

**Research Briefing**

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# Child maintenance: overseas cases and income (UK)

## Summary

In the United Kingdom, [a parent is legally responsible for maintaining their child](#), even if they do not live with the other parent or have no contact with the child. Child maintenance covers how a child's living costs will be paid when one of the parents does not live with the child.

The parent who pays child maintenance is known as the 'non-resident parent' or the 'paying parent'. The person who receives child maintenance is known as the person with care. The person with care does not have to be a parent of the child, however if they are, they can be referred to as the 'parent with care' or the 'receiving parent'. In Scotland, a child aged 12 to 19 who is in full-time, non-advanced education or training can also apply for child maintenance.

This briefing sets out how the child maintenance system operates where a person with care, non-resident parent or qualifying child lives overseas. This includes how overseas income and occupations are treated under the 2012 child maintenance scheme, and how maintenance arrangements can be recognised across certain countries.

The briefing primarily relates to Great Britain; information on Northern Ireland's similar, but separate, statutory child maintenance system is provided in section 6.

## When can the Child Maintenance Service make a calculation?

Parents can agree a private child maintenance arrangement themselves (a family-based arrangement). If they cannot reach an agreement, child maintenance can be arranged through the government's statutory Child Maintenance Service (CMS) in Great Britain. Northern Ireland has a separate, statutory child maintenance system.

The CMS can make a child support calculation if all parties in a child maintenance calculation (the non-resident parent, the person with care and the qualifying child) are habitually resident in the UK, unless an exception applies.

The Child Poverty Action Group's (CPAG) Child Support Handbook 2022/23 explains a person is habitually resident if they are "ordinarily resident in the UK and have been for an appreciable period of time."

## How does the CMS treat overseas income?

The CMS is able to include income a parent is receiving from overseas, if it falls into the categories of taxable income from employment, self-employment or pensions. However, CPAG notes the rules on how overseas income is taxed in the UK and taken account of in child maintenance calculations are "complex".

## What if a person in a calculation lives overseas?

The [CMS must cancel a child maintenance calculation](#) if the non-resident parent, person with care or qualifying child is no longer habitually resident in the UK. If this happens, the courts may make, vary or revive a maintenance order. A maintenance order is when the person with the higher income is told by a court to make regular maintenance payments to help with the other person's living costs.

The process can differ if the country the person lives in is has a Reciprocal Enforcement of Maintenance Order (REMO) agreement with the UK. The UK has [REMO agreements](#) with a number of other countries and courts in 'REMO countries' can enforce child maintenance decisions made by UK courts.

An individual considering legal action abroad should seek legal advice from a solicitor in that country. The UK Government maintains a [list of lawyers](#) abroad.

## Further reading

Other relevant Library briefings on the child maintenance system are:

- [Child maintenance: Calculations, variations and income](#) (CBP 7770)
- [Child maintenance: Fees, enforcement and arrears](#) (CBP 7774)
- [Child maintenance: The write-off of arrears on Child Support Agency cases](#) (CBP 7776)

# 1 Child maintenance: An introduction

## 1.1 The statutory child maintenance schemes

There are currently three statutory child maintenance schemes operating in Great Britain under the [Child Support Act 1991](#) (as amended): the 2012 scheme, and the 1993 and 2003 schemes.

The **2012 scheme** is the current scheme and open to new applicants. It is administered by the Child Maintenance Service (CMS). A separate Library briefing provides [information on how child maintenance is calculated](#) by the CMS.<sup>1</sup>

The **1993 and 2003 schemes** are closed to new applicants and all cases with ongoing maintenance liabilities have been transferred to the 2012 scheme. Only “arrears-only” cases continue to operate under these schemes, although the Department for Work and Pensions (DWP) is implementing a large-scale write-off of arrears that accrued under them. Further information is in the [Library briefing on the write-off of arrears on Child Support Agency cases](#).<sup>2</sup>

Relevant parties can also agree a private child maintenance arrangement themselves (referred to as “family-based arrangement”) without regard to the CMS. These can take the form of a written maintenance agreement and, if such an agreement is endorsed by a court in a [consent order](#), the CMS is

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<sup>1</sup> Commons Library briefing CBP-7770, [Child maintenance: Calculations, variations and income \(UK\)](#)

