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Child maintenance: Calculations, variations and income (UK)

Summary

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Summary

In the most recent statistics, which cover the 2021/22 financial year, the Department for Work and Pensions (DWP) estimated there were around [2.5 million separated families in Great Britain](#), and 4.0 million children living in such families. Around 59% of these families were estimated to have a child maintenance arrangement. The Child Maintenance Service (CMS), which provides a statutory maintenance scheme, was estimated to be the sole organiser of maintenance for around 16% of separated families.

This briefing describes how the CMS calculates child maintenance under the 2012 Child Maintenance Scheme in Great Britain. Section 11 describes the similar, but separate, scheme in Northern Ireland.

Sections 7 to 10 set out policy debates on the 2012 child maintenance system and changes compared to the 1993 and 2003 schemes. This includes the decision to remove the “lifestyle inconsistent with income” ground for variation, the requirement of the person with care (of the child) to estimate the unearned income of the non-resident parent, and analysis on the impact of child maintenance on poverty.

How many people are using the Child Maintenance Service?

The [DWP publishes quarterly figures on CMS arrangements](#). In the quarter ending September 2023, there were around 634,000 paying parents on CMS arrangements. Note, a paying parent can have multiple child maintenance arrangements. For the same quarter, there were around 953,000 children covered by CMS arrangements.

How is child maintenance calculated?

[There are five rates of maintenance](#) a non-resident parent can be required to pay, depending on their financial circumstances and, in some cases, those of their new partner (see section 3 and Annex 1 for more information).

The [CMS uses gross weekly income](#) to calculate maintenance due. This is defined as income before any deductions for income tax and national insurance but after any contributions to approved personal or occupational

pension schemes. Income information is either supplied to the CMS from His Majesty's Revenue and Customs or from the non-resident parent.

If the non-resident parent's gross weekly income is above £3,000, the person with care can apply to the court for additional maintenance.

For certain rates, the CMS calculation also takes account of the number of children the non-resident parent must pay child maintenance for and the average number of nights of shared care a week (where the child stays overnight with the non-resident parent).

Maintenance is reviewed each year, but [parents should inform the CMS of a change in circumstance](#). The CMS booklet, [How we work out child maintenance](#), provides a step-by-step guide to the calculation process. In large part, sections 3 to 6 and Annex 1 of this briefing summarises the guidance. It **should not**, however, be considered a substitute for it when looking for detailed advice on specific cases. The CMS has also published a series of [factsheets on applying for, managing, calculating and enforcing maintenance arrangements](#).

In cases where “special expenses” are incurred by the non-resident parent (such as fuel costs when travelling to a child's home) or the non-resident parent gains “additional income” which is not captured by the HMRC (for example, “unearned” income from rents or savings), a request for variation can be made. These are described in Section 6.

Further reading

The Library has the following briefings which provide further information on the Child Maintenance Service:

- [Child maintenance: Fees, enforcement and arrears](#) (CBP07774)
- [Child maintenance: Support for victims of domestic abuse](#) (CBP09661)
- [Child maintenance: Overseas cases and income \(UK\)](#) (CBP07775)
- [Child maintenance: The write-off of arrears on Child Support Agency cases](#) (CBP07776)
- [Child maintenance: Challenging the undeclared income of paying parents](#)

1 Child maintenance: An introduction

There are currently three statutory child support schemes operating in Great Britain under the [Child Support Act 1991](#) (as amended):

- **The 2012 scheme:** the current scheme and open to new applicants. It is administered by the Child Maintenance Service (CMS);
- **The 1993 and 2003 schemes:** these schemes are closed to new applicants. All cases with ongoing maintenance liabilities have been transferred to the 2012 scheme. Only “arrears-only” cases continue to operate on the legacy schemes although the Department for Work and Pensions (DWP) is implementing a large-scale write-off of arrears that accrued under these schemes. These legacy schemes are administered by the Child Support Agency (CSA).

The CMS booklet, [How we work out child maintenance](#), provides a step-by-step guide to the calculation process in Great Britain. In large part, Sections 3 to 6 and Annex 1 of this briefing summarise the guidance. It should not, however, be considered a substitute for it, when looking for detailed advice on specific cases. The DWP has also published a series of [factsheets on applying for, managing, calculating and enforcing maintenance arrangements](#).

There is a separate Library briefing that provides [information on the CMS' collection and enforcement of arrears](#).¹ The Library briefing on [the write-off of arrears on CSA cases](#) provides information on the arrears from the 1993 and 2003 schemes.²

1.1 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 (NRP)** sometimes referred to as the “**paying parent**”: a parent who does not live with the child in question.
- **Person with care (PWC)** sometimes referred to as the “**receiving parent/ person**”: the person with whom the child has their home and

¹ Commons Library briefing CBP-7774, [Child maintenance: Fees, enforcement and arrears](#)

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

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.³

- **Qualifying child (QC):** the child for whom child maintenance is payable.
- **Relevant child or relevant other child (ROC):** a child other than a qualifying child for whom Child Benefit is payable to the non-resident parent (or their partner).
- **Child in Scotland (CiS)/ child applicant:** in Scotland, a child aged to 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 calculation made under this Act requires the making of periodical payments, it shall be the duty of the non-resident parent with respect to whom the calculation was made to make those payments”.⁴
- **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, but payments are made directly between parents.
- **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.

³ [Child Support \(Maintenance Calculation Procedure\) Regulations 2001](#), Regulation 21(1)

⁴ [Child Support Act 1991](#), Section 1

2 Separated families and maintenance arrangements: Statistics

2.1 Separated Families in Great Britain

The Department for Work and Pensions (DWP) publishes annual estimates of the separated families population and their child maintenance arrangements. [These figures use an experimental methodology](#), drawing on a combination of survey and administrative data.

A separated family is defined as having one resident parent, one non-resident parent and any biological or adopted children either under 16, or under 20 and in full-time, non-tertiary education.⁵

In Great Britain, 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. 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 CMS.

Successive governments have sought to use the CMS to encourage and support parents to make family-based arrangements, when they are able to do so.⁶ It is not compulsory to have a formal maintenance arrangement, and some parents choose to make alternative arrangements, such as in-kind contributions or sharing care.⁷

In the most recent statistics for the 2021/22 financial year, the DWP estimated there were [2.5 million separated families in Great Britain](#), and 4.0 million children living in separated families.⁸

Around 41% were estimated to have no maintenance arrangement. The CMS was the sole organiser of maintenance for around 16% of separated families.

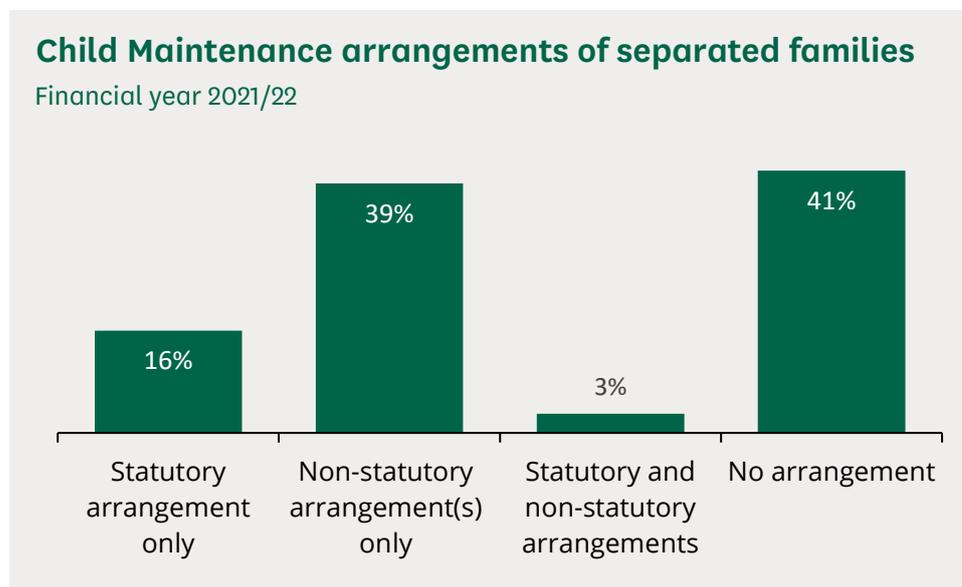
⁵ Department for Work and Pensions (DWP), [Separated families population statistics: April 2014 to March 2022 \(experimental\)](#), 23 March 2023, section 3

⁶ DWP, [A new system of child maintenance](#), December 2006, paras 15, 39-40; DWP, [Strengthening families, promoting parental responsibility: The future of child maintenance \(PDF\)](#), CM 7990, January 2011, paras 5-15

⁷ DWP, [Relationship separation and child support study](#), No. 503, 2008, ch4; DWP and Government Social Research, [Long-term separated parents: Developing support to encourage child maintenance arrangements](#), 2015, ch3

⁸ DWP, [Separated families population statistics: April 2014 to March 2022 \(experimental\)](#), 23 March 2023, section 2

Informal, non-statutory arrangements include voluntary financial arrangements, payments in kind, shared care arrangements, and court orders requiring payments. Around 16% of families were solely on a statutory arrangement (arranged either through the CMS or CSA). 3% had a mixture of statutory and non-statutory arrangements.⁹



Source: DWP, [Separated families statistics: April 2014 to March 2022](#), 23 March 2023, table 2

Around £2.6 billion in child maintenance payments was received by parents/person with care (PWC) in the financial years ending 2020 to 2022. £0.8 billion of this was through statutory arrangements. This data should be treated with some caution because there is limited information recorded by the CMS for payments made via direct pay arrangements. Estimates of income from non-statutory arrangements are drawn from the Family Resources Survey.¹⁰

PWCs were overwhelmingly female: 88% in the three financial years ending 2020 to 2022.¹¹

2.2

How quickly are applications processed by the CMS?

The CMS aims to process 80% of applications within 6 weeks.

“Clearance” is defined as: the amount of maintenance has been calculated and the arrangement to pay between the parents has been made; the amount

⁹ DWP, [Data tables: Separated families statistics: April 2014 to March 2022](#), 23 March 2023, Table 2

¹⁰ DWP, [Background information: Estimates of the separated family population statistics](#), March 2021; DWP, [Data tables: Separated families statistics: April 2014 to March 2022](#), 23 March 2023, section 5

¹¹ [As above](#), section 2

of maintenance has been calculated as zero; or the application has been closed.¹²

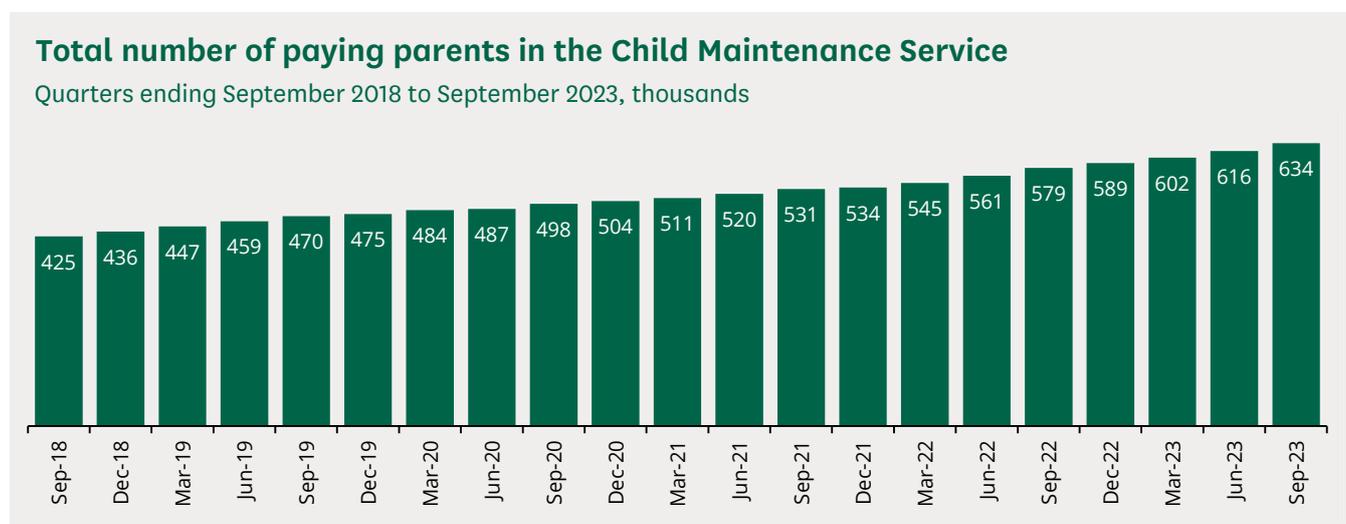
Data published by the CMS suggests that 78% of applications were cleared within 6 weeks in the quarter ending March 2023 and 75% were cleared in the quarter ending June 2023. Relevant data for the quarter ending September 2023 is not yet available.¹³

During the quarter ending in June 2020, clearance times were affected by the coronavirus outbreak, and 44% were cleared within 6 weeks.¹⁴

2.3 Number of paying parents and children

There were around 634,000 paying parents for the quarter ending in September 2023 on CMS arrangements.¹⁵ This was around 3.2 times higher than in March 2016 and 1.5 times higher than September 2018.

As shown in the chart below, the number of paying parents with an arrangement through the CMS has increased every quarter from September 2018 to September 2023. Note, a paying parent can have multiple child maintenance arrangements.



Notes: Figures rounded to the nearest thousand. Paying parents can have multiple child maintenance arrangements. Parents who have no ongoing liability are still included in the caseload because of arrears are still due, as well as parents who meet specific requirements and do not need to pay child maintenance (being on the nil rate).

Source: DWP, [CMS statistics: Data to September 2020, GB](#), December 2020, Table 5 and [CMS statistics: Data to December 2019](#), March 2020, Table 4; DWP, [Stat-explore: Paying parents](#), 12 December 2023, table 1

¹² DWP, [National tables: Child Maintenance Service statistics, data to September 2023](#), 12 December 2023, table 1, note 1 & note 3

¹³ [As above](#), table 1

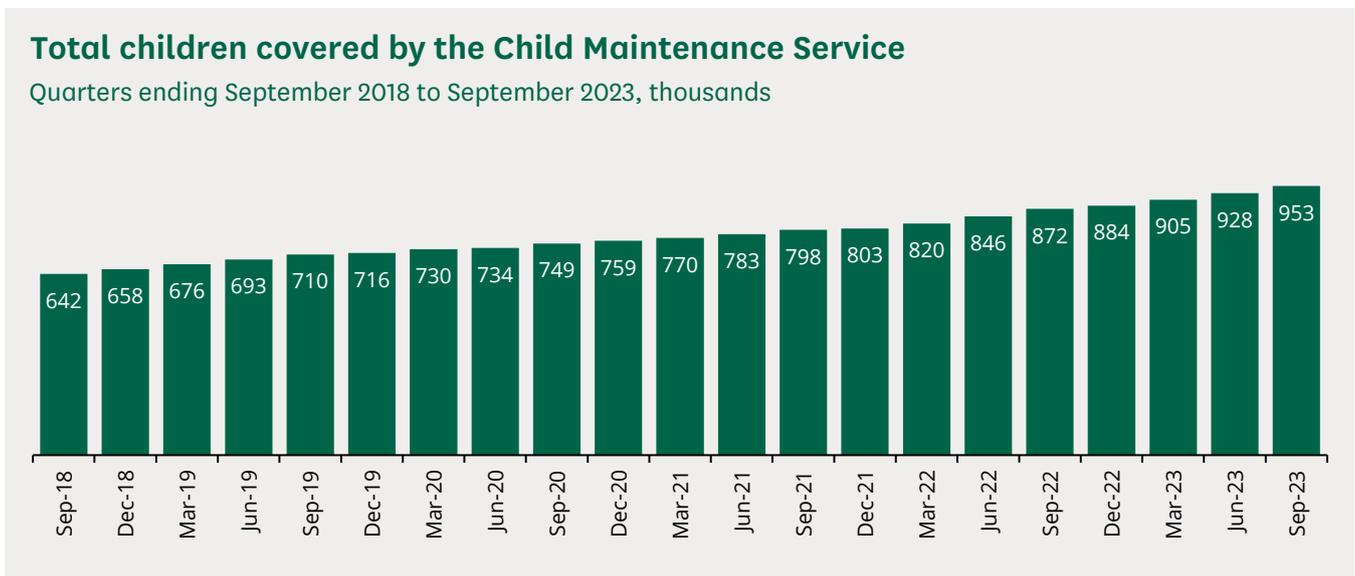
¹⁴ DWP, [CMS statistics: data to June 2021 \(experimental\)](#), 28 September 2021, table 1

¹⁵ DWP, [Stat-explore: Paying parents](#), 12 December 2023, table 1

The DWP notes some of the new applications were brought over from the CSA:

Some applications to the CMS are from parents who previously had an arrangement with the Child Support Agency... [where] cases with an ongoing liability were closed by December 2018. Parents were then encouraged to make a new family-based arrangement or an arrangement through the CMS. The CMS may still receive applications from parents who previously used the CSA, as they may have had a family-based arrangement in the interim.¹⁶

Around 953,000 children at the end of September 2023 were covered by CMS arrangements.¹⁷ This is 3.1 times higher than March 2016, and 1.5 times higher than September 2018. As shown in the chart below, the total children covered by the CMS has increased every quarter from September 2018 to September 2023.



