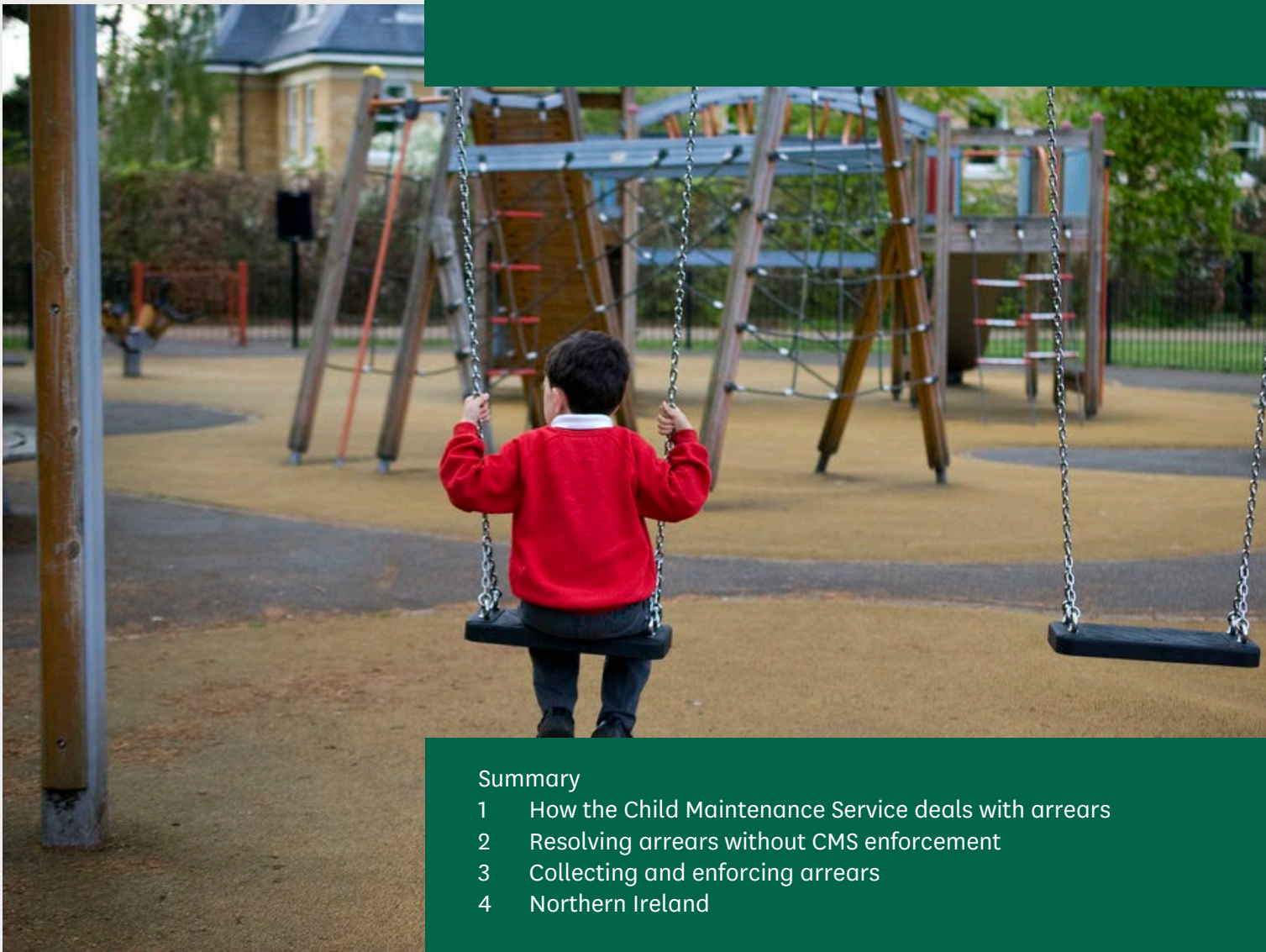


Research Briefing

21 November 2024

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Child maintenance arrears and enforcement



Summary

- 1 How the Child Maintenance Service deals with arrears
- 2 Resolving arrears without CMS enforcement
- 3 Collecting and enforcing arrears
- 4 Northern Ireland

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Summary

Child maintenance is a financial arrangement between a parent a child does not normally live with (the non-resident parent or paying parent) and the person who lives with the child and who usually provides day-to-day care for them (the person with care). If they live in Scotland, a child aged 12 to 19 and in [full-time non-advanced education or training](#) can apply for child maintenance.

Separated parents can arrange child maintenance themselves under a private ‘family-based arrangement’. Where parents cannot agree, maintenance can be arranged through the Child Maintenance Service (under ‘a statutory arrangement’).

If payments are not made in full or on-time under a statutory child maintenance arrangement, the Child Maintenance Service has a range of powers to collect the unpaid maintenance. This briefing covers how the Child Maintenance Service can collect and enforce arrears under statutory arrangements in England, Wales and Scotland.

Northern Ireland has a similar, but separate, system of child maintenance to the rest of the UK. Section 4 of this briefing provides a brief overview of the enforcement and collection powers in Northern Ireland.

Build-up of arrears

If arrears have been accumulated under the collect and pay system (where the Service collects and passes on payments), the paying parent is usually sent an arrears notice, and caseworkers may negotiate and put in place a repayment plan. Child maintenance payments are [a priority debt](#).

The Child Maintenance Service has said it aims to recover arrears within two years and expects the paying parent to pay up to 40% of their net income to clear them. It may also seek, or accept a proposal of, part-payment in satisfaction of liability for the whole arrears. The written consent of the person with care (or child applicant in Scotland) must be obtained before this is accepted.