<sup>2</sup> Commons Library briefing CBP-7776, [Child maintenance: the write-off of arrears on Child Support Agency cases \(UK\)](#)

prevented from accepting an application for child maintenance for 12 months from the date it was made (if it was made after 3 March 2003).<sup>3</sup>

## 1.2 Child maintenance terminology

Below is a list of common terminology on child maintenance employed under the [Child Support Act 1991](#) (the 1991 Act) and in [CMS literature](#):

- **Non-resident parent** sometimes referred to as the “**paying parent**”: a parent who does not live with the child in question.
- **Person with care**: the person with whom the child has their home and who usually provides day-to-day care of the child. The person with care does not have to be a parent of the child or have parental responsibility for them.<sup>4</sup> If the person with care is the child’s parent, they are referred to as the ‘parent with care’.<sup>5</sup>
- **Qualifying child**: the child for whom child maintenance is payable.
- **Relevant child** (or “**relevant other child**”): a child other than a qualifying child for whom Child Benefit is payable to the non-resident parent (or their partner).
- **Child in Scotland/ child applicant**: in Scotland, a child aged 12 to 19 may apply for maintenance if they are in full-time, non-advanced education or approved training.
- **Duty to maintain**: Section 1 of the 1991 Act states “each parent of the Qualifying Child is responsible for maintaining [them]” and “where a maintenance assessment made under this Act requires the making of periodical payments, it shall be the duty of the absent parent with respect to whom the assessment was made to make those payments”.<sup>6</sup>
- **Gross weekly income**: the non-resident parent’s income calculated as a weekly amount before any deductions for tax but after any contributions to approved personal or occupational pension schemes have been made.
- **Direct Pay**: where the CMS calculates the rate of maintenance, and payments are made directly between parents.

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<sup>3</sup> [Child Support Act 1991](#) (as amended), ss 4 (10)(a) and 7(10)(a); Child Poverty Action Group (CPAG), [Child Support Handbook 2022/23](#), 2022, p19

<sup>4</sup> [Child Support Act 1991](#), Section 3(3); Who cannot be considered a person with care for child maintenance purposes (such as a local authority) is set out in Regulation 21 of the [Child Support \(Maintenance Calculation Procedure\) Regulations 2000](#), SI 2001/157

<sup>5</sup> [Child Support Act 1991](#), Section 54

<sup>6</sup> [Child Support Act 1991](#), Section 1

- **Collect and Pay:** where the CMS calculates, collects and passes on payments between parents.
- **Child Maintenance Group (CMG):** the post-2012 successor to the Child Maintenance and Enforcement Commission.

## 2 Residence requirements for child maintenance

### 2.1 “Habitual residence”

A child maintenance application to the CMS can only be accepted, a calculation made, and payment requested, if the non-resident parent, person with care and qualifying child are “habitually resident” in the UK, unless an exception applies.<sup>7</sup> Information on the exceptions can be found in section 2.2 of this briefing. Other children who affect the maintenance calculation (“relevant children”) do not have to be habitually resident in the UK.

The UK is defined as England, Scotland, Wales and Northern Ireland, but does not include the Crown Dependencies of the Isle of Man and the Channel Islands.

The definition of habitual residence is not laid down in statute and has instead been determined in case law. The Child Poverty Action Group’s (CPAG) Child Support Handbook 2022/23 explains that a person is habitually resident if they are “ordinarily resident in the UK and have been for an appreciable period of time.” It adds “‘ordinary residence’ means ‘residence for a settled purpose’”.<sup>8</sup>

#### Deciding when a person is habitually resident

The Department for Work and Pensions (DWP) publishes [guidance for child maintenance decision makers](#) (DMs). The guidance explains the decision to determine whether a person is habitually resident (or not) is discretionary “based on the balance of probability”.<sup>9</sup>

CPAG notes there is no comprehensive list of factors that are relevant when deciding whether a person is habitually resident in the UK, and a decision must consider all the person’s circumstances and intentions. However, in its

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<sup>7</sup> [Child Support Act 1991](#), Section 44, as amended

<sup>8</sup> CPAG, [Child Support Handbook 2022/23](#), 2022, p15

<sup>9</sup> DWP, [Child maintenance decision makers’ guide](#), 14 November 2023, Volume 4, para 37024

Child Support Handbook it does state some of the most important factors considered are:

- the person’s usual centre of interest or connections to a particular place;
- the length, continuity and purpose of residence in the UK;
- the length and purpose of any absence from the UK;
- the nature of the person’s work.<sup>10</sup>

The Handbook also sets out several principles that have been established by case law, including:

- A person can be habitually resident in more than one country, or in none.
- A person may continue to be habitually resident in the UK even though absent from the UK for some time – eg, because they have employment and accommodation elsewhere.