Notes: Figures are rounded to the nearest thousand. Includes some children associated with active arrangements for which no ongoing child maintenance was due in the quarter, i.e. arrears only cases. Data for December 2020 has been revised upwards slightly since the previous publication

Source: DWP, [StatXplore: CMS Children](#), 12 December 2023, table 1

Noting the increase in applications to the CMS in June 2022, the Government said increases in the cost-of-living may be causing more parents with care to seek a formal arrangement:

In the quarter to June 22 [2022], 32,000 new applications were made which is a 64% increase in applications compared to December 2021... The impact of the cost-of-living crisis may be influencing parents with care to apply in higher

¹⁶ DWP, [CMS statistics: data to December 2022](#), 28 March 2023, section 4

¹⁷ DWP, [StatXplore: CMS children](#), 28 March 2023, table 1

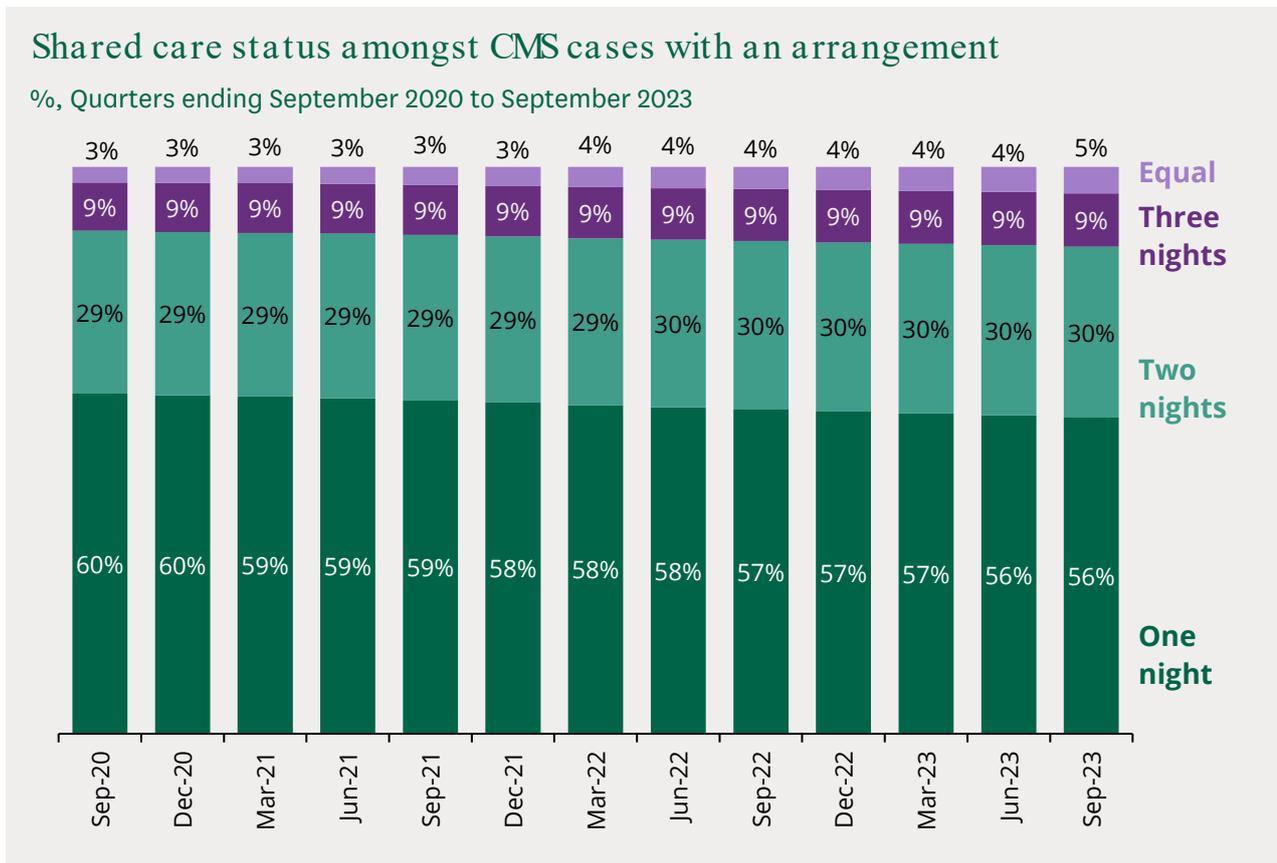
volumes as they seek more formal arrangements to receive regular child maintenance.¹⁸

2.4

Shared care arrangements

In each quarter ending December 2021 to September 2023, around 76% of statutory maintenance arrangements did not have an arrangement for shared care.¹⁹

As shown in the chart below, in the 24% of cases with a shared care arrangement, around 56% of these saw a child spend one night a week with the paying parent in the quarter ending September 2023. For the same period around 30% spend two nights and 9% spent three nights with the paying parent. 5% of arrangements saw a child spend, on average, an equal number of nights with each parent. An equal number of nights is defined as 175 nights a year.²⁰



Source: DWP, [Stat-Xplore: CMS Arrangements, Shared care status by quarter](#), 12 December 2023, table 3

¹⁸ PQ 77415 [on [Children: Maintenance](#)], 11 November 2022

¹⁹ DWP, [Stat-Xplore: CMS children: Shared care status by quarter](#), 12 December 2023

²⁰ Where an arrangement covers multiple children, the level of shared care is not necessarily equal for all the children. In these figures, the recorded status refers to the maximum amount of shared care used within the arrangement: DWP, [StatXplore: Shared care status by quarter](#), 26 September 2023

A shared care arrangement can have an affect on the amount of child maintenance owed. Information on how a shared care arrangements can impact child maintenance can be found in Annex 1 of this briefing, or in the [DWP factsheet on how payments can be adjusted to take 'split care' into account](#).

3

The five rates of child maintenance

Child Maintenance rates		
Gross Weekly Income	Rate	Weekly Amount
Unknown or not provided	Default	£38 for 1 child £51 for 2 children £61 for 3 or more children
Below £7	Nil	£0
£7- £100, or if the paying parent receives benefits	Flat	£7
£100.01- £199.99	Reduced	Formula
£200- £3,000	Basic & Basic Plus	Formula

Source: GOV.UK, [How the Child Maintenance Service works out child maintenance](#) (accessed 8 November 2023)

When the Child Maintenance Service (CMS) makes a child maintenance calculation, there are five rates of child maintenance a non-resident parent may be required to pay, depending on their financial circumstances and, in some cases, those of their partner. These are summarised on the [GOV.UK page on how child maintenance is worked out](#), and in the table above.

The CMS uses gross weekly income to calculate which rate should be paid. Gross weekly income is defined as income before any deductions for tax but after any contributions to approved personal or occupational pension schemes. Gross income is either established using the previous year's income, as reported to His Majesty's Revenue and Customs (HMRC), or current income, provided to the CMS by the non-resident parent, their accountant, or their employer.

Annex 1 of this briefing sets out the eligibility criteria for each of these rates, the amount of maintenance due from a paying parent on each rate, and any impact of shared care. DWP guidance on [how the CMS works out child maintenance](#), provides fuller detail. Section 4.1 explains gross income in more detail and section 6 describes variations.

The CMS follows six stages to determine which rate is applicable:

1. Establish the non-resident parent's gross income and if they are in receipt of any benefits.
2. Check for factors which affect gross income, such as pension payments, expenses, or other children who the non-resident parent supports ("relevant children").
3. Apply one of the above rates.
4. If applicable, consider the number of children who the non-resident parent must pay child maintenance for ("qualifying children") and any family-based arrangements.
5. Decide the weekly child maintenance amount.
6. Make deductions to the weekly amount for shared care. Shared care is taken account of if the child stays with the non-resident parent for at least 52 nights a year. This is not applicable for the nil rate, or if the non-resident parent is on the flat rate because their gross weekly income is less than £100.

This decision then lasts until the date of the annual review, though parents must inform the CMS of any relevant changes. Both parents have a responsibility [to report certain changes to the CMS](#), which are listed on GOV.UK²¹ and section 5 of this briefing.

Even though child maintenance may be paid monthly, fortnightly, or weekly, the CMS is required under statute to calculate the weekly gross income figure.²²

²¹ GOV.UK, [Child Maintenance Service. Changes you need to report](#) (accessed 8 November 2023)

²² [Child Support Act 1991](#), Schedule 1, Part 1, as amended.

4

Defining income in the 2012 scheme

1 ‘Child Maintenance: modernising and improving our service’ consultation

The DWP ran a consultation on ‘Child Maintenance: modernising and improving our service’ until 6th August 2021. The [Government published their response to the consultation](#) in March 2022, in which they said their next steps include making changes in secondary legislation to:

- Expand information regulations within the Child Support Information Regulations 2008 so private pension providers, academy proprietors, the Motor Insurers’ Bureau and “all types of companies that offer, promote or sell investment management services or facilitate share trading” are included
- Update the relevant CMS regulations so the Secretary of State can notify customers and third parties (eg employers) in writing by post or by electronic means.²³

In December 2022, the Government confirmed the relevant changes to the regulations for these steps were made in May 2022.²⁴

In the consultation response, the Government also said they later plan to “make changes in regulations to unearned income, to extinguish low level debt and maintenance not collected when an employer becomes insolvent”.²⁵

In an October 2023, the Government announced it would be legislating to ensure unearned income is included in the main calculation (see section 4.1 below). Additionally the Government said it would be removing the £20 application fee for all parents.²⁶

²³ DWP, [Government response: Child Maintenance: modernising and improving our service](#), 14 March 2022, para 73

²⁴ PQ 111714 [on [Children: Maintenance](#)], 21 December 2022

²⁵ DWP, [Government response: Child Maintenance: modernising and improving our service](#), 14 March 2022, para 74

²⁶ DWP press release, [Government launches new crackdown on parents who refuse to pay child maintenance](#), 2 October 2023

4.1

Gross weekly income

In the 2012 scheme, child maintenance is calculated based on a non-resident parent's weekly gross income. Gross income is calculated before deducting income tax and national insurance, but after occupational or personal pension schemes have been deducted.²⁷

This means a non-resident parent may, for example, seek to reduce their gross weekly income by increasing their pension contributions (see section 7.3).

The rules on the type of income that is considered are complex and based on how income is treated for income tax purposes. It is not the total income on which tax is due that counts, but the total income on which the parent is charged to tax.

In some cases, income that is not counted as gross income for the calculation can be included by a variation. This may happen, for example, in cases where a non-resident parent has interest from savings ("unearned taxable income") or pays income to their partner, neither of which are automatically included in the calculation of gross income (see sections 6 and 8.3 on variations).

Previously, in the 1993 and 2003 child maintenance schemes, net weekly income was used to calculate the amount of child maintenance due. For information on why it was changed to gross weekly income, see [Annex 2 of this briefing](#).

Including unearned income in the calculation

In an October 2023 [press release on a consultation on the enforcement powers](#) of the CMS, the Government announced it would be legislating to ensure unearned income is included in the main calculation:

The Government will legislate to ensure unearned income, such as savings, investment, dividend and property income, is taken into account automatically when the maintenance calculation is made. This will make it more difficult for the small number of parents who avoid paying the correct amount.²⁸

Previously, in 2018, the CMS said automatically including unearned income would require a change to primary legislation and changes to its IT system, "which are unlikely to be possible in the near future".²⁹ In 2019 it added

²⁷ DWP, [The annual review – how it works: A guide for paying parents and receiving parents](#), 7 November 2023

²⁸ DWP press release, [Government launches new crackdown on parents who refuse to pay child maintenance](#), 2 October 2023

²⁹ DWP, [The child maintenance: Compliance and arrears strategy: Government response to the consultation \(PDE\)](#), July 2018, para 72

unearned income can be included if a request is made to vary the calculation.³⁰

4.2 Establishing income

When calculating child maintenance for the first time, the CMS requests income data for the latest available complete tax year, from either:

- HMRC under PAYE regulations or in a self-assessment return; or
- the non-resident parent, or a third party (such as an accountant or an employer).³¹

Where the CMS cannot obtain income data for a non-resident parent, then it assumes a level of income, see below.

Historic income data

The CMS explains “in most cases” it uses HMRC data on the non-resident parent’s gross annual income to work out their gross weekly income, adding:

we always use the latest available information and make sure it is for a complete tax year. A tax year is any 12-month period for which the government works out an amount of income tax that must be paid.³²

If the latest tax year is not available, the CMS uses income data from the most recent year going back to a maximum of six years. The CMS says it “will always tell the Paying Parent and the Receiving Parent which tax year has been used to get the gross annual income information”.³³ Before finalising the child maintenance calculation, the CMS will:

- Send a letter to the non-resident parent detailing the provisional weekly child maintenance calculation and how it has been calculated.
- Provide the non-resident parent with the HMRC income figure that has been used for the calculation.
- Request the non-resident parent call the CMS within the next 14 days to discuss any issues.
- Ask the non-resident parent to provide details of their current income if this is more than 25% different to the figure supplied by HMRC.

³⁰ PQ 246497 [[on Children: Maintenance](#)], 29 April 2019

³¹ DWP, [How we work out child maintenance: a step-by-step guide](#), 30 October 2023; [The Child Support Maintenance Regulations 2012](#) SI 2012/2677, Regulation 35

³² DWP, [How we work out child maintenance: a step-by-step guide](#), 30 October 2023

³³ [As above](#)

- Inform the person with care of the income figure used in the initial calculation letter (although they are not sent the provisional calculation figure).
- Offer the person with care an opportunity for “Mandatory Reconsideration” to challenge the assessment if they think the CMS have used the wrong information.
- Allow the person with care to apply for a variation if they believe the non-resident parent has not disclosed their true income (for example, because they are diverting it to a new partner) or if they have significant unearned taxable income (such as from savings or rents).³⁴

Information on what can be done if a paying parent is suspected of not declaring their true income is available in the [Library casework article on challenging the undeclared income of paying parents](#).

Income data from the non-resident parent

Where the CMS is unable to obtain historic income data from HMRC, or the non-resident parent tells the CMS that their current income is at least 25% different (higher or lower) than the HMRC data suggests, then the non-resident parent’s current income will be used in the child maintenance calculation instead.