The Service does not monitor payments made under direct pay (where it calculates the rate at which maintenance should be paid but payments are made between parents). However the Department for Work and Pensions states where parents do not pay their liability in full and on time, the person with care should inform the Child Maintenance Service who will “take swift

action to move the case to collect and pay to [enforce payment and recover any arrears](#)".

Collection action

Without a court order, the Child Maintenance Service may collect arrears through:

- A [deduction from earnings order](#): An employer deducts payment for arrears direct from the paying parent's salary.
- A deduction from earnings request: As above, but for the Armed Forces.
- A deduction order: Either a lump sum or regular deductions are made from bank accounts.
- Collection of assets from a deceased paying parent's estate.

Enforcement powers

With a Court-obtained [liability order](#), the Child Maintenance Service may take the a range of enforcement action. In England and Wales these powers include using bailiffs to take control of goods and applying to the court for an order of sale of an asset once it is registered by a court. In Scotland, powers include requesting a sheriff to make a charge of payment to require payment after 14 days, or freezing assets to prevent them being sold or transferred.

Fees may be charged when the service takes enforcement action against a paying parent who has unpaid maintenance. Persons with care on direct pay must first transfer their case to collect and pay for the service to bring enforcement action against the paying parent.

Further reading

The following Commons Library briefings provide further information:

- [How is child maintenance calculated?](#)
- [Child Maintenance Service statistics](#)
- [The write-off of arrears on Child Support Agency cases \(UK\)](#)
- [What fees are charged when arranging child maintenance?](#)

1 How the Child Maintenance Service deals with arrears

1.1 What is the Child Maintenance Service?

In Great Britain, parents are legally responsible for maintaining their child, even if they do not live with them or have no contact with the child.¹

Child maintenance is a financial arrangement between a parent a child does not normally live with (the non-resident parent or paying parent) and the person who lives with the child and who usually provides day-to-day care for them (the person with care). If they live in Scotland, a child aged 12 to 19 and in [full-time non-advanced education or training](#) can apply for child maintenance.

Relevant parties can agree a private child maintenance arrangement themselves (referred to as “family-based arrangement”). If they cannot reach an agreement, child maintenance can be arranged through the government’s statutory Child Maintenance Service (CMS).

There are currently three statutory child support schemes operating in Great Britain under the [Child Support Act 1991](#) (as amended): the 2012 scheme, and the 1993 and 2003 schemes. The 2012 scheme is the current scheme and open to new applicants. It is administered by the Child Maintenance Service (CMS).

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

In large part, this briefing summarises [guidance published by the DWP](#). It should not, however, be considered a substitute for it, when looking for detailed advice on specific cases.

Separate Library briefings provide information on [how child maintenance is calculated](#) and [statistics on the CMS](#).²

¹ [Child Support Act 1991, Section 1](#), ‘Duty to maintain’

² Commons Library briefing CBP-7770, [How is child maintenance calculated?](#); Commons Library briefing CBP-10082, [Child Maintenance Service statistics](#)

1.2

When a case is in arrears

A paying parent will be in arrears in a child maintenance case if they do not make their payments in full and on time.

Each time an application is made to the CMS, as well as each year on the anniversary of the date the paying parent was told about a child maintenance application (the ‘annual review’), the CMS will issue a decision notice. The notice will inform the paying parent what can happen if they fail to pay child maintenance.³

The CMS does not monitor payments under direct pay (where the CMS calculates the rate at which maintenance should be paid, but payments are made between parents). However, the Department for Work and Pensions (DWP) states where parents do not pay their liability in full and on time, the person with care should inform the CMS who will “take swift action to move the case to collect and pay to enforce payment and recover any arrears”.⁴

If the paying parent is already on collect and pay (where the CMS collects and passes on payments), they will be issued with an arrears notice and will have the opportunity to negotiate a payment. If an arrears notice has already been issued within the last 12 months, the CMS is not required to issue another before taking enforcement or collection action.⁵

The CMS is not able to act if payments are made under a private agreement. If such an agreement breaks down, the person with care of the child can apply to the Service instead. Any arrears from the date the child support calculation was requested can be pursued by the Service.

The CMS will first contact the paying parent with an opportunity to pay what is owed and “make clear” the actions that can be taken when there is non-payment.⁶ In such cases, the CMS will issue a payment schedule detailing the maintenance and arrears due to be paid.

The CMS can collect arrears in various ways, such as:

- making deductions from the paying parent’s pay, pension or benefits
- taking the money from the paying parent’s bank account
- getting a court-obtained ‘liability order’ for payments.⁷

³ DWP, [Child maintenance decision makers’ guide](#), 6 November 2024, volume 6 para 52004

⁴ PQ 277773 [on [Children: Maintenance](#)], 22 July 2019; PQ 3239 [on [Children: Maintenance](#)], 22 January 2020

⁵ [The Child Support \(Management of Payment and Arrears\) Regulations 2009](#), regulation 3A

⁶ DWP, [Child Maintenance Service statistics: Data to December 2021](#), 29 March 2022, Enforcement

⁷ [Unpaid child maintenance \(gov.uk\)](#) (accessed 18 November 2024)

Decisions about enforcement and collection action are discretionary and there are steps that can be taken to avoid the CMS using its collection actions and enforcement power. Information on this can be found in section 2 below. Information on the collection and enforcement powers available to the CMS is in section 3 of this briefing.

It is important child maintenance arrears are paid, as they are [a priority debt](#). Priority debts are the “most important” debts that should be dealt with first.⁸

Initial arrears

In some cases, there may be a period in between when a child maintenance calculation has been made by the CMS, and the date the liability began (the ‘effective date’).

