



BRIEFING PAPER

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Child maintenance: how it is calculated under the 2012 CMS scheme (UK excluding NI)

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1. Summary

This House of Commons Library briefing note sets out how the Child Maintenance Service (CMS) calculates the amount of child maintenance payable under the 2012 statutory child maintenance scheme.

There are five different methods of calculating the amount of child maintenance payable, with the rate applied depending on the non-resident parent's gross weekly income, whether they claim certain welfare benefits, and the circumstances of the non-resident parent.

The standard method of calculating child maintenance does not take into account, for example, the taxable unearned income of the non-resident parent or certain expenses that a non-resident parent might incur. In such cases, an application for a "variation" can be made to the CMS – for more information, see the Library briefing paper [Child maintenance: variations, including "unearned income" rules \(UK excluding NI\)](#).

This note applies to Great Britain only (i.e. United Kingdom excluding Northern Ireland).

2. The different statutory child maintenance schemes

There are currently three statutory child support schemes operating in Great Britain under the *Child Support Act 1991*. The 1993 and 2003 schemes are both legacy schemes closed to new applicants and administered by the Child Support Agency (CSA). The 2012 scheme is open to new applicants while those with existing CSA cases are being asked if they wish to transfer to it; as noted above, it is administered by the CMS.

The Department for Work and Pensions (DWP) is the responsible Government department.

3. Quick introduction to child maintenance terminology

- Non-resident parent – also referred to as the "paying parent" in CMS literature, is a parent of the child; the non-resident parent does not live the child;

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- person with care – also referred to as the “receiving parent” in CMS literature, is the person who “actually and usually” provides day-to-day care of the child. The person with care does not have to be a parent of the child or someone with legal “parental responsibility” for the child. It could, for example, be an older sibling that the child is living with, or a friend of the child. It cannot be a local authority or someone with whom a local authority has placed a child (e.g. a local authority foster carer);
- the “qualifying child” – the child for whom child maintenance is payable. For child maintenance purposes the child has to be either:
 - under 16, or
 - aged 16 to 19 years inclusive and either Child Benefit is payable in respect of them, or they are receiving full-time, non-advanced education (e.g. A-levels).

A young person does not count as being a qualifying child if they are or have been married or in a civil partnership;

- “relevant child” – also referred to as “other children the paying parent supports”. A non-resident parent or their partner might receive Child Benefit in respect of another child (e.g. step-child, child from a new relationship), even if they do not live with them all the time. A “relevant child” can affect the amount of child maintenance the non-resident parent pays.¹

4. Summary of the rates for determining child maintenance and other factors

4.1 The five rates

There are five rates used to calculate the amount of child maintenance that a non-resident parent has to pay:

- nil rate – gross weekly income below £7 or people in certain situations e.g. young people, prisoners;
- flat rate – gross weekly income of between £7 and £100, or receipt of certain means-tested benefits;
- reduced rate – gross weekly income of between £100 and £200;
- basic rate – gross weekly income of between £200 and £800;
- basic and basic plus rates combined – gross weekly income between £800 and £3,000.

4.2 Factors included in determining child maintenance payments

There are a number of factors that affect the amount of child maintenance payable, although not of them apply to every one of the five rates. More detail can be found under the appropriate section on each rate:

- number of children eligible for child maintenance (not the nil or flat rates);

¹ Child Poverty Action Group, *Child Support Handbook 2016/17*, 2016, pp9–21

- number of children the non-resident parent supports in a new family i.e relevant children (basic, and basic plus rates);
- shared care, where the child stays with the non-resident parent for at least 52 nights a year (not the nil rate, or if the non-resident parent is on the flat rate because their gross weekly income is less than £100).

There can be other factors that come into play, such as where the non-resident parent pays child maintenance to more than one person with care although this is not covered in this note.

Sometimes other factors can influence the amount of gross weekly income that should be taken into account, including “special expenses” incurred by the non-resident parent and also “additional income” of the non-resident parent that is not otherwise routinely captured by the CMS (for example, taxable unearned income). For these to be considered, a “variation” request can be made to the CMS – for more information, see the Library briefing paper [Child maintenance: variations, including “unearned income” rules \(UK excluding NI\)](#).