On situations where a non-resident parent’s income is 25% different from the figure suggested by HMRC data the CMS says the parent, their employer or their accountant can send proof of gross annual income directly to them:

The proof we need to confirm a change to income of at least 25 percent is a single taxable gross income figure. You can get this from your employer or from a recent self-assessment tax return. The figure you give us should allow us to work out a weekly amount of income. The change to your income should be one that is likely to be a permanent or long-term change.³⁵

The CMS additionally notes it is a criminal offence if a person does not give the information when they ask for it or give information that they know is untrue. If convicted, individuals can be fined up to £1,000.³⁶

4.3 Overseas income

The detailed rules on what overseas income is taxable in the UK are complex. As explained by the Child Poverty Action Group’s (CPAG) Child Support Handbook, “income from outside the UK is included in gross income if it falls

³⁴ Email from DWP official to the House of Commons Library, 2 November 2018

³⁵ DWP, [How we work out child maintenance: a step-by-step guide](#), 30 October 2023

³⁶ [As above](#)

into one of the categories of taxable income from employment, self-employment, or pensions”.³⁷

The [Library briefing on child maintenance cases where someone lives overseas](#) provides further information, including on enforcement of maintenance arrangements and overseas income disregarded from CMS calculations.³⁸

4.4 If there is no ‘historic’ income data

Where the CMS is unable to obtain either historic or current information about the non-resident parent’s income, it can either make a “best evidence” assessment or a “default maintenance decision” (see below). These methods mean the non-resident parent may:

- pay a higher amount of child maintenance than they need to, until they give the CMS the information it needs to work out the correct amount.
 - When this happens, there is no scope for the difference to be repaid to the non-resident parent, or
- pay less than they need to.
 - When this happens, the non-resident parent will be required to pay extra child maintenance to make up for the amounts they should have paid before the CMS worked out the correct amount.³⁹

A best evidence assessment

This is when the CMS uses previous information about a non-resident parent’s gross weekly income, or uses official statistics, such as the Government’s Annual Survey of Hours and Earnings (ASHE), to work out an amount of child maintenance to be paid.⁴⁰

A default maintenance decision

The CMS applies a default rate based on the number of children the non-resident parent must pay child maintenance for. The weekly rates are:

- £39 for one child
- £51 for two children

³⁷ Child Poverty Action Group (CPAG), *Child support handbook 2022/23*, 2022, p73

³⁸ Commons Library briefing CBP-7775, [Overseas Income: Cases where someone lives overseas \(UK\)](#)

³⁹ DWP, [How we work out child maintenance: a step-by-step guide](#), 30 October 2023

⁴⁰ [As above](#)

- £64 for three or more children.

These amounts may be apportioned if there is more than one person with care looking after different qualifying children (although any “relevant non-resident children” are ignored).⁴¹

4.5 Annual reviews of income

Each year, on the anniversary of the date the non-resident parent was told about a child maintenance application, [the CMS carries out an annual review](#). The annual review period lasts 20 days, and the decision lasts until the next annual review 12 months later, unless changes that affect payments happen before then.⁴²

In some circumstances, a periodic income check will also take place during the year.

Information on the annual review can also be found in the [DWP factsheet on how the CMS reviews cases every year](#).

Purpose

The annual review checks to see if the non-resident parent’s income has changed, for example by comparing the income for the latest (newly available) tax year to that currently used in the CMS’s calculation.

The CMS also takes the opportunity to review other factors included in the calculation, which can be submitted by the non-resident parent or person with care during the 20-day consultation period, including:

- if the current payment arrangement is appropriate, such as if direct pay would be more appropriate for an existing collect and pay case,
- changes to shared overnight care arrangements,
- if the non-resident parent is supporting other children (“relevant other children”), and
- changes to the non-resident parent’s pension payments.⁴³

⁴¹ Child Poverty Action Group (CPAG), Child support handbook 2022/23, 2022, p127

⁴² DWP, [The annual review – how it works: A guide for paying parents and receiving parents](#), 7 November 2023

⁴³ [As above](#)

Process

Existing income supplied by HMRC (“historic income”)

The annual review process is as follows:

30 days before the annual review date, the CMS obtains the latest income data for the non-resident parent from HMRC, usually the latest available tax year.

The CMS then calculates the new child maintenance figure using the latest gross income figure. It always uses the new figure from HMRC irrespective of the 25% change in income threshold used elsewhere in this regard.

The CMS informs both the non-resident parent and the person with care of the following:

- the gross weekly income figure (and other information) used in the new calculation,
- the weekly amount of child maintenance that will be paid from the annual review date, and
- how this amount has been calculated.

The non-resident parent and the person with care have 20 days to submit any changes to the income figure used or other factors in the calculation.

It should be noted that if the non-resident parent’s current income is different to the latest income data figure from HMRC that the CMS is proposing to use, then the difference must be 25% or greater (higher or lower) for the CMS to use the current income figure.⁴⁴

On the annual review date, the CMS makes its child maintenance decision which lasts for another 12 months, unless it is informed of a change of circumstances. The non-resident parent is sent a “Payment Plan” and the person with care receives an “Expected Payments Plan”, and both receive a statement showing all the payments paid or received during the past 12 months.⁴⁵

Existing income supplied by non-resident parent (“current income”)

The annual review process is as follows:

⁴⁴ If the CMS is informed of a change in the non-resident parent’s income and it accepts this change, then it may also change the amount of child maintenance being paid up to the date of the annual review.

⁴⁵ DWP, [The annual review – how it works: A guide for paying parents and receiving parents](#), 7 November 2023

30 days before the annual review date, the CMS obtains the latest income data for the non-resident parent from HMRC, usually for the latest available tax year.

The CMS compares this amount to the current income amount it has been using and will:

- use the HMRC data if the difference between the two figures is less than 25%, or
- continue to use the current income amount (meaning the child maintenance calculation is unchanged, assuming nothing else changes) if the difference is more than 25%.

The CMS informs both the non-resident parent and the person with care of:

- the gross weekly income figure (and other information) used,
- the weekly amount of child maintenance that will be paid from the Annual Review date, and
- how this amount has been worked out.

The non-resident parent and the person with care have 20 days to submit any changes to the income figure used (including for the non-resident parent their latest current income) or other factors in the calculation.⁴⁶

It should be noted if the non-resident parent's current income is different to the income figure that the CMS is proposing to use, the difference must be 25% or greater for the CMS to use the non-resident parent's latest current income figure.⁴⁷

On the annual review date, the CMS makes its child maintenance decision which lasts for another 12 months, unless it is informed of a change of circumstances. The non-resident parent is sent a "Payment Plan" and the person with care receives an "Expected Payments Plan", and both receive a statement showing all the payments paid or received during the past 12 months.⁴⁸

4.6 Periodic income check

Whenever the CMS uses a gross income figure provided by the non-resident parent, their employer or a third party, it checks the income figure used is still

⁴⁶ DWP, [The annual review – how it works: A guide for paying parents and receiving parents](#), 7 November 2023

⁴⁷ See section 4.2 of this briefing

⁴⁸ DWP, [The annual review – how it works: A guide for paying parents and receiving parents](#), 7 November 2023

correct 12 months later. This is called the periodic current income check. This is separate from the annual review.

The CMS says if the income figure has been in place and unchanged for 11 months, then it will ask for proof to check whether the non-resident parent's income has changed.⁴⁹

The process of the periodic income check is as follows:

- If the reported income figure has not changed for 11 months, the CMS will contact the non-resident parent for new proof of their gross income.
- The CMS compares this figure to the latest available income amount given to HMRC to see if there is a 25% difference between the two.
- If there is less than a 25% difference between the two figures, the CMS will use the HMRC figures to assess income.
- If there is a 25% difference or more, the CMS uses the latest income figure provided by the non-resident parent, their employer, or a third party (such as their accountant) to work out child maintenance.
- If no information is provided by the non-resident parent, the CMS uses the most recent figure given to HMRC to make a new child maintenance decision.

Unlike the annual review process, there is no 20-day review period.⁵⁰

The periodic income check is separate from the annual review process and is not normally done at the same time. If a periodic income check is due to take place around the same time as the annual review, the annual review is done first.⁵¹

4.7 If the CMS receives no income figure

As set out above, 30 days before the annual review date, the CMS seeks an updated income figure for the non-resident parent. The course of action the CMS will take if it does not receive or cannot obtain an up-to-date income figure at the annual review depends on how the last income figure was submitted.

If the non-resident parent's historic income (obtained from HMRC) was being used in the child maintenance calculation, then for the annual review the CMS

⁴⁹ CPAG, *Child support handbook 2022/23*, 2022, p75; DWP, [The annual review – how it works: A guide for paying parents and receiving parents](#), 7 November 2023

⁵⁰ DWP, [The annual review – how it works: A guide for paying parents and receiving parents](#), The periodic income check, 7 November 2023

⁵¹ CPAG, *Child support handbook 2022/23*, 2022, p75

seeks income data from HMRC and the non-resident parent (see section 4.2 for more detail).

If the CMS has not received the information it needs to make a child maintenance decision by the annual review date, it can make either a best evidence assessment, or a default maintenance decision (for more information see section 4.4). The CMS states if it takes either course of action, it will write to both the non-resident parent and the person with care to inform them of this, and it will also “ask the paying parent for information about their income at regular intervals after the Annual Review date”.⁵²

If the child maintenance calculation is based on the non-resident parent’s current income, the CMS will continue to use that figure until the periodic income check takes place. If the CMS do not get up-to-date proof of income from the paying parent at the periodic income check, it will “use the most recent figure given to HMRC to make a new child maintenance decision”.⁵³

The non-resident parent is sent a “Payment Plan” and the person with care receives an “Expected Payments Plan”, and both receive a statement showing all the payments paid or received during the past 12 months.⁵⁴

4.8 Sharing the paying parent’s income

It is standard practice for the CMS to share the non-resident parent’s key financial details with the person with care. Under [regulation 25 of the Child Support Maintenance Calculation Regulations 2012](#) (SI 2012/2677), when either parent or person with care is notified about a maintenance calculation, the CMS “must set out”, amongst other things, the paying parent’s gross weekly income. This includes setting out if it is historic or current income, and if the income has been estimated (if it was based on current income).⁵⁵

Before the CMS makes its annual review decision, it will write to the paying parent and person with care to tell them:

- the gross weekly income figure (and other information) we’ve [the CMS] used
- the weekly amount of child maintenance that will be paid from the Annual Review date, and
- exactly how we [the CMS] worked this amount out.⁵⁶

⁵² DWP, [The annual review – how it works: A guide for paying parents and receiving parents](#), 7 November 2023

⁵³ [As above](#)

⁵⁴ [As above](#)

⁵⁵ [The Child Support Maintenance Calculation Regulations 2012](#), SI 2012/2677, regulation 25

⁵⁶ DWP, [The annual review – how it works: A guide for paying parents and receiving parents](#), 7 November 2023

5

Reporting changes in income

In addition to the annual review and the periodic income check, a non-resident parent or a person with care can inform the CMS of a change of income at any point – to do so is to request a “supersession”. In some cases, a non-resident parent is required to inform the CMS of a change in income.

If a child maintenance calculation is based on historic data from HMRC, a non-resident parent’s current income must be at least 25% different from the HMRC historic figure for the maintenance calculation to be altered. The non-resident parent does not need to inform the CMS of income changes of less than 25%.

The [GOV.UK page on changes that need to be reported to the CMS](#) sets out the changes parents must tell the CMS about, and whether to contact the service by phone or online. A (non-exhaustive) list of changes that need to be reported includes if:

- you change how often the child stays overnight with the other parent
- you change who the child’s main carer is
- you want to change how you [make and get payments](#) using Direct Pay or Collect and Pay
- you move house (give your new address within 7 days of moving)
- you change your bank details
- you change your phone number
- you want someone else to deal with your case for you
- you add a child to your case
- the child leaves full-time education (up to and including A Level or equivalent)
- the child is being adopted by someone else
- you want to close your case
- the child no longer lives in the UK

- someone on the case dies ⁵⁷

Additional changes that can be reported by either parent includes if the paying parent:

- misses a payment when using Direct Pay
- makes any voluntary payments on top of existing payments
- has an income change of 25% or more, or no longer has an income
- is spending more or less money in order to see the child, for example on transport costs ⁵⁸

Not disclosing the information asked for or giving false information could result in being taken to court and fined up to £1,000.

⁵⁷ GOV.UK, [Child Maintenance Service: Changes you need to report](#) (accessed 12 December 2023)

⁵⁸ [As above](#)

6 Variations

6.1 The purpose of a variation

The standard methodology for calculating child maintenance takes account of a limited range of factors:

- Gross weekly income (usually reported to HMRC in the previous full tax year).
- The number of children the non-resident parent supports through child maintenance.
- The number of other children the non-resident parent may be financially responsible for.
- Shared care arrangements.

In more complex cases, a “variation” from this formula may be applied for. Both the non-resident parent and person with care have grounds to request variations, to either reduce or increase the child maintenance due.

Applying for a variation

The [CMS’ guide to variations](#) states either relevant parent or person with care may make an application for a variation “at any time”. Applications may be made by phone or in writing. The CMS states it is:

Very important that the application contains as much information as possible. The person applying must say why they are applying for a variation, or give us enough information for us to be able to see why they are applying.⁵⁹

The CMS states information will be shared between parents, and it will use other sources of information to establish income and expenses. It will also consider whether the variation is “just and equitable” for everyone involved in the child maintenance case.⁶⁰

⁵⁹ DWP, [Variations explained: a guide for receiving parents](#), 27 October 2023

⁶⁰ DWP, [How we work out child maintenance: a step-by-step guide](#), 30 October 2023

6.2

Grounds for variation

Non-resident parent

There are several grounds on which a non-resident parent can ask for other payments (called “special expenses”) to be considered, and so reduce the amount of child maintenance they pay:⁶¹

- Costs of at least £10 a week of keeping regular contact with the child or children that qualify for child maintenance (eg the cost of fuel or accommodation).
- Costs connected with supporting a child with a disability or a long-term illness (an illness expected to last at least 12 months or be terminal).⁶²
- Repaying debts from a former relationship of at least £10 a week that were incurred during the relationship.⁶³
- Boarding school fees for a child or children that qualify for child maintenance (only the everyday living costs or ‘boarding’ part of the fees) of at least £10 a week.⁶⁴
- Making payments on a mortgage, loan or insurance policy for the home the non-resident parent and parent with care used to share.⁶⁵

If the CMS accepts a variation for special expenses, the gross weekly income of the non-resident parent is reduced by the amount of the special expense(s). This, in turn, reduces the amount of child maintenance the non-resident parent must pay.

A non-resident parent cannot ask the CMS to take special expenses into account when reassessing their gross income if their gross income was already less than £7 a week or they are getting benefits.⁶⁶

Person with care

The onus is on the person with care to provide the information to the CMS. This requires them to have knowledge of the non-resident parent’s financial situation which might not always be the case if the parents have been

⁶¹ Under [The Child Support Maintenance Calculation Regulations 2012](#), Chapter 2

⁶² Disability and long term illness are defined in [The Child Support Maintenance Calculation Regulations 2012](#) SI 2012/2677, Chapter 2(63)

⁶³ Exclusions are listed in [The Child Support Maintenance Calculation Regulations 2012](#) SI 2012/2677, Chapter 2(65)

⁶⁴ DWP, [Variations explained: a guide for paying parents](#), 27 October 2023

⁶⁵ [The Child Support Maintenance Calculation Regulations 2012](#) SI 2012/2677, Chapter 2(67); DWP, [Variations explained: a guide for paying parents](#), 27 October 2023

⁶⁶ DWP, [Variations explained: a guide for paying parents](#), 27 October 2023

separated for some time, or if all contact between them has stopped (for example, because of previous domestic violence).

The person with care may ask the CMS to apply for a variation on the below grounds:⁶⁷

Unearned income

‘Unearned’ income, such as rental income, dividends and interest from savings and investments.⁶⁸ This type of income must be at least £2,500 a year.

If a variation is made on these grounds, the annual unearned income amount is divided by 52 to make it a weekly amount and is then added to the non-resident parent’s gross weekly income. Child maintenance is then calculated based on this adjusted figure of gross weekly income.

Gross earned income

Gross ‘earned’ income in excess of £100 a week for a non-resident parent on the nil or flat rate in certain circumstances (such as they receive one of the qualifying benefits for the flat rate, listed in Annex 1).⁶⁹ When a variation is made on this ground, the non-resident parent is treated as having the whole amount of income for the purpose of calculating child maintenance. This additional child maintenance liability is then calculated at the appropriate rate and liability added to the nil or flat rate.

If a variation is agreed on this ground, information about the additional income is sought and treated in the same way as for gross weekly income used in the support calculation (see section 4.2 above).⁷⁰

Diversion of income

‘Diversion’ of income, such as to a family member, business or pension scheme. The CMS will consider a variation if it believes the non-resident parent has “unreasonably reduced”, the amount of income they get by diverting it to another person or another purpose, which means it is not being included in the figure the CMS uses to work out child maintenance.⁷¹

Information on whether pension contributions are considered diversion of income is provided in section 7.3.