Although the period is usually minimal, it can lead to initial arrears. The CMS may request payment of these as a lump sum, although the Child Poverty Action Group’s (CPAG) Child Support Handbook explains a voluntary payment made in the initial period can also reduce the arrears.⁹ If they cannot be paid all at once, the paying parent can negotiate to pay in instalments (see section 2.1 of this briefing).

Arrears in closed cases

The CPAG Handbook explains that in closed cases under the 2012 scheme (see section 1.1 above) that have arrears but no ongoing liability, “action to recover the outstanding arrears is expected to be treated as low priority”.¹⁰

⁸ Citizens Advice, [Making a plan to pay your debts](#), 22 February 2019; see also Step Change, [Priority debts and bills. Find out which debts to pay first](#) (accessed 19 November 2024)

⁹ CPAG, Child Support Handbook 2023/24, 2023, p147

¹⁰ As above, p158; DWP, [Preparing for the future, tackling the past: child maintenance – Arrears and Compliance Strategy 2012 to 2017](#), 31 January 2013

2

Resolving arrears without CMS enforcement

There are steps a paying parent can take to avoid the Child Maintenance Service (CMS) using its collection actions and enforcement powers. This includes agreeing on an arrears payment plan, or in certain circumstances, the CMS can treat a part payment of arrears as “full and final settlement” of all the arrears owed.

1 Person with care’s lack of enforcement and collection powers

A person with care does not have the power to take a person to court to enforce arrears in a child maintenance case.

The House of Lords, when it was the UK’s highest civil court, determined in 2005 the Child Support Act 1991 removed a parent with care’s private right to enforce payment of child maintenance through the courts. This meant the state has sole responsibility for enforcing obligations and has discretion whether to pursue enforcement.¹¹ The position was confirmed in the European Court of Human Rights in 2008.¹²

In the same case, it was argued a parent could proceed via judicial review to ask a Court to determine whether the CMS used its enforcement and collection powers properly.¹³

The government stated in 2018 that it has no intention of introducing measures to enable parents to pursue arrears separately through the legal system.¹⁴

¹¹ [R \(Kehoe\) v Secretary of State for Work and Pensions, \[2005\] UKHL 48](#), 14 July 2005

¹² [Kehoe v UK \(App No 2010/06, ECHR\) \(2008\)](#), 17 June 2008

¹³ [R \(Kehoe\) v Secretary of State for Work and Pensions, \[2005\] UKHL 48](#), 14 July 2005, p22, para 45

¹⁴ PQ 198381 [on [Children: Maintenance](#)], 3 December 2018

2.1

Arrears payment plans

The CMS aims to begin action within days of a payment being missed. In the first instance, the CMS will contact the paying parent directly to discuss the reasons for non-payment, and signpost relevant sources of independent advice (such as debt advisory services).¹⁵

If the paying parent has missed one or more child support payments, the CMS must issue an arrears notice stating the outstanding arrears and requesting payment. The CMS does not send an arrears notice if direct pay arrangements are in place (see section 1 above).

There are no set rules on the level of payments or how quickly arrears will be recovered. While the CMS “always begin[s] by requesting full payment of the outstanding arrears”, a paying parent may be able to reach an agreement to pay the amount in instalments.

In determining whether to accept a repayment plan, the CMS must consider the welfare of any child likely to be affected. It should also consider the needs of the paying parent (and their new family), the person with care and the qualifying child or children and any representations from the paying parent concerning hardship.

The person with care and qualifying child(ren) are not consulted about the level at which arrears are collected but are informed when a decision is made.

The CMS aims to recover arrears within two years and expects the paying parent to pay up to 40% of their net income to clear them.¹⁶ If a repayment plan is likely to result in over £1,000 of arrears still owing after two years, then the CMS may seek to obtain a liability order to use its enforcement powers (see section 3 of this briefing). Similarly, if a repayment agreement is not reached, or a paying parent fails to keep to an agreement, enforcement action will be taken.¹⁷

2.2

If the paying parent or their partner is in receipt of benefits

Before 2019, the maximum the CMS could deduct from benefits towards arrears was £1.20 a week.¹⁸ Since 2019, if a paying parent is in receipt of one

¹⁵ DWP, [Preparing for the future, tackling the past](#) (PDF), 2013, para 1.6, 4

¹⁶ CPAG, [Child Support Handbook 2023/24](#), 2023, p150

¹⁷ As above, pp150-151

¹⁸ DWP, [Explanatory Memorandum to The Child Support \(Miscellaneous Amendments\) Regulations 2019](#), (PDF), para 6.3; [The Child Support \(Miscellaneous Amendments\) Regulations 2019](#) SI2019/1084

of the benefits which make them eligible to pay the flat rate¹⁹ of child maintenance (see box 2, below), but does not have any ongoing maintenance liability, the CMS can deduct up to £8.40 a week to meet any arrears (at the flat rate of £7 plus a 20% collection fee of £1.40, totalling £8.40).²⁰ Deductions for benefits are administered by the collect and pay service.²¹

Where a paying parent has an ongoing child maintenance liability at the flat rate, they do not have to also contribute to the payment of arrears. This means that the amount of child maintenance payable never exceeds £8.40.

This also applies to an individual receiving Universal Credit (with or without earnings) who meets the criteria for the flat rate of child maintenance (they may not have a flat rate calculation in place if they no longer have an ongoing maintenance liability and only owe arrears).²²

Box 2: Arrears reduction from benefits

The flat rate of child maintenance is payable if the paying parent has gross weekly income of between £7 and £100 or receives, or their partner who they live with receives, a certain type of benefit/pension—see the Library briefing [on how child maintenance is calculated](#) for more information.