[...]

- There is no minimum period of time required to have been living in another country before a new habitual residence can be established, but there must be a ‘settled intention to make the relevant area their home.’<sup>11</sup>

### Temporary absences

The DWP guidance also sets out that decision makers should consider temporary absences if the person is intending to return to the UK. It explains “a person returning after an absence for a period of time may still be considered to be habitually resident for CMS purposes”.<sup>12</sup> Usually, a temporary absence is less than 12 months, with the guidance stating:

DMs [decision makers] should not normally accept an absence of more than 12 months as temporary unless

1. there are special circumstances, such as an accident which delays the person’s return, or
2. there is a reasonable prospect of the absence ending.<sup>13</sup>

However, it does add “an absence from the UK should not necessarily be regarded as temporary because it has not lasted 12 months”.<sup>14</sup>

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<sup>10</sup> CPAG, Child Support Handbook 2022/23, 2022, p15

<sup>11</sup> CPAG, Child Support Handbook 2022/23, 2022, p15

<sup>12</sup> DWP, [Child maintenance decision makers’ guide](#), 14 November 2023, Volume 4, para 37031

<sup>13</sup> DWP, [Child maintenance decision makers’ guide](#), 14 November 2023, Volume 4, para 37032

<sup>14</sup> DWP, [Child maintenance decision makers’ guide](#), 14 November 2023, Volume 4, para 37033

## 2.2 “Habitually resident” because of their occupation

The [GOV.UK page on child maintenance if a parent lives abroad](#) explains that if a non-resident parent is working abroad for certain British organisations, it may be possible to contact the CMS and make a new child maintenance claim. These include working overseas:

- as a civil servant,
- for His Majesty’s Diplomatic Service,
- as a member of the armed forces (including people employed in a territorial, auxiliary or volunteer reserve association under the [Reserve Forces Act 1996](#)<sup>15</sup>),
- for a company based and registered in the UK (i.e. a company which employs somebody to work abroad but which makes payment arrangements in the UK),
- for the NHS, or
- for a local authority.<sup>16</sup>

## 3 Overseas income if the non-resident parent is habitually resident in the UK

The rules on how overseas income is taxed in the UK and taken account of in child maintenance calculations are “complex”. As explained by the CPAG Handbook, “income from outside the UK is included in gross income if it falls into one of the categories of taxable income from employment, self-employment, or pensions”.<sup>17</sup>

The CPAG Handbook notes some types of income that are disregarded:

- Social security payments from outside the UK, equivalent to non-taxable UK benefits;

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<sup>15</sup> Section XI of the [Reserve Forces Act 1996](#)

<sup>16</sup> Regulation 7A of the [Child Support \(Maintenance Arrangements and Jurisdiction\) Regulations 1992](#) SI 1992/2645 as amended; CPAG, Child Support Handbook, 2033/23, 2022, p16; GOV.UK, [Child maintenance if a parent lives abroad](#) (accessed 7 December 2023)

<sup>17</sup> CPAG, Child Support Handbook 2022/23, 2022, p73

- One-tenth of the amount of any overseas pension or of a pension payable in the UK by the governments of certain other countries;
- tax-free lump-sum payments under an overseas pension scheme;
- income the parent is prevented from transferring to the UK by law or by the government of the country where the income arises or because foreign currency cannot be obtained in that country.<sup>18</sup>

The Financial Investigations Unit, a CMS organisation that investigates complex income arrangements, cannot investigate overseas tax returns or bank accounts.<sup>19</sup>

## 4 Enforcing maintenance if a non-resident parent lives overseas

### 4.1 Involvement of the courts

As set out above, the CMS must cancel a child maintenance calculation if any party of a child maintenance calculation is deemed to no longer be habitually resident in the UK.<sup>20</sup> If this happens, the courts may make, vary or revive a maintenance order. A [maintenance order](#) is when the person with the higher income is told by a court to make regular maintenance payments to help with the other person's living costs. If an application is made within six months of a person becoming no longer "habitually resident", the order may begin from the date maintenance was ended.<sup>21</sup>

Applications for maintenance are made to the family court or High Court (in England and Wales) or the sheriff court or the Court of Session (in Scotland). An individual considering legal action abroad should seek legal advice from a solicitor in that country. The UK Government maintains [a list of lawyers abroad](#).