⁶⁷ [The Child Support Maintenance Calculation Regulations 2012](#), Chapter 3

⁶⁸ Definitions of property income, savings and investment income and miscellaneous income are defined in Parts 3-5 of the [Income Tax \(Trading and Other Income\) Act 2005](#)

⁶⁹ If they are a child; a prisoner; receiving an allowance for work-based training for young people; or resident in a care home or independent hospital, 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 ([Child Support Maintenance Calculation Regulations 2012](#), Chapter 3; CMS, [How we work out child maintenance: a step-by-step guide](#), 30 October 2023

⁷⁰ CPAG, *Child support handbook 2022/23*, 2022, p102

⁷¹ CPAG, *Child support handbook 2022/23*, 2022, p102

If the CMS accepts this variation, the non-resident parent's gross weekly income is adjusted to include the full weekly equivalent amount of any diverted income, and the adjusted figure is used to calculate the child maintenance liability.⁷²

Notional income

From December 2018, regulations were made to allow the CMS to assume assets of a non-resident parent that are not generating a return have an assumed notional income of 8% per annum (if the value of the asset is greater than £31,250). This is then divided by 52 to calculate its weekly value.⁷³

Assets include money, land (but not if the land is the primary residence of the non-resident parent) and some stocks and shares. In the case of an asset that is subject to a mortgage or charge, the value of the asset is its value after a deduction is made for any amount owing.

Part 2 of the [Child Support \(Miscellaneous Amendments\) Regulations 2018](#) (SI 2018/1279) provides a full list of the asset types that can, and cannot, be included for these purposes.⁷⁴

6.3 The role of the Financial Investigations Unit

Where a non-resident parent is suspected of concealing their true income, the Financial Investigations Unit (FIU) can be tasked with looking into the matter.

The FIU is a body within the DWP that considers more complex cases. It works with HMRC records and other information to assess and uncover additional income from non-resident parents. Where relevant, it also passes on information to HMRC.

Additional income and evidence collected by the FIU may be used by the CMS to calculate child maintenance assessments.

For more on the work of the FIU, see section 4.5 of the [Library briefing on child maintenance fees, enforcement and arrears](#).⁷⁵

More information on challenging undeclared income can be found in the Library [constituency casework article on challenging the undeclared income of paying parents](#).⁷⁶

⁷² CPAG, Child support handbook 2022/23, 2022, p103

⁷³ [The Child Support \(Miscellaneous Amendments\) Regulations 2018](#) 2018/1279, Regulation 2

⁷⁴ [As above](#)

⁷⁵ Commons Library briefing CBP-7774, [Child maintenance: Fees, enforcement and arrears](#)

⁷⁶ Commons Library constituency casework article, [Child maintenance: Challenging the undeclared income of paying parents](#)

7

FAQs on calculating income

The Library often gets asked questions on the Child Maintenance Service (CMS). Some of these more frequently asked questions are covered below.

7.1

Why is only the non-resident parent's income considered?

A question sometimes raised with the Library is why only the non-resident parent's income is considered when calculating child maintenance, especially if their new partner has a high-paying job. Some non-resident parents also ask their MP why neither the person with care's income, nor that of a new partner, is considered.

The 1993 child maintenance scheme

Under the 1993 scheme, the income of both the non-resident parent and their partner (if applicable) were taken account of in calculations. Although the non-resident parent's partner was not expected to contribute towards child maintenance, their income could affect the amount the non-resident parent had to pay.⁷⁷

The income of the person with care was also considered under the 1993 scheme. The [Child Support Agency \(CSA\) explained in its 'Your child maintenance assessment'](#) (withdrawn, PDF) that it “work[s] out the person with care's assessable income because sometimes they will have enough income to contribute more towards the everyday living costs of their child or children...so we may reduce the amount of child maintenance the non-resident parent has to pay to reflect this”.

The CSA continued:

In general, we don't take account of the income of the person with care's partner, if they have one, when working out how much child maintenance must be paid. The exception is when the person with care has a child or children with a new partner, and the new partner can contribute to the everyday living costs of these children. If so, we can reduce the amount of exempt income ... and

⁷⁷ [HC Deb 28 January 2008 c61W](#)

this in turn can affect the amount of assessable income of the person with care.⁷⁸

The 2003 and 2012 Schemes

The 2003 and 2012 child maintenance schemes sought to rationalise the number of factors used to calculate child maintenance. As the then Secretary of State for Work and Pensions, Alistair Darling, explained in 2000, “about 100 items of information” were needed to calculate child maintenance in the 1993 scheme, meaning child maintenance would have to be recalculated if any one of those variables was to change. Mr Darling also argued “a parent who is simply stringing the agency—and, more important, the child—along can delay, or refuse to hand over certain bits of information”.⁷⁹

The features of the 2003 statutory child support scheme (referred to below) similarly apply to the current 2012 scheme in this area.

In the 1999 white paper, [A new contract for welfare – Children’s Rights and Parent’s responsibilities](#), it said considering the income of the person with care and their partner would make the new scheme more complicated, and in some cases would give “unfairly low levels of maintenance”. It also stated:

The percentage rate system we propose [for the 2003 scheme] ignores the income of the person with care. There is no need to reduce the rate because the person with care has an income of her own. She already contributes to the cost of bringing up children by caring for them in her home. And the child support rates are intended to produce a fair assessment of maintenance on the basis of non-resident parents’ income alone.

[...]

In any case, the practical effect would be minimal. For 96 per cent of non-resident parents who have a full assessment under the current scheme, the person with care’s net weekly income is less than £100. Fewer than 6,000 parents with care who have a child support assessment now have an income of more than £200 per week. To create complex rules for such a small group is undesirable and unnecessary.⁸⁰

The DWP also provided the following rationale in an archived guide to the 2003 scheme published in 2012. It set out, in short, the principle that non-resident parents must take some responsibility in financially supporting their child, if they have the means to do so:

The person with care has more money and/or a high earning new partner, why should the non-resident parent continue to pay maintenance?

⁷⁸ Child Support Agency (CSA), [Your child maintenance assessment and help in meeting exceptional circumstances](#) (PDF), CSA2024, October 2013, p36

⁷⁹ [HC Deb 342 11 January 2000 c153](#)

⁸⁰ Department for Social Security, [A new contract for welfare – Children’s Rights and Parent’s responsibilities](#), cm4349, July 1999, p14, paras 32–34

The non-resident parent now has a new partner and children to support, why should they continue to pay maintenance?

The principle underpinning the statutory child maintenance service is that a parent's responsibility to support his or her child is an obligation which should have the highest priority and that this financial responsibility is absolute. Child maintenance is a contribution towards the cost of bringing up a child and this includes not only such items as food and clothing but also it is a contribution towards the home that the child lives in and the associated costs of running that home.

Under the 2003 child maintenance scheme the income of the person with care or their partner is not relevant to the child maintenance calculation and does not affect the non-resident parent's liability to contribute to the support of their child or children. The child maintenance calculation is based entirely on the net income of a non-resident parent and is an approximation of what they would spend if their child lived with them. Allowances are applicable if the non-resident has other children living within their household.

The statutory child maintenance service does not guarantee a particular financial outcome for a child within the service; it ensures parents take a degree of financial responsibility for their children. What the person with care is receiving should not remove the responsibility of a non-resident parent to support their child and in most cases the person with care will be supporting the child through the provision of a home and related expenses. This is why the majority of non-resident parents, including those with lower incomes or who are receiving benefits, are required to make at least some contribution to the support of their child.⁸¹

7.2

Why is 25% the threshold to trigger a recalculation?

Under the predecessor 2003 statutory child maintenance scheme only a 5% change (either way) in the non-resident parent's income was required for the then-CSA to recalculate child maintenance liabilities. In later years, the DWP described this low threshold as a "failing" of the scheme, explaining this approach meant relatively small changes in income meant:

The maintenance award has to be recalculated, with consequent changes to payments. Such instability can create uncertainty for parents about their income and results in staff having to review a maintenance award, diverting their time and effort away from keeping money flowing to children.⁸²

By using a higher threshold for the change in income, which fewer non-resident parents would ordinarily be expected to exceed, the DWP intended that this would provide "an opportunity to fix maintenance awards for a

⁸¹ DWP, [Child maintenance frequently asked questions \(PDF\)](#), August 2012, pp32–33

⁸² DWP, [Impact Assessment: The Child Support Maintenance Calculation Regulations 2012 \(PDF\)](#), 29 March 2012, p11, para 47

period of time so reducing the number of cases where changes of circumstances are reported”. However, the DWP conceded that:

The system needs to be sufficiently flexible to deal with major changes in circumstances or unexpected events. In some instances therefore awards would be altered, such as a move in or out of employment or the death of a qualifying child. If income changes in the year, so that it differs by 25 per cent from the figure produced by the tax year data, then the maintenance liability will reflect the new income figure.⁸³

The rationale for the 25% threshold was set out in an answer to a parliamentary question given by the then Pensions Minister in 2014:

In determining the level of threshold the criteria considered were: to set a threshold which offered a stable maintenance liability to provide greater certainty to both parents whilst also remaining fair in dealing with unexpected and major changes in circumstances; and, to also set the threshold at a level which supports operational efficiency and secures the right balance between recalculating maintenance and collection and enforcement activity.⁸⁴

7.3

Are some pension contributions a diversion of income?

As noted in Section 4.1, the gross weekly income of the non-resident parent is calculated after occupational and statutory pension contributions have been made. As the CPAG’s Child Support Handbook 2022/23 notes, “there is no limit on the amount of pension contributions that can be deducted.” However, it adds:

If a PWC [person with care] is aware of the amount of contributions and considers them to be excessive, or considers that arrangements have been set up deliberately to reduce liability for child support (eg, if the non-resident parent has made a salary sacrifice arrangement in return for increased employer contributions), then an application may be made for a variation on the grounds of diversion of income.⁸⁵

Relevant case law was summarised by the [Stowe Family Law website](#) in 2015:

The matter of whether pension contributions are reasonable has previously been considered by the Upper Tribunal in [DW v CMEC](#) [DW being the anonymised applicant, and CMEC being the Child Maintenance and Enforcement Commission, whose role has since been taken by the Child Maintenance Group within the Department for Work and Pensions], in which the judge set out a list of factors that may be relevant, such as the age of the

⁸³ DWP, [Impact Assessment: The Child Support Maintenance Calculation Regulations 2012 \(PDF\)](#), 29 March 2012, p11, para 48

⁸⁴ PQ 218234 [on [Children: Maintenance](#)], 15 December 2014

⁸⁵ CPAG, Child Support Handbook 2022/23, 2022, p69

individual, their reasonable retirement age and what advice, if any, they have received as to the level of contributions.⁸⁶

The case in question concerned the 2003 child maintenance scheme and was heard before the Upper Tribunal whose ruling was given in June 2010. [The judge summarised the case](#) as follows:

A [anonymised reference for the non-resident parent] was liable to pay P [anonymised reference for the person with care] £87.00 weekly for child support maintenance for their child N from 12 11 2007. This was reduced to £59.00 weekly from 24 03 2008. P asked for this decision to be varied in respect of what she contended to be a diversion of income. P made her claim for a variation succinctly in an application on 19 05 2008. She ticked the box to indicate that she thought that A [the non-resident parent] “has diverted income to other persons or for purposes other than the provision of income for themselves”. She confirmed that A worked for a limited company. She then stated:

“He is diverting his money into a seperate [sic] pension. He did this in September and was putting £800 per month in it for a month. Then it went down to £50. He has now changed it again to £850.00 a month because it was investigated and he was found out.”

She contended that the amount being diverted was £850.00 a month. She requested that a variation be applied to the way in which the general rule about deductions for pension contributions was applied to A’s income.⁸⁷

In his ruling, the Judge set out the [grounds the tribunal used to determine the level of contributions](#) that were “reasonable” before constituting a “diversion” of income (bold added to original):

The tribunal then needs to consider whether that total is unreasonable. The effect of regulation 19(5)(b) is also to pose the opposite question. If the total pension contributions made by the individual are unreasonable, what amount is reasonable? In deciding that, I commend to the tribunal the approach taken on the facts in CCS 2027 and 2028 2007. The following may be relevant:

How old is the individual?

At what age is it reasonable that the individual should expect to be able to retire in the light of his or her personal and family medical history? (From April 2010 tax-approved pension funds cannot in normal cases make new pension payments to anyone below the age of 55).

What entitlements will the individual have under the various pension schemes of which he or she is a member?

When will they be received?

⁸⁶ Stowe Family Law LLP, [AVCs reduce child support liability](#), 8 July 2015

⁸⁷ Administrative Appeals Chamber, [DW v Child Maintenance and Enforcement Commission and JO \(CSM\)](#), DW v CMEC [2010] UKUT 196 (AAC), 9 June 2010, para 3

What is the past record of pension contributions of the individual, and what other provision (for example, capital) is available to assist funding the individual's retirement?

On **what advice, if any, is the individual acting** in making the current level of contributions?

What proportion of current gross income is being used by the individual to fund pension contributions?

The tribunal must, of course, follow the general statutory framework for any decision on a variation. It must have in mind, for example, the general principle that "parents should be responsible for maintaining their children whenever they can afford to do so" (Child Support Act 1991, section 28E(2)(a)). And it must be satisfied that, in all the circumstances of the case, it is just and reasonable to agree to the variation, having regard to the welfare of any child likely to be affected by the variation (Section 28F(1)). I stress those points, because they emphasise that it is not only the employee's prospective pension requirements that are to be taken into account. His or her own requirements cannot be viewed in isolation in a variation case. Attention must also be paid to the current needs of the relevant children. To that extent I reject the approach taken by A in his arguments to me.⁸⁸

Although the ruling concerned the 2003 statutory child maintenance scheme, pension contributions were similarly deducted from weekly income (albeit net weekly income rather than gross) before calculating maintenance under that scheme as under the 2012 scheme.

7.4

Why is income from "special occupations" no longer disregarded?

Under the 2003 child maintenance scheme, the earnings from the following "special occupations" were disregarded in full: Auxiliary coastguards; Reserve or territorial force members; Local authority councillors; Part-time firefighters; and Part-time Lifeboat crew members.⁸⁹

These disregards were removed in the 2012 scheme.

The then-DWP Minister Maria Miller explained the reason for their inclusion under the 2012 system lay with the aim of simplifying the system:

Back in 2003 ... the payments made to clients from the occupations that we are talking about tended to be relatively small. That is no longer always the case.

[...]

⁸⁸ Administrative Appeals Chamber, [DW v Child Maintenance and Enforcement Commission and JO \(CSM\)](#), DW v CMEC [2010] UKUT 196 (AAC), 9 June 2010, paras 37–8

⁸⁹ [Child Support \(Maintenance Calculations and Special Cases\) Regulations 2000](#), Part 1, 4 (2)

Although the current position was established for a number of reasons, I believe that it is unsustainable. No matter how praiseworthy the efforts of those in part-time professions are, they are often parents, and their children must be at the forefront of our minds when we develop such policy.

[...]

The effects of the current position can be serious. For example, a non-resident parent, who is a member of the Territorial Army deployed to Afghanistan for a number of months ... and who derives their sole income for this period from their pay as a soldier has a child maintenance liability of nil. That is different from the position of the regular soldiers serving alongside them who continue to be liable to pay maintenance and of their colleagues whose children continue to be part of their current family. The effect is to leave the children of TA soldiers and any others who fall into this category who are non-resident parents and are deployed on operations entirely unsupported for an extended period. Not including this income within the child maintenance calculation is unacceptable. I ... believe that we should change the rules.

[...]

For the new child maintenance scheme, we propose to base the liability of such non-resident parents on their total weekly income. By using Her Majesty's Revenue and Customs income data, we will avoid the administrative complexities that arose in the original scheme and provide a fairer system for the children of such parents.⁹⁰

7.5

Will the calculation formula be updated?