There are 15 benefits, including carer's allowance, some forms of state pension, income support, Universal Credit, and income-based jobseeker's allowance, that are liable for deductions. In 2017, the DWP said that “around 20% of paying parents... claim one of these benefits so [it anticipated] that this would be successful in maintaining on-going compliance and helping collect outstanding arrears.”²³

The priority list of Universal Credit deductions

When there are multiple competing demands on deductions on a claimant's Universal Credit claim, there is a priority order under which deductions are taken. The deductions cap²⁴ means that not all such demands can be met. As

¹⁹ Information on the rates of child maintenance can be found in annex 1 of the Commons Library briefing CBP-7770, [How is child maintenance calculated?](#)

²⁰ [The Child Support \(Miscellaneous Amendments\) Regulations 2019](#) SI2019/1084, Part 2, Regulation 5 (3a)(ii)

²¹ DWP, [Child maintenance: A new compliance and arrears strategy](#) (PDF), December 2017, Para 44

²² [Explanatory Memorandum to The Child Support \(Miscellaneous Amendments\) Regulations 2019](#) (PDF), p2

²³ DWP, [Child Maintenance: A new compliance and arrears strategy – Public consultation](#) (PDF), December 2017, pp14 and 15, paras 50, 51, 55

²⁴ The most that can be taken from a Universal Credit payment each month is 25% of the claimant's Universal Credit Standard Allowance

noted in a [Work and Pensions Committee report on the CMS and children in poverty](#), child maintenance arrears are twelfth on the priority list.²⁵

In the committee's report it recommended that "deductions for child maintenance should take higher priority than deductions for the payment of debt owed to the Government".²⁶

In its response to the report, the previous Conservative government rejected this recommendation:

Child Maintenance is just one of many deductions which impacts UC [Universal Credit]. We have to balance the need to make CMS deductions with the need to make others such as for rent arrears, Council Tax, energy arrears, etc.

[...]

There are no plans currently to alter the sequence by which deductions from benefits are ordered. Government debts such as benefit overpayments are only considered if there is room within the standard 25% cap, after advances and third-party deductions, including Child Maintenance, have been considered.²⁷

2.3

Part-payment plans as full and final settlements

The CMS can, in certain circumstances, treat a part payment of arrears as "full and final settlement" of all the arrears owed. This will be considered if the paying parent offers, or the person with care suggests it.²⁸

In deciding whether to accept a part payment as full and final settlement, the CMS must consider the welfare of any child likely to be affected, and the likely success of continued enforcement action against the paying parent. It will also investigate the paying parent's circumstances.²⁹ The CMS may demand the full arrears amount being paid if it determines the paying parent is able to do so and there is a "reasonable prospect" of those arrears being recovered.³⁰

If the part payment is made in full, it has the effect of extinguishing the paying parent's liability on any outstanding arrears. If it is not paid or not paid in full, the liability persists, and the CMS can pursue recovery.

²⁵ Work and Pensions Committee, Sixth report of Session 2022-23, [Children in Poverty: Child Maintenance Service](#), HC 272, 27 April 2023, para 43

²⁶ [As above](#), para 46

²⁷ 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 10

²⁸ Under Section 41D of the [Child Support Act 1991](#) as amended

²⁹ DWP, [The draft Children Support Management of Payments and Arrears \(Amendment\) Regulations 2012: Government response to consultation \(PDF\)](#), 15 October 2012, para 36

³⁰ CPAG, [Child Support Handbook 2023/24](#), 2023, p155

Before accepting the part payment offered by the paying parent, the CMS must obtain the written consent of the person with care (or in Scotland, a child applicant, and the person with care of that child).³¹ The Child Poverty Action Group's (CPAG) Child Support Handbook notes the CMS may not inform the person with care if it "considers the offer to be unreasonable".³²

2.4 Writing off arrears

Maintenance arrears can be written off entirely in some circumstances, including when:

- the receiving parent (or child in Scotland, who can apply for maintenance in their own right) has requested they no longer wish the arrears to be collected,
- the receiving parent (or child in Scotland) has died,
- the paying parent died before 25 January 2010, or there is no further action that can be taken to recover arrears from their estate,
- the CMS have previously advised the paying parent that it would never take any further action to collect the arrears (for example, they have written to the paying parent and told them their debt no longer exists), or
- the arrears relate to liability for child support maintenance for any period in respect of which an interim maintenance assessment was in force between 5 April 1993 and 18 April 1995.³³

The Child Support (Management of Payments and Arrears and Fees) (Amendment) Regulations 2024

In addition to those above, on 26 February 2024 new regulations introduced an additional circumstance in which the Secretary of State can write-off arrears.³⁴ This is when:

- the maintenance calculation has ceased to have effect under specific provisions of the Child Support Act 1991 (such as where the person who made the application for a calculation asks the Secretary of State to

³¹ [The Child Support \(Management of Payments and Arrears\) Regulations 2009](#) (SI 2009/3151), Part 4A

³² DWP, [The Draft Child Support Management of Payments and Arrears \(Amendment\) Regulations 2012](#) (PDF), 15 October 2012, para 40; CPAG, [Child Support Handbook 2023/2024](#), 2023, p155

³³ Section 41E of the [Child Support Act 1991](#) (PDF) as amended, and 13G of [The Child Support \(Management of Payments and Arrears\) Regulations 2009](#); DWP, [Child maintenance: A new compliance and arrears strategy – Public consultation](#) (PDF), December 2017, pp20–21, para 91

³⁴ [The Child Support \(Management of Payments and Arrears and Fees\) \(Amendment\) Regulations 2024](#) (SI 2024/87)

cease acting, or when the child in the case is no longer considered to be a child),

- the arrears are less than £7, and
- the paying parent has not made any payments in the three months prior to the date the Secretary of State makes the decision to write off arrears.³⁵

