15\% = £36$).
- A deduction of 1/7th is made because he has between 52 and 103 overnight stays ($36 \text{ divided by } 7 = £5.14$. $£36 - £5.14 = £30.86$)
- The payment is then rounded up to the nearest whole pound and therefore his liability is £31.00 per week.

Mr X has a low income but a second home worth £150,000. He has two children. Although he would be required to pay the flat rate on his earnings alone due to the additional assets rule he is assessed at paying £199.98.

- $£150,000 \times 8\%$ divided by 52 = £230.76 additional weekly income
- $£230.76 \times 20\%$ (2 children) = £46.15 additional weekly child support
- $£46.15 \times 52$ divided by 12 = £199.98

Variation

Either parent can apply for a variation. There are three main categories:

- (1) Special Expenses e.g. contact costs, boarding school fees, prior debts incurred whilst the parties were together as a couple.
- (2) Property or capital transfers pre-April 1993 which provided for an element of capitalised maintenance.
- (3) Additional Cases e.g. where the NRP has assets or where their lifestyle is inconsistent with their stated income.

Exclusions to using the CSA

Parents with an order or consent order entered into prior to 3rd March 2003 are prohibited from applying for a CSA assessment. If you cannot agree a variation by consent then you will have to refer the matter back to the court.

The CSA cannot be used where there is a foreign element, where the children are between 16 and 19 and have completed secondary education or where there has been no separation from the NRP.

For further information, including an online calculator you can contact The Child Maintenance Options Service. This service is available by phone (0800 0834 375) or online at www.cmoptions.org. Face to face appointments can also be arranged in certain circumstances.

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Contact us

Please feel free to discuss your own position and concerns. Contact your nearest Russell Jones & Walker office or call:

Call: 0800 916 9055
Email: enquiries@familylaw4police.co.uk
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