In January 2023, [the Government was asked whether it would increase the flat rate](#) of child maintenance payments in context of recent increases in the cost of living. The Government said it had no plans to do so:

...The child maintenance calculation was designed to be fair for the paying parent, while ensuring they contribute a significant proportion of their income to support their children.

A banding system ensures that the very lowest earners pay a flat rate of £7 per week, and those with no income pay nothing. Those that can afford to make a bigger contribution do so at a rate that reflects what they earn.⁹¹

However, in its [response to the Independent Review of the CMS response to Domestic Abuse](#) in January 2023, the Government accepted the “current formulas used to determine maintenance liabilities were introduced in 2003 and are now quite dated”. Therefore it would be assessing if the child maintenance calculations are still fit for purpose.⁹² This was echoed in

⁹⁰ [HC Deb 20 December 2011 cc416WH-417WH](#)

⁹¹ PQ 125229 [on [Children: Maintenance](#)], 23 January 2023

⁹² DWP, [Government response to the independent review of the Child Maintenance Service response to domestic abuse](#), 17 January 2023 (updated 19 January 2023), para 41

response to a parliamentary question in September 2023, where the Government said the review is “ongoing”:

The review is ongoing, and any changes would require changes to primary legislation and will be brought forward in the usual way. Any changes will always be made according to the best interests of children.⁹³

In an October 2023 [press release on a consultation on the enforcement powers](#) of the CMS, the Government announced it would be legislating to ensure unearned income is included in the main calculation (see section 4.1 of this briefing). Additionally the Government said it would be removing the £20 application fee for all parents so “children in the poorest families are not unfairly disadvantaged if their parent cannot afford the £20”.⁹⁴

Social Security Advisory Committee analysis on the calculation

In October 2019 the Social Security Advisory Committee, an independent advisory body of the DWP, published [a study on separated parents and the social security system](#). It noted the thresholds for child maintenance rates have not been updated since they were set in 1998 and so “in real terms paying parents now pay child maintenance on lower incomes than was originally intended”.⁹⁵ The Advisory Committee were also told of other issues with the current formula by consultees:

- **It does not reflect the true costs of raising a child.** It does not factor in the regional variation in childcare costs or that costs vary by age of the child;
- **Reduction in payments for overnight stays with the paying parent do not reflect costs of either parent and creates perverse incentives for the receiving parent.** There are fixed costs associated with having a child to stay, for example needing a spare room for children to sleep in and we heard examples of parents needing to buy additional clothes for their children as parents refused to share them...
- **It does not reflect household earnings of the receiving parent.** So there may be instances where a paying parent on low income struggles to meet their child maintenance payments, but a receiving parent who has re-partnered with a high earner may benefit from their earnings...
- **It does not accurately reflect travel costs for the paying parent to see the children.** The receiving parent may (and can) decide to move away from the other parent... That means the paying parent faces travel costs to see their children. Paying parents can apply for a variation so that the income used to calculate their child maintenance payments factors in travel costs (and expenses). However, we heard that the travel allowance

⁹³ PQ 196964 [on [Children: Maintenance](#)], 8 September 2023

⁹⁴ DWP press release, [Government launches new crackdown on parents who refuse to pay child maintenance](#), 2 October 2023

⁹⁵ Social Security Advisory Committee, [Separated parents and the social security system](#), no. 22, October 2019 (updated 21 July 2020), section 7.5

used does not reflect actual travel costs, leaving paying parents facing high costs or the decision to move, which may not be possible if there are limited employment opportunities or housing costs are prohibitively high.

- **Earnings fluctuations are not always factored into the formula which can leave some paying parents on low incomes struggling to pay.** The CMS uses earnings data from the HMRC from the latest available tax year; if the paying parent can prove their actual gross annual income is 25% more or less than the figure used by HMRC, the calculation can be updated. However, for someone on low income, even a small variation in income (for example self-employed and on zero hours contracts) can affect their ability to pay child maintenance.⁹⁶

The report was broadly welcomed by Gingerbread, the single parent's charity, but it stated "in contrast to the report, we believe that [improvements to the CMS] should primarily focus on safeguarding the wellbeing of children of separated parents, so that they receive the vital financial support that alone lifts a fifth of single parent families out of poverty".⁹⁷

Previous attempts to change the calculation

Marion Fellows MP also introduced a Bill to reform four elements of the child maintenance system in November 2018. The Bill's purpose was explained by the Member:

There are four specific ways in which the CMS could be improved in order to fulfil its intended purpose, and the aim of my Bill is to enact them. The 4% maintenance levy on parents requiring the collect-and-pay service should be abolished, as should the £20 application fee. There should be a reduction from 25% to 10% in the change-in-income threshold that must be breached for maintenance payments to be recalculated. Finally, the value of any equity in the non-resident parent's primary residence should be included in maintenance calculations when it exceeds £500,000.⁹⁸

The Bill did not proceed further than its First Reading.⁹⁹

⁹⁶ Social Security Advisory Committee, [Separated parents and the social security system](#), no. 22, October 2019 (updated 21 July 2020), section 7.5

⁹⁷ Gingerbread, [Gingerbread welcomes SACCs call to develop social security strategy for separated parents](#), 23 October 2019

⁹⁸ [HC Deb 648 6 November 2018](#) c1396

⁹⁹ [The Child Maintenance Bill of 2017-19](#)

8 “Additional income” under the 2012 Scheme

Under the 2012 scheme, the amount of annual taxable unearned income, or annual notional income from non-income generating assets, must be in excess of £2,500 for a variation to be made.

When originally introduced, the 2012 scheme had only “unearned income” as grounds for variation— notional income was introduced in 2018 (see section 6.4).¹⁰⁰

The decision to not carry the “lifestyle inconsistent with income” variation into the 2012 scheme was explained by the then Child Maintenance and Enforcement Commission as a means to increase accuracy:

The link with HMRC provides the Commission with access to a much wider range of income types. This means the new variations scheme will have a greater emphasis on trying to obtain actual unearned income figures rather than carrying forward the current practice of applying notional amounts based upon a non-resident parent’s assets and lifestyle. As a result of this, the lifestyle inconsistent with declared income and assets grounds will not be carried forward.¹⁰¹

In 2011, the single-parent charity Gingerbread criticised the decision to remove the lifestyle variation, which it said had:

... The tremendous advantage that it does allow parents with care to bring to the attention of the Agency [now the CMS] and to a Child Support Tribunal, cases where there is a clear and inexplicable discrepancy between declared income and lifestyle. Whilst this does not always result in a variation on lifestyle grounds, it can often lead to proper scrutiny of a non-resident parent’s actual financial situation and a variation on other grounds, such as diversion of income.¹⁰²

The charity noted “given the limited powers available to a person with care to obtain full disclosure of a non-resident parent’s declared income”, the lifestyle ground for a variation was “an important tool for parents with care

¹⁰⁰ [The Child Support \(Miscellaneous Amendments\) Regulations 2018](#) 2018/1279, Regulation 2

¹⁰¹ Child Maintenance and Enforcement Commission, [The Child Support Maintenance Calculation Regulations 2012 – A technical consultation on the draft regulations](#) (PDF), 1 December 2011, para 89

¹⁰² DWP, [Organisation responses received: Child Support Maintenance Calculation regulations 2012](#), 22 February 2012, p26, para 29

with legitimate concerns that the non-resident parent is seeking to evade paying proper child maintenance”.¹⁰³

“Additional income” under the 2003 Scheme

In contrast to the 2012 scheme, where unearned income and notional income from assets are grounds for variation, the equivalents in the 2003 scheme were the two below conditions:

- **Assets in excess of £65,000** (excluding the value of their home, and subject to certain other exclusions): The weekly value of these assets was calculated by multiplying the value of the assets by the statutory rate of interest (i.e. in England and Wales the statutory rate prescribed for a judgment debt, namely 8%) and dividing this by 52.¹⁰⁴
- **A lifestyle inconsistent with income:** Where it was found a non-resident parent had a lifestyle inconsistent with their declared income, the then-CSA could calculate the additional income by establishing the difference between the income required to support their overall lifestyle and the income which would have been taken account of for the purposes of the maintenance calculation. This figure would then be added to their declared income to establish liability.¹⁰⁵

8.1

Applying for variation for unearned income

Information on unearned income is collected by HMRC through self-assessment tax returns. However, the CMS only requests this information following an application for a variation.¹⁰⁶ This requires the person with care to know their ex-partner’s financial circumstances. However, this might not always be the case if the parents have been separated for some time, or if all contact between them has stopped (for example, because of previous domestic violence).

In an October 2023, the Government announced it would be legislating to ensure unearned income is included in the main calculation:

The Government will legislate to ensure unearned income, such as savings, investment, dividend and property income, is taken into account automatically

¹⁰³ DWP, [Organisation responses received: Child Support Maintenance Calculation regulations 2012](#), 22 February 2012, p26, para 30

¹⁰⁴ [The Child Support \(Variations\) Regulations 2000](#), Section 18

¹⁰⁵ [The Child Support \(Variations\) Regulations 2000](#), Section 20

¹⁰⁶ CPAG, [Child Support Handbook 2022/23](#), 2022, p98

when the maintenance calculation is made. This will make it more difficult for the small number of parents who avoid paying the correct amount.¹⁰⁷

See section 4.1 of this briefing for more information.

Previous commentary on the unearned income variation

2017 consultation on compliance and arrears

In a 2017 consultation on compliance and arrears, the [Government proposed including unearned income in the initial CMS calculation](#), where the CMS is advised about possible unearned income.

Whilst respondents agreed with the proposal, the Government said it would “not be achievable without changes to primary legislation” but had begun to work with the HMRC on “ways to speed up the current process for sharing the relevant unearned income data they hold”.¹⁰⁸

In addition, the DWP said such legislative changes and required changes to its IT system to enable the CMS to automatically request information on unearned income from HMRC were “unlikely to be possible in the near future”.¹⁰⁹ It added it would seek to raise awareness of unearned income.¹¹⁰

New caseworker guidance in 2018

In 2018, new caseworker guidance on unearned income was launched to help caseworkers identify and factor in unearned income.¹¹¹

2021 consultation on modernising the Child Maintenance Service

In 2021, the Government launched a [consultation on ‘modernising and improving’ the Child Maintenance Service](#). One proposal was “including unearned income held by HMRC in CMS calculations alongside paying parents’ earned income”.¹¹² In its response, the Government said the feedback to the proposal was “predominantly positive”, but some paying parents

¹⁰⁷ DWP press release, [Government launches new crackdown on parents who refuse to pay child maintenance](#), 2 October 2023

¹⁰⁸ DWP, [The Child maintenance compliance and arrears strategy – Government response to the consultation](#) (PDF), 12 July 2018, p6, para 6

¹⁰⁹ DWP, [The Child maintenance compliance and arrears strategy – Government response to the consultation](#) (PDF), 12 July 2018, para 72

¹¹⁰ DWP, [The Child maintenance compliance and arrears strategy – Government response to the consultation](#) (PDF), 12 July 2018, para 73

¹¹¹ PQ 142985 [on [CMS: Training](#)], 28 January 2021

¹¹² DWP, [Government response: Child Maintenance: modernising and improving our service, 14 March 2022](#), para 3

disagreed, as “they were potentially saving for the future needs of their children and for their retirement”.¹¹³

The Government also said if the person with care provides information about additional unearned income (for the non-resident parent) between the implementation of the proposed change and the next annual review “we will ensure they can request a variation be raised”:

This will address concerns about receiving parents with ongoing cases having to wait until the case annual review to have a paying parent’s unearned income taken into account.

Where a variation has been requested and is successful within the period of time covered [...] the calculation will be effective from the date the change is reported.¹¹⁴

8.2 Work and Pensions Committee report

In May 2017, [the Work and Pensions Select Committee published a report on the CMS](#) (PDF). It was noted in the evidence submitted to the Committee’s inquiry the DWP said the “unearned income” variation was an effective replacement to the “lifestyle inconsistent with income” ground for variation:

Where a non-resident parent has a lifestyle which it does not appear could be supported purely from their earnings, we [the DWP] are confident that such funds will be identified through the “unearned income” variation ground in the CMS, providing the Paying Parent has not failed to disclose any other sources of income.¹¹⁵

The DWP argued the new ground had “removed the need for ‘subjective decision-making’ necessary in the old scheme”.¹¹⁶

However, the Committee stated it heard evidence the new variation allowed non-resident parents to divert income more easily:

James Pirrie [a Board Member of Resolution and Director of Family Law in Partnership] told us that, ultimately, the reinstatement of the inappropriate lifestyle challenge was necessary to address NRPs [non-resident parents] diverting income: “You can’t hide lifestyle but you can definitely hide capacity to pay behind a tax return” ... He told us that capacity to investigate complex cases had been diminished with the loss of the lifestyle challenge.¹¹⁷

¹¹³ DWP, [Government response: Child Maintenance: modernising and improving our service](#), 14 March 2022, para 15

¹¹⁴ [As above](#), paras 17-18

¹¹⁵ Work and Pensions Committee, [Child Maintenance Service](#) (PDF), 2016–17 HC 587, 2 May 2017, p30, para 79

¹¹⁶ Work and Pensions Committee, [Child Maintenance Service– written evidence from the Department for Work and Pensions \(CHM103\)](#), April 2017

¹¹⁷ Work and Pensions Committee, [Child Maintenance Service](#) (PDF), 2016–17 HC 587, 2 May 2017, p30, para 80

The Committee went on to recommend “the Department reinstate provisions for parents to challenge child maintenance awards on the grounds of assets and lifestyle inconsistent with income”.¹¹⁸

Government response

In its response to the Committee in 2017, the DWP said it recognised “some parents have complex income arrangements” and that “it is vital that the CMS has the right powers to ensure that a fair assessment of child maintenance liability can be made in these cases”.¹¹⁹

The DWP continued in saying that under the 2012 scheme the CMS had access to income information reported by the HMRC and could “capture a much wider range of income types received by non-resident parents than under previous [statutory child maintenance] schemes”. It said either parent at any time could request that the CMS considers additional income received by the non-resident parent through a variation request, and it would refer cases that require further investigation to the Financial Investigations Unit (FIU, see section 6.5). The DWP stated:

If either parent is unhappy with the calculation they can first ask us to look at it again and we will swiftly amend any incorrect calculations or investigate further if appropriate. If parents remain dissatisfied after the decision has been reviewed, they can appeal to Her Majesty’s Courts and Tribunals Service.

But the DWP did not accept the Committee’s recommendation to reinstate the grounds for a variation based on lifestyle inconsistent with income, explaining it believe it to be subjective and uncertain:

We have no plans to reintroduce this provision, which was difficult for parents to use and uncertain in effect. The onus to prove that grounds for a variation existed lay with the applicant, typically the person with care, and it was often difficult to obtain such details. As a result, very few applications for ‘lifestyle’ variations resulted in changes to the existing liability. The decisions on these grounds also involved a degree of subjectivity and a large proportion of such decisions were challenged or appealed, delaying the receipt of a steady maintenance amount.¹²⁰

The Government has subsequently said the introduction of the notional income variation in 2018 (see section 8.3 below) was a means to target those with complex earnings and income from property, savings and investments.¹²¹

¹¹⁸ Work and Pensions Committee, [Child Maintenance Service](#) (PDF), 2016–17 HC 587, 2 May 2017, p31, para 82

¹¹⁹ DWP, [Child Maintenance Service: Government Response to the Committee’s Fourteenth Report of Session 2016–17](#), 22 September 2017

¹²⁰ [CMS: Government response to the Committee’s fourteenth report of Session 2016–17](#), 22 September 2017

¹²¹ [HC Deb 663 23 July 2019, c554 WH](#)

Private Member's Bills

There have been two Private Members Bills that sought to reinstate the ground for variation. Both fell at First Reading:

- David Burrowes MP, [Child Maintenance \(Assessment of Parents' Income\) Bill\) 2016-17](#).
- Heidi Allen MP, [Child Maintenance \(Assessment of Parents' Income\) Bill 2017-19](#).

8.3 The introduction of the notional income variation

Notional income was introduced as a ground for variation in [The Child Support \(Miscellaneous Amendments\) Regulations 2018](#) (SI 2018/1279) (Regulation 2).