Large-scale write-off of arrears

The government has started the large-scale write-off of arrears accumulated under the legacy 1993 and 2003 statutory child maintenance schemes administered by the Child Support Agency (CSA). Arrears that fall within this programme are those where no payment has been made for the past three months and are arrears-only. The [Library briefing on the write-off of arrears on CSA cases](#) provides more information on the write off of arrears, and the circumstances in which it may be done.³⁶

³⁵ [The Child Support \(Management of Payments and Arrears and Fees\) \(Amendment\) Regulations 2024 \(SI 2024/87\)](#), Part 2

³⁶ Commons Library briefing CBP-7776, [Child maintenance: The write-off of arrears on Child Support Agency cases \(UK\)](#)

3 Collecting and enforcing arrears

There is a spectrum of powers available to the Child Maintenance Service (CMS) to collect arrears, which are either:

- **Collection actions:** measures that the CMS can take under its own initiative (see section 3.2), or
- **Enforcement powers:** measures that can only be taken when the CMS obtains a [“liability order”](#) (see section 3.3).

Before taking enforcement or collection action on unpaid child maintenance, the CMS must have issued the paying parent with an arrears notice in the last 12 months and come to no arrangement over repayment.³⁷

Paying parents who pay by an enforced method or have undergone legal enforcement action are likely to be deemed “unlikely to pay” by the CMS and required to use collect and pay.³⁸ Those required to pay through the collect and pay system because they have been deemed “unlikely to pay” must demonstrate, for at least six months, that they can pay in time and in full before the CMS considers returning a case to direct pay.³⁹

Statistics on collection and enforcement action taken by the CMS, as well as on the amount of arrears owed, is available in [a Library briefing on CMS statistics](#).

3.1 Arrears accumulated off collect and pay

Collection action and enforcement powers will be utilised by the CMS when a case is on the collect and pay scheme. Where arrears have accumulated on a case on direct pay, the case must be first moved to collect and pay before the CMS applies its powers.⁴⁰

³⁷ [The Child Support \(Management of Payment and Arrears\) Regulations 2009](#), Section 3A; Voice of the Child, [CMS: DEOs and Request: Decision making guidance \(PDF\)](#), u.d., p1

³⁸ [Child Support Act 1991](#), Section 4 (2A); Voice of the Child, [CMS: Unlikely to pay: Contents](#), u.d., p2; The CPAG handbook states arrears do not have to be paid by the same method as ongoing child maintenance (meaning arrears could be collected under collect and pay whilst ongoing maintenance is made under direct pay), but in practice the CMS prefers to use the same method of payment for both; CPAG, [Child Support Handbook 2023/24](#), 2023, p152

³⁹ PQ 169399 [on [Children: Maintenance](#)], 6 September 2018

⁴⁰ PQ 277773 [on [Children: Maintenance](#)], 22 July 2019

In terms of alerting the CMS to a missed payment on direct pay, this is the responsibility of the person with care, as the CMS does not monitor direct pay transactions.

Arrears accumulated under child maintenance arrangements other than collect and pay and direct pay – such as family-based arrangements – cannot subsequently be collected by the CMS.

The Library briefing on [child maintenance cases when someone lives overseas](#) provides information on maintaining and enforcing maintenance when one parent lives abroad.⁴¹

Box 3: CMS compliance strategy, 2018

The Department for Work and Pensions (DWP) launched a [new compliance strategy in 2018](#), following a consultation.⁴² Key measures on arrears and compliance included:

- Permitting deductions for ongoing maintenance at the flat rate from those Universal Credit claimants who have earnings,
- Allowing deductions from welfare benefits where arrears have accrued but ongoing child maintenance is no longer paid,
- Allowing deductions from unlimited partnership bank accounts,
- Disqualifying paying parents from holding or obtaining a passport where all other enforcement action is ineffective,
- Allowing more legacy Child Support Agency (CSA) cases where debt is owed to the person with care to be written off, subject to certain safeguards,
- Writing off all CSA debt owed to the government by paying parents.

The government said “the changes mean that more money will be going to children to support their upbringing”.⁴³

Gingerbread, a single-parent’s charity, welcomed the strategy as a “step forward” but said “today’s announcement sets out some tough new powers, but we know these are unlikely to be used.”⁴⁴ More information can be found in the Library briefing [Child maintenance: New steps to improve compliance and to allow arrears to be written off \(UK\)](#). Statistics on compliance and enforcement can be found in sections 3 and 4 of the [Library briefing on CMS statistics](#).

⁴¹ Commons Library briefing CBP-7775, [Child maintenance: Overseas cases and income \(UK\)](#)

⁴² DWP, [Child Maintenance: a new compliance and arrears strategy](#), updated 12 July 2018

⁴³ DWP, [Child maintenance: Changes to compliance measures](#), 14 December 2018

⁴⁴ Gingerbread, [Government U-turn on child maintenance avoidance is “welcome but not enough”](#), 12 July 2018

3.2

Collection actions

If a child maintenance case is under collect and pay, the CMS may, without a court order, collect arrears through the below methods. Collection fees are in place for regular deduction orders, deductions from earnings requests or orders, and lump sum deduction orders. There is also a fee for liability orders, which can be obtained from a court (see section 3.3 below). Current fees are:

Enforcement charges	
Action taken by the CMS	
Liability order	£300
Lump sum deduction order	£200
Regular deduction order	£50
Deduction from earnings request/ order	£50

Source: [The Child Support Fees Regulations 2014 \(SI 2014/612\), regulation 10](#)

The DWP has said enforcement fees are “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 [paying] 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.⁴⁵

Deduction from earnings order

A deduction from earnings order (DEO) is given to an employer by the CMS to deduct payment for arrears (or regular child maintenance) from a paying parent’s salary before it is paid.⁴⁶

In determining the rate at which the arrears shall be repaid under a DEO, the Child Poverty Action Group’s (CPAG) Child Support Handbook explains:

The ‘**normal deduction rate**’ is the amount that will be deducted each payday, provided it does not bring net earnings below a certain amount (the protected earnings proportion). The normal deduction rate can include the current child support liability and an amount for any arrears, penalty payments... and any fees due. There are no special rules on how quickly the CMS should aim to clear the liability, although often the maximum deduction rate of 40 per cent of net income is applied. [..]