If they agree, individuals can also decide to [make a child maintenance arrangement themselves](#), if one or both parents live abroad.

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<sup>18</sup> CPAG, Child Support Handbook 2022/23, 2022, p73

<sup>19</sup> PQ 240473 [on [Children: Maintenance](#)], 9 April 2019

<sup>20</sup> CPAG, Child Support Handbook 2022/23, 2022, p14

<sup>21</sup> [Children Act 1989](#), Schedule 1(3); CPAG, Child Support Handbook 2022/23, 2022, p21

## 4.2

### The “REMO” system

In some cases where the non-resident parent lives abroad, it can be possible to seek the payment of child maintenance through a Reciprocal Enforcement of Maintenance Order (REMO). Under the REMO system, UK residents can apply to enforce or change an existing maintenance order or make a new maintenance order against a person resident in another country.

Additionally, residents of other countries can enforce or change an existing maintenance order or make a new order against a person resident in the UK. For example, if a person with care is habitually resident outside the UK in a country with a REMO agreement, and the non-resident parent is habitually resident in the UK, the person with care may seek ongoing maintenance from the non-resident parent via their relevant central authority.

The REMO process can also be used to enforce an ongoing child maintenance arrangement (or court order) in situations where the non-resident parent is habitually resident in the UK but has assets and/or income overseas.<sup>22</sup> The exact arrangements will depend on the country and the agreement with that country.<sup>23</sup>

The UK Government maintains a [list of REMO countries](#) where child maintenance decisions made in UK courts may be enforced or changed outside the UK. A summary of the REMO process is available on the GOV.UK page on [child maintenance if a parent lives abroad](#).<sup>24</sup> Details on how to apply if a non-resident parent lives in a REMO country can be found in section 7 of this briefing.

#### If the non-resident parent does not live in a REMO country

The GOV.UK webpage on [child maintenance if a parent lives abroad](#) explains the parent should seek legal advice:

If the other parent does not live in a REMO country, get [legal advice from a solicitor](#) to find out if you can enforce the decision.<sup>25</sup>

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<sup>22</sup> Email from DWP officials to the House of Commons Library, 17 March 2016

<sup>23</sup> Official Solicitor and Public Trustee, GOV.UK, [Countries where you can enforce child maintenance decisions](#), updated 31 December 2020

<sup>24</sup> GOV.UK, [Child maintenance if a parent lives abroad](#) (accessed 11 December 2023)

<sup>25</sup> GOV.UK, [Child maintenance if a parent lives abroad](#) (accessed 11 December 2023)

## 5

# Recovering arrears from overseas parents

Whilst the REMO process allows for ongoing maintenance to be collected, there are different rules for the collection and enforcement of any arrears.

The CMS can use its powers to collect any arrears that accrued while all the parties to a child maintenance calculation were habitually resident in the UK. In doing so, the CMS can use certain collection actions and enforcement powers in respect of any assets the non-resident parent has retained in the UK, such as in property or bank accounts, as these fall within the jurisdiction of UK courts.<sup>26</sup> Further information is available in [a Library briefing which covers the CMS' collection action and enforcement powers](#).<sup>27</sup>

If the non-resident parent is habitually resident in a European Union (EU) country, and any proceedings were started before 31 December 2020 (the end of the transition period where the UK left the EU), the CMS can enforce certain arrears that accrued while both parents were habitually resident in the UK. CPAG explains the CMS is also able to “make enquiries” about assets the non-resident parent owns in an EU member state.<sup>28</sup>

The [UK has ratified the 2007 Hague Convention](#)<sup>29</sup> (see below) as an individual state, so is bound by its terms for the cross-border recognition and enforcement of maintenance orders.<sup>30</sup>