The UK Government argued the notional income grounds for a variation “will be particularly appropriate in situations where an individual has an affluent lifestyle, and a source of income cannot be identified but ownership of significant assets can be”.¹²² The change was an attempt to address concerns that non-resident parents (NRPs) were able to use complex arrangements to lower their child maintenance liability:

The Child Maintenance Calculation Regulations 2012 are being amended to go some way towards addressing the concerns of stakeholders that a small number of wealthy NRPs are currently able to use complex arrangements of assets to artificially lower their child maintenance liability, or avoid it entirely. The legacy schemes have provisions to determine a notional income from assets held that were not carried forward to the 2012 scheme, as the method of calculation on that scheme allowed for a more comprehensive range of income types to be taken into account – i.e. earned and unearned income (subject to taxation by HM Revenue & Customs).¹²³

For the new power to be “proportionate”, the Government set a minimum value of £31,250 for a single asset:

A minimum single value of £31,250 below which we would not use this power. This is to prevent large numbers of low value assets being targeted, as this would be difficult to administer (although... where for example the NRP has a

¹²² [Explanatory memorandum to The Child Support \(Miscellaneous Amendments\) Regulations 2018](#) (PDF), p4, para 7.5

¹²³ [Explanatory memorandum to The Child Support \(Miscellaneous Amendments\) Regulations 2018](#) (PDF), para 7.3

number of gold bars or a number of shares, these will be treated as one asset).¹²⁴

The use of the threshold means the notional annual income calculated from such assets will (using the statutory 8% interest rate) be a minimum of £2,500 –the same threshold as for the inclusion of unearned taxable income. The Government said it would introduce several safeguards for the new rules, so as to “not require the Paying Parent to pay more maintenance where this would mean that assets would have to be sold and this would cause hardship to the Paying Parent or any child of the Paying Parent”.¹²⁵

The charity, Gingerbread, described the notional income variation as “reintroducing the ‘assets variation’” of the 2003 scheme.¹²⁶

During the consultation on the measures, the DWP argued against the reintroduction of the lifestyle inconsistent with income variation:

It has been suggested that we should re-introduce an approach from the 2003 scheme, where Receiving Parents could apply for a variation... on the basis that the Paying Parent’s lifestyle was inconsistent with their reported earnings. In many cases the lifestyle of the Paying Parent was supported by debt rather than income and many other such applications were unsuccessful due to insufficient information. We have no plans to reintroduce this approach as it proved ineffective in the past.¹²⁷

¹²⁴ [Explanatory memorandum to The Child Support \(Miscellaneous Amendments\) Regulations 2018](#), (PDF), para 7.7a

¹²⁵ DWP, [The child maintenance compliance and arrears strategy – Government response to the consultation](#) (PDF), 12 July 2018, p10, paras 29 and 30, and p11, paras 32-3

¹²⁶ Gingerbread, [Government U-turn on child maintenance avoidance is “welcome but not enough”](#), 12 July 2018

¹²⁷ DWP, [Child Maintenance: A new compliance and arrears strategy– Public consultation](#) (PDF), December 2017, p12, para 40

9 Poverty, welfare and child maintenance

9.1 How does the 2012 scheme interact with Universal Credit?

Research has suggested child maintenance payments heavily impact those in receipt of Universal Credit. Dr Christine Davies, Visiting Senior Lecturer in Mathematics at Royal Holloway University of London, submitted evidence to the Work and Pensions Committee in 2017. She said the 2012 regulations were “inappropriate” with maintenance amounts being unaffordable and reducing work incentives for many non-resident parents:

The 2012 regulations are inappropriate – they produce maintenance amounts that are beyond the reach of many non-resident parents, especially those on low income.

Under Universal Credit, non-resident parents paying for 1, 2 or 3 (or more) children on the 2012 Scheme through the CMS collection service have “marginal tax rates” of

- 92.5, 102 and 109.2 percent as weekly earnings pass £100
- 90.6, 95.4 and 99 percent for weekly earnings above £200

Assessments that are impossible to pay lead inevitably to non-payment, growing arrears and expensive (often ineffective) enforcement.¹²⁸

It should be noted that since this evidence was provided, the Universal Taper rate has been reduced from 65% to 55%, so “marginal tax rates” quoted would not be as high.

The Social Security Advisory Committee (an independent advisory body to the DWP) 2019 study, [Separated parents and the social security system](#), stated it had heard from several consultees the maintenance formula leaves some non-resident parents on Universal Credit “with weak work incentives”, meaning “some can be better off out of work”. Its illustrative figure for a non-resident parent on Universal Credit earning £200 a week and paying the basic rate of child maintenance suggested that for:

every extra pound earned, the paying parent loses around 80-85 pence in lower benefits and child maintenance payments, rising to just over 90 pence if they have three children and use the Collect & Pay service. This compares to a

¹²⁸ Work and Pensions Committee, [Written evidence from Dr Christine Davies \(CHM0079\)](#), 2017

marginal effective tax rate of 67% for a single adult with no children in this scenario.¹²⁹

It also referenced research by the think tank, Centre for Social Justice (CSJ), in 2019 that “once Universal Credit is fully rolled out, around 640,000 paying parents could face marginal effective tax rates between 87% and 107%”.¹³⁰ However, the Advisory Committee study also noted that the impact of the maintenance formula on work incentives was “opaque” due to the way earnings are considered under the formula (using historic income data, and allowing current income to be taken into account if it is 25% greater or less than the figure obtained from HMRC).¹³¹

The Social Security Advisory Committee recommended the

housing element of Universal Credit should [be changed to] enable young parents, under 35 years, who are sharing care and paying child maintenance, to have their children to stay overnight.¹³²

National Audit Office report, 2022

In March 2022, the [National Audit Office \(NAO\) published a report on child maintenance](#). The report highlighted low-income parents consider affordability of maintenance payments to be a barrier to compliance and are more likely to build up arrears than the higher paid. 46% of paying parents using the CMS do not earn enough to pay income tax (£12,570 in 2021-22), but these parents represented 62% of those with arrears as at March 2021.¹³³

The report concluded the maintenance calculation “do not align with the Department’s broader aims on employment” and can result in “some paying parents being no better off if they got a job”.¹³⁴ It recommended an assessment of the “affordability and interaction of child maintenance with the welfare system” and that the DWP should:

- review the child maintenance calculation rates to assess the extent to which they conflict with the aims of Universal Credit of supporting people into work and otherwise meet the Department’s objectives;
- [...]
- make modifications to the Universal Credit system to enable automation and partial deductions from benefits for child maintenance.¹³⁵

¹²⁹ Social Security Advisory Committee, [Separated parents and the social security system](#) (PDF), no. 22, October 2019, p21

¹³⁰ CSJ, [The hidden parent poverty trap: Child maintenance and Universal Credit](#) (PDF), 2019, p2

¹³¹ Social Security Advisory Committee, [Separated parents and the social security system](#) (PDF), no. 22, October 2019, p22

¹³² [As above](#) (PDF), p4; Social Security Advisory Committee, [Government needs to do more to improve the welfare of separated families](#), 22 October 2019

¹³³ NAO, [Child maintenance: summary](#) (PDF), HC 1139, 3 March 2022, p13, para 23

¹³⁴ NAO, [Press release: Child Maintenance](#), 3 March 2022

¹³⁵ NAO, [Child maintenance: summary](#) (PDF), HC 1139, 3 March 2022, p18

9.2

Do child maintenance payments reduce poverty?

The stated purpose of the statutory maintenance scheme has changed since its introduction. The initial CS1 scheme primarily sought to reduce the cost of benefits paid to lone parents and improve work incentives. Poverty reduction was an implicit, rather than explicit, aim.¹³⁶ In contrast, 1998 and 2006 proposals for reform cited tackling child poverty as a key reason for a reformed maintenance system.

The DWP publishes data on the [impact of child maintenance payments on income distribution](#), collected from the [Family Resources Survey \(FRS\)](#).¹³⁷ For the three financial years ending 2020 to 2022, child maintenance arrangements (of any type, not solely statutory) moved around 160,000 children out of low income each year on the absolute low income (after housing cost measure). Most of the impact related to single parent families.¹³⁸

The DWP also estimates after child maintenance has been paid, there are decreases in both the proportion of parents with care households in the bottom 40% and proportion of non-resident parent households in the top 40% of income distribution.¹³⁹

However, the DWP highlights even after child maintenance is paid, 23% of non-resident parent households, and 37% of parent with care households are still in the lowest 20% of income distribution.¹⁴⁰

DWP aims and analysis, 1998 to present

In the 1998 [green paper on child support](#), the Labour Government said “tackling poverty” is “perhaps the most fundamental reason why effective child maintenance arrangements are needed”.¹⁴¹

¹³⁶ House of Commons Library, [Child Support, 94/20](#) (PDF), January 1994

¹³⁷ The Family Resources Survey collects information from a representative sample of UK households on any child maintenance arrangements they may have. It is intended to be used by the DWP to develop, monitor, and evaluate its programmes.

¹³⁸ A household is said to be in relative low income if their equivalised income is below 60% of median household income, while they are said to be in absolute low income if their equivalised income is below 60% of the median household income adjusted for inflation for the financial year ending 2011; DWP, [Separated families statistics: April 2014 to March 2022 \(experimental\)](#), 23 March 2023, section 2 & section 5

¹³⁹ Data refers to estimates of the position of separated parent household members in the Great Britain income distribution (and where they would be had they not paid or received child maintenance); DWP, [Separated families statistics: April 2014 to March 2022 \(experimental\)](#), 23 March 2023, section 6

¹⁴⁰ DWP, [Separated families statistics: April 2014 to March 2022 \(experimental\)](#), 23 March 2023, section 6

¹⁴¹ Department for Social Security, [Children First: a new approach to child support](#), 1998

In 2006 the Government again placed an explicit emphasis on making “tackling child poverty the first and most critical test for [CSA] reform”. The Labour Government estimated that maintenance payments “currently” lifted 100,000 children out of poverty and set a target for a further 40,000 by 2010.¹⁴² The Work and Pensions Committee heard in 2010 that it could not be quantified whether this target was met.¹⁴³

Under the Liberal Democrat-Conservative Coalition Government the DWP reassessed the impact of maintenance payments on child poverty, and argued these previous estimates were based on a flawed methodology.¹⁴⁴

The DWP said in 2011 that child maintenance payments had a “small, non-reportable” impact on reducing children in relative income poverty but said encouraging separated parents to work together would result in better outcomes for the children involved:

This is because statutory child maintenance payments to children living on or near the poverty line involve moving relatively small amounts of money between families. These payment levels do not have a reportable impact on lifting children out of poverty.

For those individual households however, where child maintenance provides parents with a stable income stream, it can make a real difference to the lives of children in poor households.

We are committed to addressing child poverty and improving children's life chances and we believe that all families should receive the child maintenance that they are due. Beyond actual child maintenance payments, evidence indicates that ongoing involvement of both parents in children's lives is better for children on a range of outcomes. This is why supporting parents to make family-based arrangements for maintenance is absolutely central to our proposals for reforming the child maintenance system.¹⁴⁵

The [DWP's consultation on maintenance reform](#) (PDF) in the same year stated the “guiding principles for reform” were encouraging and supporting parents to fulfil their responsibilities to their children and to make family-based arrangements to cover these issues, where possible.¹⁴⁶ Reducing poverty was not a measure explicitly included in the DWP's [evaluation strategy for child maintenance reforms](#) (PDF) in 2014.

¹⁴² DWP, [A new system of child maintenance](#) (PDF), December 2006, para 16; CSA, [CSA Operational improvement plan 2006-2009](#), 2006, p9

¹⁴³ Work and Pensions Committee, [The Child Maintenance and Enforcement Commission and the CSA's Operational Improvement Plan](#), HC 118, February 2010, para 68-72

¹⁴⁴ [Secretary of State for Work and Pensions to Chair of the Work and Pensions Select Committee](#), January 2011, p2

¹⁴⁵ [HC Deb 31 January 2011 c589W](#)

¹⁴⁶ DWP, [Strengthening families, promoting parental responsibility: The future of child maintenance](#) (PDF), 2011, para 4

Work and Pensions Committee report, 2023

In April 2023, the Work and Pensions Committee published its report on [Children in poverty: Child Maintenance Service](#). The committee noted child maintenance can “play a vital role in lifting certain children out of poverty”, but it found “a number of problems” with the CMS.¹⁴⁷

The committee found person/ parents with care faced “ineffective and slow enforcement”.¹⁴⁸ These parents had delays in collection of arrears, and some highlighted delays in maintenance payment were being used as financial coercion. The committee recommended the DWP set out how this can be improved to ensure children are able to benefit. It also recommended the Department “should seek... the authority to process partial deductions from Universal Credit for child maintenance arrears” and assess the levels of fraud and error in its system.¹⁴⁹

Additionally, the committee found some paying parents were “pushed into poverty by the unaffordability of child maintenance payments”.¹⁵⁰ Maintenance levels have reportedly distorted work incentives (in turn “[risking] work incentive objectives of Universal Credit”) and created a barrier to compliance.¹⁵¹

The committee also recommended the DWP should “seek to rebalance legislation” so maintenance thresholds, could be more easily updated. It also suggested making the charges for using collect and pay be means-tested.¹⁵²

The Work and Pensions Committee concluded this “harms effectiveness of a system with an important role to play in tackling child poverty in separated families”.¹⁵³

Government response

On 6 July 2023, the [Government published its response](#) to the Work and Pension Committee’s report. It said it welcomed the report and set out child maintenance payments had kept 160,000 children out of absolute low income out of absolute low income on an after-housing costs basis each year.¹⁵⁴

The Government addressed the committee’s commentary on the unaffordability of child maintenance, and said it was looking at reviewing the child maintenance calculation which “will include an assessment of the scope to include both parental incomes in a maintenance calculation as well as

¹⁴⁷ Work and Pensions Committee, Sixth report of Session 2022-23, [Children in Poverty: Child Maintenance Service](#), HC 272, 27 April 2023, summary

¹⁴⁸ [As above](#), conclusions and recommendations, para 31

¹⁴⁹ [As above](#), conclusions and recommendations, paras 5 & 9

¹⁵⁰ [As above](#), conclusions and recommendations, para 31

¹⁵¹ [As above](#), conclusions and recommendations, para 15

¹⁵² [As above](#), conclusions and recommendations, paras 17 & 24

¹⁵³ [As above](#), summary

¹⁵⁴ Work and Pensions Committee, Sixth report of Session 2022-23 [Children in poverty: Child Maintenance Service: Government Response to the Committee’s Sixth Report](#), 6 July 2023

looking at banding and the shared care policy”.¹⁵⁵ More information can the calculation review be found in section 7.5 of this briefing.

Where the committee had highlighted “ineffective and slow enforcement”, the Government highlighted its support for two Private Members Bills (which have since gained Royal Assent):

- The [Child Support \(Enforcement\) Act 2023](#)¹⁵⁶ which aims to speed up enforcement by removing the need to apply to the court for a liability order.
- The [Child Support Collection \(Domestic Abuse\) Act 2023](#)¹⁵⁷, which allows cases involving domestic abuse to be put on th collect and pay (where the CMS calculates, collects and passes on payments between parents), meaning the CMS will be automatically notified by non-payment.

The Government acknowledged “for many receiving parents child maintenance payments are vital to avoiding or at least stymying the effects of hardship”.¹⁵⁸

The Government also said it was increasing awareness of the CMS, as the report found the proportion of separated families with no arrangement had increased:

Work is ongoing through various initiatives to increase awareness of the CMS. We are also training staff in jobcentres and Universal Credit to signpost parents where a child maintenance arrangement might be suitable to Get Help Arranging Child Maintenance (GHACM) if they do not have one in place.¹⁵⁹

The [Government’s full response](#) can be found on the UK Parliament website.

Academic research & reports

There are several academic publications that estimate the impact of child maintenance payments on poverty.