⁴⁵ DWP, [Supporting separated families, securing children’s futures \(PDF\)](#) (2013), p16

⁴⁶ Section 31 of the [Child Support Act 1991](#), as amended, and [The Child Support \(Collection and Enforcement\) Regulations 1992](#)

The “protected earnings proportion” is 60 per cent of net earnings... Deductions must not reduce earnings below this level.⁴⁷

Because the CMS uses gross weekly income to calculate child maintenance it is unaware of a paying parent’s net weekly income. Therefore, the paying parent’s employer is “responsible for calculating the protected earnings proportion” when setting up a DEO.⁴⁸

Deduction from earnings request

Deduction from earnings requests (DER) are when the Ministry of Defence (MoD) deducts payments for arrears direct from a serving member of the armed forces.⁴⁹

Unlike a DEO, there is no legal obligation to make deductions through a DER, but the Child Maintenance Group has a memorandum of understanding with the MoD to support deduction from earnings.⁵⁰ In answer to a 2019 parliamentary question, the MoD stated that unless an individual is on active operations, child maintenance deductions are “always made”.⁵¹

Deduction order

Deduction orders can be made to take a lump sum or regular deduction from certain bank accounts. Deductions are made in the following order:

1. from an account of an individual
2. from personal joint accounts
3. certain business accounts (namely sole trader and unlimited partnership business accounts).⁵²

In terms of safeguards, no deductions from partnership bank accounts can allow the balance of the account to fall below £2,000 and if it is not clear how much of the fund in a shared account belongs to the paying parent, the amount will be split by the number of account holders.

All account holders have the right to ask the CMS to review a decision and to provide information on the amount each person contributes to the shared

⁴⁷ CPAG, Child Support Handbook 2023/24, 2023, pp164-165

⁴⁸ As above, p165; Voice of Child, [CMS: DEOs and Request: Decision making guidance](#) (PDF), 9 March 2017, p7

⁴⁹ [The Armed Forces \(Forfeitures and Deductions\) Regulations 2019](#), made under the [Armed Forces Act 2006](#)

⁵⁰ Commanding Officers Guide of Service Law, [Chapter 20: Forfeitures and Deductions](#), 2011, para 46

⁵¹ PQ 271551 [on [Children: Maintenance](#)], 1 July 2019

⁵² DWP, [Child maintenance: Changes to compliance measures](#), 14 December 2018; [Child maintenance: A new compliance and arrears strategy – Government response to the consultation](#) (PDF), 12 July 2018, pp13-15, paras 36, 57; [Explanatory Memorandum to The Child Support \(Miscellaneous Amendments\) Regulations 2018](#) (PDF), 2018, para 6.3

account or how a business uses the account.⁵³ A paying parent, and in the case of an order on a joint account another account holder, can also appeal to the Family Court (in England and Wales), and to the Sheriff Court (in Scotland) against a regular deduction order or a lump sum deduction order.

Collection of assets from a deceased person's estate

The CMS may request the payment of arrears from a deceased person's estate. This person must have died on or after 25 January 2010. The CMS may contact the administrator or executor of the estate to request payment.⁵⁴

On making the CMS aware of the death of a paying parent, CPAG's Child Support Handbook states "the CMS is notified electronically when other government departments are informed of the death of [a paying parent]", but the person with care may also wish to inform the CMS of the death of the paying parent who owes arrears of child support.⁵⁵

3.3

Enforcement powers

Obtaining [a liability order from a court](#)⁵⁶ gives legal recognition of the debt, which then allows the CMS to use the enforcement powers outlined below. A liability order will "usually" be sought when arrears total at least £500.⁵⁷ A fee of £300 is payable to the CMS by the paying parent if a liability order is made.⁵⁸

The [Child Support \(Enforcement\) Act 2023](#) makes a provision for the Secretary of State to make a liability order and remove the need for the CMS to apply to the court. The government consulted on the regulations for this. More information can be found in section 3.4 of this briefing.

There are some enforcement powers that can be utilised in Great Britain, and some that apply to England and Wales only or Scotland only.

Great Britain

- **Registering the debt with a credit rating agency:** This will affect a person's credit rating, among other matters. The [circumstances in which](#)

⁵³ DWP, [Child Maintenance: Changes to compliance measures](#), 14 December 2018; DWP, [Child maintenance: A new compliance and arrears strategy – Government response to the consultation](#) (PDF), 12 July 2018, pp14-15, paras 51-2 and 56

⁵⁴ Regulation 11 of [The Child Support \(Management of Payments and Arrears\) Regulations 2009 \(SI 2009/3151\)](#)

⁵⁵ CPAG, [Child Support Handbook 2023/24](#), 2023, p179

⁵⁶ The Magistrates' Court in England and Wales, or Sheriff Court in Scotland

⁵⁷ PQ 130458 [on [Children: Maintenance](#)], 28 February 2018

⁵⁸ PQ 61360 [on [Children: Maintenance](#)], 19 October 2022

[the CMS will register a debt](#) were set out in answer to a July 2019 parliamentary question.⁵⁹