## 5.1

# The 2007 Hague Convention

The 2007 [Hague Convention on the International recovery of child support and other forms of family maintenance](#) is a multilateral treaty that provides rules for the international recognition and recovery of child support and family maintenance. It seeks to provide certainty to parents and their children when one parent has moved abroad, enabling, for example, a parent to put in place enforceable child maintenance obligations.<sup>31</sup>

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<sup>26</sup> [HC Deb, Child Maintenance, c1318W, 7 July 2011](#)

<sup>27</sup> Commons Library briefing CBP-7774, [Child maintenance: Fees, enforcement and arrears](#)

<sup>28</sup> CPAG, Child Support Handbook 2022/23, 2022, p161

<sup>29</sup> Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance

<sup>30</sup> Enforcement between EU member states was under EU Maintenance Regulation ([Council Regulation \(EC\) 4/2009](#)). This took precedent over (but was compatible with) the 2007 Hague Convention. The EU Maintenance Regulation has now been revoked in UK law, but the UK has ratified the 2007 Hague convention; CPAG, Child Support Handbook 2022/23, 2022, p161

<sup>31</sup> [Private International Law \(Implementation of Agreements\) Bill \[HL\], Explanatory Notes](#), 2020, para 14

Under the Convention, central authorities in each state should “take all appropriate measures to... facilitate the ongoing enforcement of maintenance decisions, including arrears”, when a “competent authority” (such as the CMS in Great Britain) makes a request to another Convention state.<sup>32</sup>

In addition, under the 2007 Convention, states may not impose charges on applications for the enforcement of maintenance in an overseas jurisdiction, save for “exceptional costs”, and can make available internal law powers to enforce decisions under the Convention (for example, wage withholding and deduction from social security payments). The costs of translating any documents should be met by the state from which the request originates.<sup>33</sup>

## Contracting parties and UK accession to the Convention

The UK Parliament legislated to give domestic effect to the 2007 Hague Convention in the [Private International Law \(Implementation of Agreements\) Act 2021](#).<sup>34</sup> The UK deposited its accession to the 2007 Hague Convention on 28 September 2020.<sup>35</sup>

The Hague Conference has published a list of [contracting parties to the Convention](#). This includes all EU states, except Denmark. For Denmark, the 1973 Hague Maintenance Enforcement Convention is in place.<sup>36</sup>

## Other legislation

Other laws such as (but not limited to) the [Maintenance Orders \(Facilities for Enforcement\) Act 1920](#) govern the enforcement of maintenance arrangements between the UK and other relevant states. Such arrangements are unaffected by the Hague Convention, or when the UK left the EU.

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## Northern Ireland

Northern Ireland has a similar, but separate, system of child maintenance to the rest of the UK. For the purpose of making and enforcing a maintenance

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<sup>32</sup> Hague Convention, [Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance](#), 23 November 2007, Article 6 (1) and (2)

<sup>33</sup> [As above](#), Articles 8, 34, 44

<sup>34</sup> See: Commons Library briefing CBP-8700, [Private International Law \(Implementation of Agreements\) Bill 2019–21](#), 20 November 2020

<sup>35</sup> Hague Convention, [UK joins 2005 Choice of Court and 2007 Child Support Conventions](#), 28 September 2020; Hague Convention, [\[UK\] Declaration/Reservation/Notification \[on the 2007 Convention\]](#), 28 September 2020

<sup>36</sup> Ministry of Justice, [Family law disputes involving the EU: Guidance for legal professionals from 1 January 2021](#), updated 16 December 2020

calculation in Northern Ireland, the person with care, non-resident parent and qualifying child must be “habitually resident” in the UK.<sup>37</sup>

As is the case for Great Britain, the Northern Ireland child maintenance service may be able to enforce ongoing statutory maintenance arrangements. This may be the case if a non-resident parent lives outside the UK, but works:

- in the armed forces,
- in the service of the Crown overseas,
- for a local authority or health trust, or
- for a UK-based Company that is registered in the UK under the [Companies Act 1985](#) or the [Companies \(Northern Ireland\) Order 1986](#).