A 2011 paper by Dr Mia Hakovirta, University Lecturer in Social Policy at the University of Turku, Finland, estimated that around 22% of non-widowed lone-parent families received child maintenance in 2004 and 2005, and of these,

¹⁵⁵ Work and Pensions Committee, Sixth report of Session 2022-23 [Children in poverty: Child Maintenance Service: Government Response to the Committee’s Sixth Report](#), 6 July 2023

¹⁵⁶ See section 4.3 of the Commons Library briefing CBP-7774, [Child maintenance: Fees, enforcement and arrears](#)

¹⁵⁷ See section 3 of the Commons Library briefing CBP-9661, [Child maintenance: Support for victims of domestic abuse](#)

¹⁵⁸ Work and Pensions Committee, Sixth report of Session 2022-23 [Children in poverty: Child Maintenance Service: Government Response to the Committee’s Sixth Report](#), 6 July 2023, para 4

¹⁵⁹ [As above](#), Recommendation 14

child maintenance constituted around 27% of the lone parent's average gross earnings and around 17% of their disposable income.¹⁶⁰

The paper argued “the relative reduction in child poverty is low in...the UK” as the child poverty rate in all non-widowed lone-parent households in 2004 and 2005 was around 4.6% lower after child maintenance (46% compared to 50%). However, when measured for only those households that received child maintenance payments, the child poverty rate in such families in the UK fell from 35% to 20%.¹⁶¹ The paper set the poverty line at 60% of the disposable median income of households. The child poverty rate was calculated by multiplying the number of poor families with children by the number of children in them.

A 2013 Nuffield Foundation study found maintenance payments (both statutory and non-statutory) resulted in a 19-percentage point reduction in the proportion of single parents on benefit receiving maintenance living in relative poverty:

Without maintenance, six in ten (57 per cent) of all of the single parents on benefit who received maintenance would have been living below the poverty line – that is, they would have had an income of less than 60 per cent of the median equivalised household income of the UK population. Taking into account the maintenance received, 38 per cent of all single parents on benefit receiving some maintenance were living below the poverty line [...].¹⁶²

The research was conducted through a survey of 760 single parents on benefit across the UK in 2012 and data from the [2007 DWP survey of relationship breakdown](#).¹⁶³

A further academic paper published in the Journal of Social Policy in 2017 calculated the impact of child maintenance payments in ten scenarios. It concluded that because the UK system passes through almost all maintenance payments and disregards it in calculating recipient's entitlements to other benefits:

child maintenance (in combination with cash benefits and earnings) decreased the poverty gap for lone parent families in the UK more effectively compared to the other countries with similar child maintenance schemes [specifically Australia, the US and New Zealand].¹⁶⁴

However, some academic research has also suggested that making child maintenance payments pushes some non-resident parents into poverty. For example, one study presented data that showed 12.2% of single fathers with

¹⁶⁰ M. Hakovirta, [Child maintenance and child poverty: A comparative analysis](#), Journal of Poverty and Social Justice 19, October 2011, pp249-62, & p254

¹⁶¹ [As above](#), pp255, p258

¹⁶² Nuffield Foundation, [Kids aren't free: The child maintenance arrangements of single parents on benefit in 2012](#) (PDF), 2013

¹⁶³ [As above](#) (PDF), p20

¹⁶⁴ C. Skinner, D. Meyer, K. Cook and M. Fletcher, [Child maintenance and social security interactions: The poverty reduction effects in model lone parent families across four countries](#), Journal of Social Policy, 46 (2017), pp495-516, at p512

no children lived in poverty before contributing to child maintenance, rising to 14.4% after paying (the poverty threshold was defined as 50% of median incomes). This was also the case for those with children and living with a couple— overall, there was a rise in the proportion of those living in poverty from 6.2% to 8.1%.¹⁶⁵

Regarding the impact of child maintenance payments on the non-resident parent's other children, the Child Maintenance and Enforcement Commission in 2009 said that there:

Is an over-riding duty to consider the welfare of the child in child support law and this extends to the responsibility the non-resident parent may have towards any second family. The Child Support Agency also takes into account representations of hardship from the non-resident parent when negotiating an arrears arrangement.¹⁶⁶

¹⁶⁵ M. Hakovirta, D. Meyer and C. Skinner, [Does paying child maintenance support impoverish fathers in the United States, Finland and the United Kingdom?](#), Children and Youth Services Review, 106 (2019), pp2-11

¹⁶⁶ [HC Deb January 2009 c20W](#)

10

Introduction of charges

Information on charges can be found in the [Library briefing on child maintenance fees, enforcement and arrears](#).

Charges were initially in place under the 1993 scheme but suspended in 1995.¹⁶⁷

Application, collection and enforcement fees for using the CMS were introduced under the Child Support Fees Regulations 2014.¹⁶⁸ These include:

- an application fee of £20 per case to make an application and
- charges to use the collect and pay service, comprising a 20% addition to the paying parent's maintenance liability and a 4% deduction from the payment to the receiving parent.

10.1

Why were charges introduced?

Successive governments have sought to use the child maintenance system to incentivise parents to take financial responsibility for their children and to consider the cost of statutory maintenance schemes to the taxpayer.

For example, the Labour Government's decision to implement Sir David Henshaw's recommendation in 2006 to increase the benefits disregard (allowing receiving parents to keep a greater proportion of benefit payments when maintenance was paid) was intended to "[increase] the incentive for parents with care to seek, and for non-resident parents to pay, child maintenance".¹⁶⁹

The Henshaw review also recommended a relaunched agency should be given the power to charge clients (with protections for vulnerable users) to "deter" cases where "there is very little prospect of ever being able to trace the non-

¹⁶⁷ Department of Social Security, [Improving child support](#) (PDF), Cm 2745, January 1995, p8; [HC Deb Child Support Agency, 28 January 1997 c188W](#)

¹⁶⁸ [The Child Support Fees Regulations 2014](#), SI 2014/612

¹⁶⁹ DWP, [A new system of child maintenance](#) (PDF), December 2006, para 2.14; Sir David Henshaw, [Recovering child support: Routes to recovery](#) (PDF), July 2006, p17; Department for Children, Schools and Families, [Support for all: The families and relationships Green Paper](#) (PDF), 2010, para 5.59

resident parent” and to “incentivise parents to make their own arrangements where possible”.¹⁷⁰

In 2011, the DWP said it agreed with this recommendation and proposed charging users to encourage parents to consider family-based arrangements.¹⁷¹ It said collection fees act as an “ongoing incentive for both parents” to consider making direct payments instead, “as evidence shows that collaboration results in the best outcome for children”.¹⁷²

The DWP explained the non-resident parent has the highest charges if a case moves to collect and pay due to non-compliance. This is both from the 20% collection fee and enforcement fees (if they continue to not comply). It said enforcement fees were “not dissimilar to bank charges”, as they encourage people to comply and “off-set the cost of administrative action to enforce compliance”:

We therefore believe non-resident parents should contribute to the cost of enforcement action, which is expensive and is only taken where we believe non-resident parents have failed to meet their obligations to pay child maintenance.¹⁷³

In reference to the person with care’s collection fee (4%), the DWP argued it would incentivise an agreement with the non-resident parent:

To not charge the parent with care risks locking the non-resident parent into the collection service, as the parent with care would have no incentive to collaborate or agree to a Direct Pay arrangement in the future. This would be unfair for the non-resident parent.

[...]

We believe 4 per cent is the absolute floor at which the parent with care collection fee can be set while still providing any sort of incentive effect, something which is vital for the new child maintenance system to work.¹⁷⁴

An application fee exemption for victims of domestic abuse was introduced as a safeguard for vulnerable groups alongside the changes.¹⁷⁵

¹⁷⁰ Sir David Henshaw, [Recovering child support: Routes to recovery](#) (PDF), July 2006, para 23, p22

¹⁷¹ DWP, [Government’s response to the consultation on Strengthening families, promoting parental responsibility: The future of child maintenance](#) (PDF), 2011, para 4

¹⁷² Department for Children, Schools and Families, [Impact of family breakdown on children’s wellbeing](#) (PDF), 2009; via DWP, [Supporting separated families, securing children’s futures](#) (PDF) (2013), p14

¹⁷³ DWP, [Supporting separated families, securing children’s futures](#) (PDF) (2013), p16

¹⁷⁴ DWP, [Supporting separated families, securing children’s futures](#) (PDF) (2013), pp14-15

¹⁷⁵ DWP, [Child maintenance application fee: Exemption for victims of domestic violence](#), updated August 2017

10.2

What was the impact of the charges?

2013 impact assessment

The [impact assessment on the fee regulations in 2013](#) estimated around 1 in 12 parents who would have previously applied to the CSA would make no arrangement as a result of application, collection and enforcement fees:

The survey estimates, after allowing for the impact of the domestic violence exemption, are that 88% of current CSA applicants would apply to the CMS with application fees. This means that 105,000 (88% of 120,000) applications will be made to the CMS annually. Of the 15,000 who choose not to apply to the CMS because of fees, an estimated 5,000 will make alternative family based arrangements while 10,000 will make no arrangement.¹⁷⁶

It is not compulsory to have any maintenance arrangement, and some parents choose to make no arrangements or provide indirect support instead.¹⁷⁷

DWP 30-month review, 2017

The DWP conducted a 30month review of charging in 2017. Prior to the publication of the review, the Work and Pensions Committee, following recommendations from the single-parent's charity Gingerbread and the Child Poverty Action Group (CPAG), said the Government should exempt applicants on means tested benefits from the application fee.¹⁷⁸ The Government said it had no plans to do this.¹⁷⁹

The 2017 DWP review found the application fee had more influence with new clients, who “tended to be more open to trying a family-based arrangement than former” CSA clients.¹⁸⁰

The review said “roughly half of parents surveyed said the on-going charges for Collect And Pay influenced their decision to try Direct Pay” and concluded the “available evidence does not indicate that charges are having an excessive impact on parents’ decisions about using the different services available within the Child Maintenance Service”.¹⁸¹

¹⁷⁶ DWP, [Impact assessment: The Child Support Fees regulations 2014 \(PDF\)](#), para 124

¹⁷⁷ DWP, [Relationship separation and child support study \(PDF\)](#), 2008, chapter 5.3; DWP and Government Social Research, [Long-term separated parents: Developing support to encourage child maintenance arrangements \(PDF\)](#), 2015, para 3.4.1

¹⁷⁸ Work and Pensions Committee, [CMS \(PDF\)](#), HC 587, 2 May 2017, para 29, 33

¹⁷⁹ DWP, [Government response to the Committee's fourteenth report of session 2016-17](#), September 2017

¹⁸⁰ DWP, [Child maintenance reforms: 30 month review of charging \(PDF\)](#), 2017, para 26

¹⁸¹ DWP, [Child maintenance reforms: 30 month review of charging \(PDF\)](#), 2017, paras 26, 30

The review stated there was insufficient evidence to determine the application fee's impact in influencing the decisions of parents from low-income households:

Evidence from the NatCen surveys tells us that some parents, particularly those on low incomes, can find the application fee difficult to afford, but we do not have any evidence that this is preventing these families from making an application. The research does not allow us to assess the relative impact of the application fee compared to other factors that parents consider when deciding whether to apply to the statutory scheme.¹⁸²

The single parent's charity, Gingerbread, subsequently argued in 2019 collect and pay charges should be removed as they acted as an "disincentive to the receiving parent to secure enforcement".¹⁸³

¹⁸² DWP, [Child maintenance reforms: 30 month review of charging](#) (PDF), 2017, para 28

¹⁸³ Gingerbread, [Direct pay child maintenance: Innovation or failure?](#), (PDF), 2019, p14

11

Northern Ireland

Northern Ireland has a similar, but separate, system of child maintenance to the rest of the UK. This section provides an overview of rates and calculations in the 2012 Child Maintenance scheme in Northern Ireland. The statutory child maintenance system is provided by the Department for Communities (DfC) which [issues guides to the system in Northern Ireland](#).

The system of calculations is set out in the [Child Support \(Northern Ireland\) Order 1991](#), Sections 5 to 14 and the 2012 Scheme in Northern Ireland is set out in the [Child Maintenance Act \(Northern Ireland\) 2008](#) and [The Child Support Maintenance Calculation Regulations \(Northern Ireland\) 2012](#).

The DfC maintains a [list of appropriate legislation](#). Paying parents are referred to as non-resident parents in this legislation. The NI Direct pages on [calculating child maintenance](#) and [having a child maintenance arrangement](#) provide an overview.

11.1

Maintenance arrangements

The DfC publishes [quarterly data on the CMS in Northern Ireland](#). In the most recent quarter, to September 2023, the Northern Ireland CMS managed around 17,180 arrangements, which covered around 22,800 children. Of the arrangements:

- around 10,280 were direct pay,
- around 5,950 were collect and pay cases, and
- around 810 were arrears only cases.¹⁸⁴

11.2

Process

There are [six steps the CMS in Northern Ireland follows to calculate](#) child maintenance:

¹⁸⁴ DfC, [Northern Ireland CMS Statistics: Data to September 2023 \(experimental\)](#), 13 December 2023, tables 3 and 4

1. It works out the gross weekly income of the non-resident parent, with information from the HMRC. It also checks if they are in receipt of any benefits
2. Takes account of what affects income, such as pension payments and other children the non-resident parent supports
3. Applies one of [five child maintenance rates](#)
4. Takes account of the number of children the non-resident parent must pay maintenance for
5. Calculates the weekly amount of child maintenance
6. Makes a deduction from the weekly figure for any shared care

Income

As in the rest of the UK, in Northern Ireland the CMS uses taxable gross income (the non-resident parent's yearly income before income tax and national insurance but after contributions to occupational or personal pension schemes) from the latest available tax year to calculate child maintenance liabilities. "Relevant tax year" is any one of the six tax years immediately preceding the date of the request. The highest amount of income taken into account is £3,000 per week.

The non-resident parent's gross weekly income should be historic unless their current income differs by an amount that is at least 25% of historic income, historic income is nil, or no historic income figure is available.

The 2012 scheme does not take the person with care's income into account.¹⁸⁵

For complex earners, the Financial Investigations Unit can also investigate cases in Northern Ireland.¹⁸⁶

The CMS may also make best evidence assessments and default maintenance decisions, as explained on [NI Direct: How CMS calculates your income](#).

Income adjustments/variations

The non-resident parent can request for special expenses and pension payments to be taken account of to reduce their gross annual income used to calculate child maintenance liability. Further information is available in: [NI Direct: Paying parent income adjustments](#). Among other elements, this explains that if a non-resident parent pays into a private pension scheme in addition to an occupational or employer pension scheme, the CMS can take these into account.

¹⁸⁵ [The Child Maintenance Calculation Regulations \(Northern Ireland\) 2012](#), Sections 4, 33

¹⁸⁶ Department for Communities, [Child maintenance information for advisers](#) (accessed 17 May 2023)

All special expenses, aside from supporting children if they have a disability or a long-term illness, must be for more than £10 per week. If the non-resident parent's income is less than £7 a week, or they are receiving benefits, they cannot ask for special expenses to be considered. As [NI Direct: Other financial commitments in child maintenance cases](#) explains, either parent may apply for a variation. Non-resident parents may apply for a variation for:

- the costs of keeping contact (e.g. transport);
- supporting children with a disability or long-term illness;
- repaying debts from former relationships;
- some forms of boarding fees; or
- making payments on a loan, mortgage or insurance policy for the home they used to share with the person with care.

The person with care may apply for a variation if they think the non-resident parent has additional income that should be considered. This includes:

- unearned income, such as rent (of at least £2,500 a year);
- earned income (if the non-resident parent or their partner were getting benefits and qualified to pay the flat rate but also have gross income from a pension or employment of at least £100 a week);
- diverted income (for example, by diverting their income to someone else); or
- assets worth more than £31,250.¹⁸⁷

Rates

There are five rates of maintenance in the 2012 child maintenance scheme in Northern Ireland. Rates and criteria are set out on [NI Direct: Child maintenance rates](#).

Child maintenance and benefits

As explained on [NI Direct: How child maintenance affect benefits](#), if the person with care receives child maintenance payments, this does not affect social security benefits, housing benefit or tax credits. Some contributions made “in kind”, such as the non-resident parent contributing part or all the person with care's mortgage, can affect benefit claims, so child maintenance arrangements should always be reported.¹⁸⁸

¹⁸⁷ NI Direct, [Other financial commitments in child maintenance cases](#) (accessed 15 May 2023)

¹⁸⁸ NI Direct, [How child maintenance affects benefits](#) (accessed 17 May 2023)

In the case of the non-resident parent, a flat rate of child maintenance is payable (£7 per week) if they receive one of the 23 categories of benefit listed on the [NI Child Maintenance page](#). Shared care could reduce the £7 weekly payment.