5. Nil rate

5.1 Eligibility

A non-resident parent:

- has a gross weekly income of less than £7; or
- is a child (i.e. under 16 years of age); or
- is aged 16 to 19 years old and:
 - has left school but is registered for certain types of government-approved training courses; or
 - is in full-time, non-advanced education (up to and including A-level or equivalent standard); or
 - receives Income Support, Income-based Jobseeker’s Allowance or Income-related Employment and Support Allowance; or
 - is included in their partner’s claim for Income Support, income-based Jobseeker’s Allowance or income-related Employment and Support Allowance; or
 - is included in their partner’s claim for Universal Credit calculated on the basis that their partner has no earned income; or
- is a prisoner; or
- is resident in a care home or independent hospital, or is being provided with a care home service and/or independent healthcare service and receiving one of the qualifying benefits for the flat rate or has the whole or part of the cost of her/his accommodation met by a local authority”.²

5.2 Amount of child maintenance payable

There is no child maintenance payable on the nil rate.

² Child Poverty Action Group, *Child Support Handbook 2016/17*, 2016, p130

6. Flat rate

6.1 Eligibility

A non-resident parent:

- has gross weekly income of between £7 and £100 inclusive; or
- who receives, or their partner who they live with receives, any of the following income-related benefits:
 - Income Support;
 - income-based Jobseeker's Allowance;
 - income-related Employment and Support Allowance;
 - Pension Credit; or
- who receives any of the following benefits themselves:
 - contribution-based Jobseeker's Allowance;
 - contribution-based Employment and Support Allowance;
 - category A, B, C or D Retirement Pension;
 - State Pension;
 - Incapacity Benefit;
 - training allowance (other than work-based training for young people or, in Scotland, Skillseekers training);
 - Armed Forces Compensation Scheme payments;
 - War Disablement Pension;
 - War Widow's Pension, War Widower's Pension, or Surviving Civil Partner Pension;
 - Bereavement Allowance;
 - Maternity Allowance;
 - Carer's Allowance;
 - Severe Disablement Allowance;
 - Industrial Injuries Benefit;
 - Widowed Mother's Allowance;
 - Widowed Parent's Allowance;
 - Widow's Pension;
 - a social security benefit paid by a country other than the United Kingdom.³

6.2 Amount of child maintenance payable

The flat rate is £7 per week. This has not been changed or adjusted (e.g. for inflation) since its introduction in 2012.

³ Child Maintenance Service, [How we work out child maintenance](#), November 2013, pp23-24

6.3 Possible reductions in the child maintenance liability

Shared care

If a non-resident parent is on the flat rate because they or their partner (where applicable) is in receipt of one of the listed benefits, then if the child they pay child maintenance for stays with the non-resident parent for 52 nights a year or more, the amount of child maintenance payable for that child is reduced to zero. In addition, the non-resident parent does not have to pay child maintenance for any other children who live in the same household as that child.

However, for non-resident parents who qualify for the flat rate on the basis of their gross weekly income, no allowance is made for shared care.⁴

7. Reduced rate

7.1 Eligibility

If neither the nil or flat rate applies, and the non-resident parent has gross weekly income of between £100.01 and £199.99, then the reduced rate applies.

7.2 Amount of child maintenance payable

The reduced rate is calculated as the sum of:

- a flat rate of £7; and
- a proportion of that part of the non-resident parent's gross weekly income that exceeds £100.

The proportion used is calculated on the basis of the number of children that the non-resident parent has to pay child maintenance for (up to three), and also how many "relevant children" the non-resident parent cares for.

Where there are no "relevant children" (i.e. other children the non-resident parent supports e.g. step children) taken into account, the rates applied to any income between £100.01 and £199.99 are:

- one child – 17%
- two children – 25%
- three children – 31%.

Where there are relevant children whom the non-resident parent supports, then the appropriate rate can be found in the table below (the rates where there are no relevant children are included for completeness), and applied to that part of the non-resident parent's gross weekly income that exceeds £100:⁵

⁴ Child Maintenance Service, [How we work out child maintenance](#), November 2013, p28

⁵ Child Maintenance Service, [How we work out child maintenance](#), November 2013, p22

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		Number of qualifying children		
		1	2	3 or more
Number of relevant children	0	17%	25%	31%
	1	14.1%	21.2%	26.4%
	2	13.2%	19.9%	24.9%
	3 or more	12.4%	18.9%	23.8%

Although the proportions in the table above are higher than those used for the basic and basic plus rates (see sections 8 and 9), because the child maintenance liability of the first £100 of gross weekly income is only 7% (i.e. £7) overall the proportion of the non-resident parent's gross weekly income that is their child maintenance liability is always lower under the reduced rate (hence its name) compared to the basic or basic plus rates for a given number of children.