- **Preventing the disposal of assets:** Orders preventing the disposal of assets, or their transfer overseas can be sought from the High Court and family court (England and Wales) or the Court of Session or sheriff court (Scotland).⁶⁰
- **Disqualification from driving and removal of passport:** The DWP says that if a debt is over £1,000, it will consider making an application for a paying parent to be disqualified from holding or obtaining a passport or driving licence for up to two years.⁶¹
- **Imprisonment and Curfew:** This may be ordered if a court finds that there has been “wilful refusal or culpable neglect”.⁶²

Box 4: Powers legislated for but not in use

The [Child Support Act 1991](#), section 41 (as amended), allows the Secretary of State to make provision for parents who are in arrears to make **penalty payments**. However, no regulations have been laid setting out the necessary details of a penalty payment scheme (such as detailing the time at which a penalty payment is to be payable or when such a payment may be waived). An answer to a [February 2020 parliamentary question](#) confirmed the CMS “does not fine Paying Parents for not paying their child maintenance”.⁶³

In 2022, the then Johnson Conservative government ran a [consultation on commencing existing curfew powers](#). The powers, which already exist under the Child Maintenance and Other Payments Act 2008 in England, Wales and Scotland, would result in a non-compliant paying parent “to remain at a specified place at specified times” for up to six months.⁶⁴ Their location would be monitored through a requirement to wear an electronic tag.

To date, there is [no government response to the consultation](#). In answer to a parliamentary question in January 2024, the then government highlighted the “suite of strong enforcement powers at [the CMS] disposal”, adding it would keep the introduction of curfew powers under review:

⁵⁹ PQ 280280 [on [Children: Maintenance](#)], 22 July 2019

⁶⁰ CPAG, Child Support Handbook 2023/24, 2023, p184; [Child Support Act 1991](#) (PDF) as amended, Section 32L

⁶¹ DWP, [Child Maintenance: Changes to compliance measures](#), 14 December 2018; Sections 27 and 29 of [The Child Maintenance and Other Payments Act 2008](#) amended the Child Maintenance Act 1991 to create these powers

⁶² Sections 28 and 29 of [The Child Maintenance and Other Payments Act 2008](#) amended the Child Maintenance Act 1991

⁶³ PQ 15112 [on [Child Maintenance](#)], 12 February 2020

⁶⁴ DWP, (Closed consultation) [Child Maintenance: Improving our enforcement powers through the commencement of curfew orders](#), 9 July 2022

Several enforcement initiatives aimed at improving compliance are currently in train and we need to get those in place and assess their effects before we can best see how curfews might fit with them. We are continuing to keep their introduction under review.⁶⁵

England and Wales only

- Use **bailiffs** to take control of goods/negotiate a payment.⁶⁶
- **Seeking a Charging Order from the courts:** A [Charging Order](#) allows a debt to be registered against the property and/or other assets owned by the non-compliant paying parent. Where this is not possible, a caution against dealing may be obtained so the CMS are notified of sale. Once either has been registered, the CMS can apply to the court for an order of sale.⁶⁷

Scotland only

- **Charge for payment:** A [sheriff may grant a charge for payment](#), a formal request requiring the paying parent to pay the debt, usually within 14 days.
- **Arrestment:** [An arrestment freezes money or goods](#) in an account and prevents it from being used.
- **Attachment:** If granted, [an attachment](#) prevents the paying parent from selling or transferring certain moveable belongings owned by the debtor. The goods may be seized and sold at public auction and the proceeds paid to the CMS if the arrears are not paid. There are different types of order and rules governing what may and may not be taken.⁶⁸
- **Inhibition:** The Sheriff can be asked to register the amount owed against any “heritable property” (such as a home) in the [Register of Inhibitions and Adjudications](#) preventing their sale or transfer.⁶⁹

3.4

Child Support (Enforcement) Act 2023

The [Child Support \(Enforcement\) Act 2023](#) was introduced following the Private Members Bill ballot for Session 2022-23 and received Royal Assent on

⁶⁵ PQ 11495 [on [Children: Maintenance](#)], 30 January 2024

⁶⁶ [Child Support Act 1991](#) (PDF), section 35 (as amended), and [The Taking Control of Goods Regulations 2013](#) Regulations 8 to 10

⁶⁷ CPAG, [Child Support Handbook 2023/24](#), 2023, p183

⁶⁸ Scotland Debt Solutions, [What is an attachment of property for individuals in debt?](#), 14 May 2020

⁶⁹ [Child Support Act 1991](#) (PDF), Section 38

the 20 July 2023. The act makes a provision for the Secretary of State to make a liability order, removing the need for the CMS to apply to the court. It extends to England, Wales and Scotland.

In the [second reading debate in December 2022](#), the sponsoring member, Siobhan Baillie MP (Con), said it would increase the speed enforcement measures could be used to collect maintenance:

Obtaining a liability order through the courts is time-consuming. At the moment, the Government website tells parents that it can take anything from a few weeks to a few months...

...The Bill will repeal the sections of the Child Support Act 1991 requiring the CMS to apply to the courts to obtain the liability order. It will stop applications to the courts by making amendments to uncommenced powers in the Child Maintenance and Other Payments Act 2008. Those powers, once enacted, will allow enforcement measures to be used more quickly against parents who have failed to meet their obligation.⁷⁰

Sections 2, 3 and 4 (other than section 4(5)) of the 2023 act come into force at the same time as section 25 of the [Child Maintenance and Other Payments Act 2008](#). Section 25 of the 2008 act is currently not commenced (see Box 5 below). In October 2023, the then government consulted on measures to give the CMS more powers to recover arrears. More information on this is below.

Further information on the act can be found in the [House of Lords briefing on the Child Support \(Enforcement\) Bill](#).