Support for other children

If a non-resident parent (or their partner) receives child benefit in respect of a child and their gross income is between £200 and £3,000 per week, the CMS will reduce the gross weekly income by a percentage depending on the number of children they receive child benefit for. The applicable percentages are set out on [NI Direct: Paying parent income adjustments](#).

If the non-resident parent has a gross weekly income between £100 and £200, the CMS will take other children into account when calculating the amount of child maintenance. The applicable percentages are set out on [NI Direct: Child maintenance rates explained](#).

Shared care

If a child stays overnight with the non-resident parent for at least one night a week (an average of 52 nights a year), this shared care can affect the amount of child maintenance payable. If day-to-day care is shared equally, the non-resident parent does not have to pay any child maintenance. The CMS in Northern Ireland asks parents to give formal (including a Court order), informal or spoken evidence of agreements reached about shared care. If both parents agree that care is shared, but cannot agree on how many nights, the CMS will make an estimate of **assumed share care**.

If a non-resident parent is on the Flat Rate and has shared care for at least 52 nights a year, they do not pay any child maintenance. The proportional impact of shared care on child maintenance is set out on [NI Direct: Shared care](#).

Annual reviews

[NI Direct: Annual reviews](#) states that the period of an annual review lasts 30 days. During this period, it will contact HMRC to find out the latest available gross income for the non-resident parent and check whether they are getting any benefits. The CMS will then work out the weekly amount of child maintenance and write to both parents. Either parent may make representations or provide further information.

Periodic income checks

If the non-resident parent's gross weekly income is based on current income and that amount has not been changed in the previous 11 months, then the

Department can request evidence of current income to be provided by the non-resident parent.¹⁸⁹

Informing the CMS of any changes

Information on the changes individuals must inform the CMS about is provided in: [NI Direct: Changes Child Maintenance Services needs to know](#). These include when the non-resident parent starts or stops receiving benefits, start or stops working, or is required to support another child.

Either the Non-Resident Person or parent with care must tell the CMS within 7 days if a shared care arrangement changes and should tell the CMS within 7 days if there is an increase or decrease of 25% or more in the non-resident parent's gross weekly income.

¹⁸⁹ [The Child Maintenance Calculation Regulations \(Northern Ireland\) 2012](#) SI 2012/ 427, Section 22

12

Key contacts and resources

General

United Kingdom

The charity for separated parents, [Families need Fathers](#) “[Because both parents matter](#)”. It has a helpline (T:0300 0300 363) and can be contacted via email (admin@fnf.org.uk).

England and Wales

The single-parent charity, Gingerbread. It has a [helpline](#): 0808 802 0925 and publishes [information pages](#)

Scotland

- [One Parent Families Scotland](#) is a charity for lone parents. [Helpline](#): 0808 801 0323
- [Shared Parenting Scotland](#), a charity supporting separated families. It has a helpline (T:0131 557 2440) and can be contacted by email: info@sharedparenting.scot

Northern Ireland

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

Information and Guides

- Child Poverty Action Group’s (CPAG) [Child Support Handbook](#). These are updated annually and published in hard copy.
- Department for Work and Pensions (DWP), [Child Maintenance: Decision Makers Guide](#) (first published October 2020)
- [DWP, Child Maintenance Service: Factsheets](#)

Complaints & appeals against the CMS

This process for England, Scotland and Wales is published on Gov.UK on [the webpage, Complaints and appeals](#).

Northern Ireland has separate processes for child maintenance decisions [before 11 July 2016](#) and [on or after 11 July 2016](#).

Annex 1: The rates in detail

This Annex sets out the eligibility criteria for each of the 5 rates, the amount of maintenance due from a paying parent on the specific rate, and any impact of shared care. The CMS guide, [How the CMS works out child maintenance](#) provides further detail. Individuals may also wish to seek independent financial advice before making decisions.

1 Nil rate

Eligibility

A non-resident parent may be eligible for the nil rate if they:

- have **gross weekly income** (including any of the prescribed benefits listed for the flat rate) **of less than £7 per week**; or
- are a child; or
- are aged 16 or 17 years old and:
 - they or their partner (if they are in a couple) are receiving Universal Credit on the basis that they (or their partner) have no earned income; or
 - they are receiving Income Support, income-based Jobseeker's Allowance or Income-related Employment and Support Allowance; or
 - they are in a couple and are included in their partner's claim for Income Support, income-based Jobseeker's Allowance or income-related Employment and Support Allowance; or
- **receive an allowance for work-based training** for young people (such as a training allowance or (in Scotland or Wales) an **education maintenance allowance**); or
- are resident in a care home or independent hospital; or are being provided with a care home service and/or independent healthcare service and receiving one of the qualifying benefits for the flat rate (see below); or have the whole or part of the cost of their accommodation met by a local authority; or

- are a **prisoner**.¹⁹⁰

Amount due

No child maintenance payable for those non-resident parents eligible for the nil rate.

Shared Care

This has no impact on the nil rate.

2 Flat rate

Eligibility

A non-resident parent may be eligible if they do not qualify for the nil rate and they:

- have gross weekly income of between £7 and £100 inclusive; or
- receive, or their partner who they live with receives, any of the following income-related benefits:
 - Universal Credit calculated on the basis that they do not have any earned income;
 - Income Support;
 - Income-based Jobseeker's Allowance;
 - Income-related Employment and Support Allowance;
 - Pension Credit; or
- receive any of the following benefits themselves:
 - Category A, B, C or D Retirement Pension;
 - State Pension;
 - Incapacity Benefit;
 - Contributory Employment and Support Allowance;
 - Carer's Allowance;

¹⁹⁰ Child Poverty Action Group (CPAG), Child Support Handbook 2022/23, 2022, p57

- Maternity Allowance;
- Severe Disablement Allowance;
- Industrial Injuries Benefit;
- Widowed Mother’s Allowance or Widowed Parent’s Allowance;
- Widow’s Pension;
- Contribution-based Jobseeker’s Allowance;
- A training allowance (other than work-based learning for young people);
- War Disablement Pension;
- War Widow’s Pension, War Widower’s Pension, or Surviving Civil Partner Pension;
- Payments under the Armed Forces Compensation Scheme;
- A social security benefit paid by a country other than the United Kingdom.¹⁹¹

Amount Due

£7 per week. This has not been adjusted since its initial introduction in the 2012 scheme.¹⁹²

Shared Care

If a non-resident parent qualifies for the flat rate based on their gross weekly income, no allowance is made for shared care.¹⁹³

The exception to this is if the non-resident parent is on the flat rate because they or their partner (if applicable) are in receipt of one of the benefits listed above, and the qualifying child stays with them for 52 nights of the year or more. In this case, **the amount of maintenance due will be reduced to £0**. In these circumstances, the non-resident parent also does not have to pay maintenance for any other qualifying children who live in the same household as the child with shared care (even if the other children do not stay with the non-resident parent for 52 nights a year or more).¹⁹⁴

¹⁹¹ CPAG, Child Support handbook 2022/23, 2022, p58

¹⁹² [Public Bill Committee Deb. Child Maintenance and Other Payments Bill, 9 October 2007 c279](#)

¹⁹³ DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

¹⁹⁴ DWP, [How payments can be adjusted to take ‘split care’ into account](#), updated 27 October 2023

3 Reduced rate

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.

Amount Due

This is calculated through a formula comprising 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 and is lower than £200.

The proportion of gross weekly income payable in maintenance depends on:

- the number of children the non-resident parent must pay child maintenance for (up to a maximum of 3), and
- if there are any other children that the non-resident parent supports (“relevant children”).

Reduced rate calculation if there are no other children who the non-resident parent supports

No. of children the Non-Resident Parent must pay maintenance for	Standard rate (for first £100 of gross weekly income)	Percentage of remaining weekly gross income (up to £199.99)
1	£7	17%
2	£7	25%
3+	£7	31%

Source: DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

Thus, a parent with 2 qualifying children would pay the standard amount of £7 plus 25% of their gross weekly income in excess of £100 (up to £199.99).

Where there are also “relevant children” (i.e. children for whom child benefit is payable to either the non-resident parent or their partner), then the appropriate (detailed in the table below) is applied to that part of the non-resident parent’s gross weekly income that exceeds £100 and is lower than £200. This figure should be added to the standard rate of £7.¹⁹⁵

Thus, if a non-resident parent had one child they supported and one child they are due to pay child maintenance for, they would pay £7 per week on the

¹⁹⁵ DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

first £100 of gross weekly income and 14.1% on the remainder of their gross weekly income up to £199.99. See the below table:

Reduced rate calculation if the non-resident parent supports qualifying and relevant children

In addition to the standard £7 rate for the first £100 of gross weekly income, use the below formula to calculate the proportion of remaining gross weekly income (up to £199.99):

	Number of qualifying children			
		1	2	3+
Number of relevant children	1	14.1%	21.2%	26.4%
	2	13.2%	19.9%	24.9%
	3+	12.4%	18.9%	23.8%

Source: DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

Shared Care

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

Shared care and reduction to child maintenance

Nights of shared care/year	Reduction to child maintenance (for each child with shared care)
52-103	1/7th
104-155	2/7th
156-174	3/7th
175+	1/2 plus an extra £7/week reduction for each child

Source: DWP, [How your child's living arrangements affect child maintenance](#), updated 27 October 2023

However, the amount of child maintenance cannot fall below £7 per week after shared care has been considered.¹⁹⁶

When day-to-day care is shared equally, then neither person is treated as the non-resident parent (irrespective of which person claims child benefit for the qualifying child(ren)) and no child maintenance is due, even if the parents have significantly different levels of income.¹⁹⁷

¹⁹⁶ DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

¹⁹⁷ CPAG, Child support handbook 2022/23, 2022, p13

Comparison with other rates

Although the proportions of remaining income between £100 and £199.99 due in child maintenance are higher than the proportions due under the basic and basic plus rates (see next section), because the child maintenance liability of the first £100 of gross weekly income is only 7% (i.e. £7) it means that, 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 compared to the basic or basic plus rates for a given number of qualifying and relevant children.

For example, if a non-resident parent has a gross weekly income of £150 and pays child maintenance in respect of one qualifying 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).

This means that the non-resident parent's child maintenance liability is £15.50 per week, or 10.3% of their gross weekly income.

4 Basic rate and basic rate plus

Eligibility

If neither the nil, flat or reduced rate apply, and the non-resident parent has gross weekly income of between £200 and £3,000.

Amount due

This is calculated through a formula. The applicable rate is calculated as a proportion of the non-resident parent's gross weekly income, based on:

- the number of children eligible for child maintenance; and
- how many children Child Benefit is payable in respect of to either the non-resident parent or their partner ("relevant children").

There can also be an adjustment for shared care.

Basic rate: Reductions in gross weekly income for relevant children

Number of relevant children	Reduction
1	11%
2	14%
3+	16%

Source: DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

The basic rate applies on gross income of up to £800 a week and the **basic rate plus** is applied on income of £800.01 to £3,000 a week.¹⁹⁸

Before the amount of maintenance due is calculated, adjustments to the gross-weekly income are made according to the number of relevant children the non-resident parent is responsible for supporting.

Basic rate and basic rate plus: Calculation of child maintenance

Number of children needing maintenance	% applied to first £800 of gross weekly income	% applied to gross weekly income between £800.01-£3,000
1	12%	9%
2	16%	12%
3+	19%	15%

Source: DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

The basic rate and basic rate plus are then applied to the non-resident parent's gross weekly income, adjusted for any relevant children. The rates applied depend on the number of qualifying children the non-resident parent must pay child maintenance for.

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

Shared care

If the child to whom the non-resident parent is paying child maintenance stays with them for at least 52 nights a year, the amount of maintenance is reduced by the proportions shown in the table below.

¹⁹⁸ DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

Shared care and reduction to child maintenance

Nights of shared care/year	Reduction to child maintenance (for each child with shared care)
52-103	1/7th
104-155	2/7th
156-174	3/7th
175+	1/2 plus an extra £7/week reduction for each child

Source: DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

The amount of child maintenance cannot fall below £7 per week after shared care has been considered.¹⁹⁹

Where day-to-day care is shared equally, then neither person is treated as being the non-resident parent (irrespective of which person claims child benefit for the qualifying child(ren)) and no child maintenance is due, even if they have significantly different levels of income.²⁰⁰

5 Issues related to the basic plus rate

The £3,000 gross weekly income cap

Only gross weekly income up to £3,000 (£156,000 a year) can be considered under the statutory child maintenance scheme.²⁰¹ This was an increase from a weekly £2,000 gross income cap in the 2003 scheme. 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 under [The Children Act 1989](#), Schedule 1, as amended.

Explaining the purpose of the then £2,000 cap in 2010, the then Child-Maintenance Commissioner said that it:

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.

Regarding the increase to £3,000 they stated:

As a consequence of moving from net to gross weekly income in the future [2012] scheme we propose that the maximum amount of weekly income taken into account in a maintenance calculation will increase to £3,000. This is broadly the same as the current cap in net income terms and in keeping with

¹⁹⁹ DWP, [How we work out child maintenance: a step-by-step guide](#), updated 30 October 2023

²⁰⁰ CPAG, *Child Support Handbook 2022/23*, 2022, p13

²⁰¹ [Child Support Act 1991](#), Schedule 1, Part 1, 10(3), as amended

the objective that there should not be major differences in liabilities when comparing current scheme and future scheme rules.²⁰²

The lower rate of child maintenance paid on income over £800 (basic rate plus)

Higher earning non-resident parents pay a lower proportion of their income under the Basic plus rates than under the Basic rate (for example, 12% on the first £800 under the Basic Rate if one child requires maintenance, and 9% on income between £800 and £3,000 under the Basic Rate Plus).

During the passage of the legislation that introduced the 2012 scheme (the [Child Maintenance and Other Payments Act 2008](#)), the then Minister said the purpose of the two percentage tiers and £800 threshold was to match “new calculations as closely as possible in cash terms with the current assessments”, smoothing the transition into the 2012 system which uses gross rather than net income for calculations.²⁰³ Providing an example, the Minister said “without the second tier of rates, a non-resident parent with gross weekly earnings of £2,000 would end up paying £320 a week for two children instead of £282 under the current scheme.”

The then-Government stated the relevant legislation could be amended to change the threshold point for the Basic plus rate in line with any changes in the threshold for the higher rate of income tax.²⁰⁴

²⁰² [HC Deb 15 June 2010 c361W](#)

²⁰³ [Public Bill Committee Deb, Child Maintenance and Other Payments Bill, 9 October 2007 c277](#)

²⁰⁴ [Public Bill Committee Deb, Child Maintenance and Other Payments Bill, 9 October 2007 c277](#)

Annex 2: The use of gross, rather than net income in the 2012 scheme

In the 1993 and 2003 child maintenance schemes, net weekly income was used to calculate the amount of child maintenance due.

This was changed to enable the CMS and HMRC databases to “talk” to one another, allowing the CMS to gain information more easily on the non-resident parent’s earnings. As the DWP explained in response to the consultation on the 2012 scheme, using data from HMRC will “calculate a liability on a more up-to-date income basis” as it “ensures a swifter assessment of income”.²⁰⁵

This approach means in many cases the CMS uses the latest full tax year data from HMRC without needing to request it from the non-resident parent. However, by using such data, the non-resident parent’s historic income, rather than their current income, is used in the calculation of child maintenance.

If a non-resident parent’s current income is at least 25% different from the HMRC historic figure, this should be reported to the CMS for the calculation to be altered. More information on this can be found in section 5.

To ensure that the change from using net weekly income to gross did not affect how much maintenance was paid (in cash terms), the rates applied to a non-resident parent’s income were adjusted downwards to take account of the prevailing income tax rates (see Annex 1: Issues related to basic rate plus).

²⁰⁵ DWP, [A new system of child maintenance – Summary of responses to the consultation](#) (PDF), Cm 7061, May 2007, paras 4.8 and 4.14

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