So, if a non-resident parent has a gross weekly income of £150 and pays child maintenance in respect of one child (and has no relevant children), their child maintenance liability is calculated as:

- the flat rate of £7 plus
- 17% of their gross weekly income in excess of £150 i.e. 17% of £50, which is £8.50.

So the non-resident parent's child maintenance liability is £15.50 per week.

7.3 Reductions for shared care

Where the child for whom the non-resident parent is paying child maintenance stays with the non-resident parent for at least 52 nights a year (i.e. on average, one night a week), then the amount of child maintenance that is payable is reduced by:

- 1/7th for 52 to 103 nights of shared care per year;
- 2/7th for 104 to 155 nights of shared care per year;
- 3/7th for 156 to 174 nights of shared care per year;
- a half for 175 or more nights of shared care per year, plus an extra £7 a week reduction for each child in this band.

However, the amount of child maintenance cannot fall below £7 per week after shared care has been taken into account.⁶

8. Basic rate

8.1 Eligibility

If neither the nil, flat or reduced rate applies, and the non-resident parent has gross weekly income of between £200 and £800, then the basic rate applies.

⁶ Child Maintenance Service, [How we work out child maintenance](#), November 2013, p28

8.2 Amount of child maintenance payable

The basic rate is calculated as a proportion of the non-resident parent's gross weekly income, with the proportion depending on the number of children the non-resident parent pays child maintenance for (up to three qualifying children) and also how many children the non-resident parent cares for (relevant children).

Under the basic rate, if the non-resident parent has any relevant children, then their gross weekly income is adjusted before child maintenance is calculated. The adjustment rates are:

- one relevant child – 11% reduction;
- two relevant children – 14% reduction;
- three or more relevant children – 16% reduction.

The basic rate is then applied to the non-resident parent's gross weekly income adjusted for any relevant children; the basic rate applied depends on the number of qualifying children the non-resident parent has to pay child maintenance for:

- one qualifying child – 12%;
- two qualifying children – 16%;
- three or more qualifying children – 19%.

8.3 Reductions for shared care

The same rules for shared care reductions apply for the basic rate as for the reduced rate (see section 7.3).

9. Basic and basic plus rates

9.1 Eligibility

If a non-resident parent has gross weekly income between £800.01 and £3,000, then the amount of child maintenance they are liable for is calculated by applying both the basic and basic plus rates.

9.2 Amount of child maintenance payable

When a non-resident parent has gross weekly income above £800, then to calculate their child maintenance liability:

- the basic rate is applied to their gross weekly income up to £800; and
- the basic plus rate is applied to their gross weekly income above £800.

Before the rates are applied, first the non-resident parent's gross weekly income is adjusted if there are relevant children to be taken into account:

- one relevant child – 11% reduction;
- two relevant children – 14% reduction;
- three or more relevant children – 16% reduction.

The basic and basic plus rates are then applied to the non-resident parent's gross weekly income adjusted for any relevant children; the basic and basic plus rate applied depends

on the number of qualifying children the non-resident parent has to pay child maintenance for:

- gross weekly income up to £800:
 - one qualifying child – 12%;
 - two qualifying children – 16%;
 - three or more qualifying children – 19%;
- gross weekly income above £800
 - one qualifying child – 9%;
 - two qualifying children – 12%;
 - three or more qualifying children – 15%.

The amounts of child maintenance calculated under the two rates are added together, giving the non-resident parent's child maintenance liability.

9.3 Reductions for shared care

The same rules for shared care reductions apply for the basic rate as for the reduced rate (see section 7.3).

9.4 Other issues relating to the basic plus rate

The £3,000 gross weekly income ceiling on child support cases

Only gross weekly income up to £3,000 can be taken into account under the statutory child maintenance scheme – as the then head of the scheme explained, the upper limit was “set at a level sufficiently high to ensure that all children benefit from a reasonable level of maintenance and only those who are already likely to have more complicated financial arrangements are affected”.⁷

Where a non-resident parent has gross weekly income in excess of £3,000, the courts are able to make a top-up maintenance order.