Enforcing child maintenance overseas through Reciprocal Enforcement Arrangement Orders (REMO) is also possible in Northern Ireland.<sup>38</sup> [Information on REMOs in Northern Ireland](#) is published by NI Direct. The REMO team of the [Northern Ireland Courts and Tribunals Service](#) should be contacted to arrange this.

As in the rest of the UK, parents can choose to make a family-based arrangement or consider legal action overseas. An individual considering legal action abroad should seek legal advice from a solicitor in that country. The UK Government maintains a [list of lawyers](#) abroad. Additionally NI Direct notes applicants can contact [the Law Society of Northern Ireland](#) for independent legal advice and further information (such as if an applicant is eligible for legal aid).<sup>39</sup>

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## Contacts

### Applying for maintenance when the other parent lives overseas

Foreign, Commonwealth and Development Office, [Professional services if you are abroad](#), updated 26 October 2022:

- [Find a lawyer abroad](#)

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<sup>37</sup> [The Child Support \(Northern Ireland\) Order 1991](#), Section 41

<sup>38</sup> NI Direct, [Reciprocal Enforcement of Maintenance Orders \(REMOs\)](#) (accessed 11 December 2023)

<sup>39</sup> [As above](#)

## How to apply if the non-resident parent lives in a REMO country

The process differs when enforcing child maintenance, based on where the decision was made.

### England and Wales

The person with care if they live in England or Wales can contact the Maintenance Enforcement Business Centre (MEBC) by email ([mebc.bse@justice.gov.uk](mailto:mebc.bse@justice.gov.uk)) or post:

Maintenance Enforcement Business Centre  
Triton House  
St Andrews Street North  
Bury St Edmunds  
Suffolk  
IP33 1TR

The MEBC will check eligibility, and if a person is eligible, GOV.UK notes the application may involve a UK court hearing or payment of a court fee.<sup>40</sup> The information the person with care should provide to the MEBC is listed on the GOV.UK page on [child maintenance if a parent lives abroad](#).

The MEBC can provide information on the progress of the application, rather than the foreign court.

### Scotland

If a child maintenance decision was made in Scotland, MyGov.Scot explains the person with care should [contact the Scottish Government](#) for information via email ([maintenanceenforcement@gov.scot](mailto:maintenanceenforcement@gov.scot)), telephone (0131 244 2417 or 0131 244 4829) or post:<sup>41</sup>

Scottish Government  
Central Authority and International Law Team  
St Andrew's House  
Edinburgh  
EH1 3DG

The Scottish Courts and Tribunals also has a webpage with information on [frequently asked questions on REMOs](#).<sup>42</sup>

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<sup>40</sup> GOV.UK, [Child maintenance if a parent lives abroad](#) (accessed 11 December 2023)

<sup>41</sup> MyGov.Scot, [Child maintenance if one parent lives outside Scotland](#), 11 March 2020

<sup>42</sup> Scottish Courts and Tribunals, [Reciprocal enforcement of maintenance orders FAQs](#) (accessed 11 December 2023)

## Northern Ireland

GOV.UK explains [if a child maintenance decision was made in Northern Ireland](#), the person with care should contact the Northern Ireland Courts and Tribunals Service for advice:<sup>43</sup>

Email: [reciprocalenforcement@courtsni.gov.uk](mailto:reciprocalenforcement@courtsni.gov.uk)

Telephone: 0300 200 7812

Northern Ireland Courts and Tribunals Service  
Laganside House  
23 - 27 Oxford Street  
Belfast  
BT1 3LA

## General

### Great Britain

Citizens Advice publishes [advice pages on child maintenance](#). Helplines:

- England: 0800 144 8848
- Wales: 0800 702 2020
- Scotland: 0800 028 1456

### England and Wales

Gingerbread Charity for Single-Parent Families: [Helpline](#): 0808 802 0925 and [Information Pages](#)

### Scotland

One Parent Families Scotland Charity for Lone Parents: [Helpline](#) 0808 801 0323

### Northern Ireland

Gingerbread NI: [Helpline](#) 0808 808 8090 and [advice@gingerbreadni.org](mailto:advice@gingerbreadni.org)

[Citizens Advice publishes a list of local advice agencies](#). These are independent from Citizens Advice.

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<sup>43</sup> GOV.UK, [Child maintenance if a parent lives abroad](#) (accessed 11 December 2023)



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