Why do non-resident parents with a gross weekly income over £800 appear to pay a lower rate of child maintenance?

It appears that higher earning parents pay a lower proportion of their income under the basic plus rates – however, the reason for the lower rates (compared to the basic rate) is to take account of the fact that at the time of the new scheme's introduction, those who had gross weekly income above around £800 paid income tax at the rate of 40%, whereas those below around £800 paid income tax at the 20% rate.

The policy intention was to ensure that non-resident parents paid around the same amount of child maintenance under the 2012 scheme (which uses gross weekly income) as under the 2003 scheme (which used net weekly income).

For example, under the 2012 scheme:

⁷ [HC Deb 15 June 2010 c361W](#) – the answer was given in reference to the 2003 statutory child maintenance scheme, where the upper limit was £2,000. However, this was increased to £3,000 under the 2012 scheme to take account of the change in using net weekly income to gross weekly income to calculate a non-resident parent's child maintenance liability. As the then head of child maintenance noted in his answer, the £3,000 figure “is broadly the same as the [then] current cap in net income terms” (see also [PBC Deb 9 October 2007 c278](#)).

- a non-resident parent has gross weekly income of £1,000, and pays maintenance for two children;
 - the non-resident parent pays 16% of their gross income up to £800, which is £128;
 - and 12% of their gross income over £800 (so £200), which is £24;
- the total amount of child maintenance payable is £152.⁸

Under the previous child maintenance scheme (the “2003 scheme” administered by the CSA), non-resident parents with a net weekly income over £200 paid child maintenance at the basic rate of 15%, 20% or 25% of their net weekly income for one, two or three or more children respectively (there was no basic plus rate).

So, using the same situation as above, under the 2003 CSA scheme:

- assuming the first £800 is taxed at 20%, and income over this amount is taxed at 40%, the non-resident parent has net weekly income of £760;
- child maintenance is calculated as 20% of the net weekly income of £760, which is also £152.

The then Government Minister explained that:

The purpose of the two percentage tiers [basic rate and basic plus rate] and the £800 threshold, therefore, is to match the new calculations as closely as possible in cash terms with the [then] current assessments [i.e. under the 2003 scheme], thereby smoothing the transition [from the 2003 CSA scheme to the 2012 CMS scheme]. No new dispensation and no favours are being introduced for people on higher incomes. Instead, a level playing is being retained in relation to the current maintenance. That has to be done, because of the move from net to gross figures for calculation purposes.⁹

Of course, it is possible that the income tax rates, or the thresholds at which they apply (or both) may change in the future. During the passage of the legislation for the 2012 scheme, the then Government said that the child support legislation could be amended to change the threshold point for the basic plus rate in line with a change in the threshold for the higher rate of income tax.¹⁰

No change has been made to the basic plus rate threshold since it was introduced in 2012 – although income tax allowances have changed since then¹¹ – and no changes have been made to the rates used by the CMS for the basic plus rate (or indeed the basic rate or reduced rate) since the 2012 scheme was introduced.

10. Other sources of information and assistance

The CMS has number of leaflets and factsheets on the 2012 statutory child maintenance scheme, available at:

<https://www.gov.uk/government/collections/child-maintenance-service-guidance>

⁸ Child Maintenance Service, *How we work out child maintenance*, November 2013, p20

⁹ [PBC Deb 9 October 2007 c277](#)

¹⁰ [PBC Deb 9 October 2007 c277](#)

¹¹ GOV.UK, *Income Tax rates and allowances: current and past*, Guidance, 26 April 2017

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In particular, further detail on the formulas for calculating child maintenance can be found in the CMS publication [*How we work out child maintenance – A step-by-step guide*](#), published in November 2013.

Additionally, it might be helpful to discuss the circumstances of a particular case with an organisation such as [Gingerbread](#), which is a single parent charity; their helpline is: 0808 802 0925.

Other Library briefings on child maintenance

- [*Child maintenance: inclusion of earnings from "special occupations" in the 2012 CMS scheme;*](#)
- [*Child maintenance: variations, including "unearned income" rules \(UK excluding NI\);*](#)
- [*Child maintenance: enforcing payment of arrears \(UK excluding NI\);*](#)
- [*Child maintenance: fees \(UK excluding NI\).*](#)

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