Box 5: Child Maintenance and Other Payments Act 2008

Section 25 of the [Child Maintenance and Other Payments Act 2008](#) provides for the Child Maintenance Group to have the power to make an **administrative liability order**. Currently, if a liability order is granted by a court, the CMS can then take steps to recover arrears.

The 2008 Act allows for the CMS to issue an administrative liability order, and take the steps listed in section 5.3 of this briefing. The provision, however, has never been brought into use.⁷¹ When the power was introduced in 2008, it was taking an average of 107 days to obtain a liability order through the Magistrates court. This fell to an average of 60 days in 2014.⁷²

⁷⁰ [HC Deb 724 9 December 2022](#), c666

⁷¹ PQ 268611 [on [Child Maintenance](#)], 24 June 2019

⁷² DWP, [Child Maintenance and Other Payments Act 2008: Post-legislative scrutiny](#) (PDF), Cm8986, 2014, p37

Consultation on liability orders

On 2 October 2023, the government announced a consultation on liability orders. The consultation closed on the 24 November 2023, and “is aiming to inform the government’s proposed regulations to support the introduction of administrative liability orders”.⁷³

Government response

On 12 February 2024, the [then Conservative government published its response](#) to the consultation.

In its response, the government committed to giving a minimum notice period for the administrative liability order of seven days (28 if the paying parent is overseas). There was some concern raised from respondents about postal delays, but the government noted most paying parents will be notified instantly by electronic means. It added the orders can be discharged if the maintenance calculation changes or if there's an appeal to the first-tier tribunal, with discretion based on individual circumstances.⁷⁴

In terms of a paying parent’s right to appeal an administrative liability order, the response set out the appeal will go to the magistrates’ court (in England and Wales) or the Sheriff’s court (in Scotland). It can be made within 21 days from the date that an administrative liability order is made.⁷⁵

The government also explained a parent can appeal if they believe the decision to make the order is “wrong in law or was made in error in any other way”. This is because the CMS calculation can be separately appealed to the first-tier tribunal and changes of circumstances (that can change a calculation) can be reported “at any time”.⁷⁶

The then government said it would make the changes in secondary legislation to implement these proposals “as soon as parliamentary time allows”. In terms of Scotland, the response explained that there will be later commencement and regulation of the provisions. This is because of the separate legal jurisdiction.⁷⁷

Relevant secondary legislation was not laid before Parliament dissolved for the 2024 General Election. The current Labour government said it plans to bring forward legislation to allow for administrative liability orders, “as soon as possible”. It explained it “expect[s] the new liability order process to take around six to eight weeks, meaning the CMS can use its strong enforcement

⁷³ DWP, [Child Maintenance: Accelerating Enforcement](#), 2 October 2023

⁷⁴ DWP, [Child Maintenance: Accelerating Enforcement: Government response to the consultation](#), 12 February 2024

⁷⁵ [As above](#)

⁷⁶ [As above](#), para 45

⁷⁷ [As above](#), paras 87 to 88

powers more quickly to go after those who wilfully avoid their financial obligations to their children”.⁷⁸

3.5 Financial Investigations Unit

The role of the CMS’s Financial Investigations Unit (FIU) is to investigate complex child maintenance cases to ensure any maintenance calculation reflects a paying parent’s true income. Evidence from its investigations, such as details on bank accounts or assets, may be used to recover unpaid maintenance. CMS caseworkers forward cases to the FIU if they believe there to be “credible, evidence-based challenges to a child maintenance assessment” that cannot be resolved through standard processes.⁷⁹

Information on how the CMS can investigate more complex cases can be found in the [Library casework article on challenging the undeclared income of paying parents](#).

In response to a parliamentary question in February 2023, the government said it is taking on average 23 weeks for financial investigations to be completed, from the date they are allocated. The then minister, Mims Davies, did note criminal cases will take “significantly longer”.⁸⁰

The FIU does not have powers to investigate paying parents outside of the UK.⁸¹

3.6 Complaining to the Child Maintenance Service

It is possible for a person with care to [make a complaint to the CMS](#) if they believe the Service has not taken sufficient action in respect of collecting arrears.

The CMS’s complaint procedure (which applies to all complaints) is as follows:

1. [Contacting the CMS](#)
2. Asking the office managing your case to contact the Complaints Resolution Team
3. Ask the [Independent Case Examiner](#) (ICE) to look into the case. An individual must have exhausted the full complaints process of the CMS

⁷⁸ PQ 3503 [on [Maintenance: Children](#)], 9 September 2024

⁷⁹ PQ 123212 [on [Children: Maintenance](#)], 17 January 2018

⁸⁰ PQ 136867 [on [Child Maintenance Service: Standards](#)], 7 February 2023

⁸¹ PQ 240473 [on [Children: Maintenance](#)], 3 April 2019

and received a final response before doing this.⁸² After receiving the final response, the complaint to ICE must be within six months.⁸³

4. If an individual is unhappy with the ICE's decision, they can ask their MP to ask the [Parliamentary and Health Service Ombudsman](#) to examine the case.⁸⁴

⁸² Independent Case Examiner, [How to bring a case to the ICE](#) (gov.uk), updated 6 March 2023

⁸³ CPAG, *Child Support Handbook 2023/24*, 2023, p247

⁸⁴ Citizens Advice, [Complaining about the Child Maintenance Service](#), updated 27 October 2020

4 Northern Ireland

Northern Ireland has a similar, but separate, system of child maintenance to the rest of the UK. This section provides a brief overview of the Child Maintenance Service (CMS) enforcement and collection powers in Northern Ireland. The Child Maintenance Service is provided by the Department for Communities (DfC) and [guides to the system are available on the Department's website](#).

The enforcement powers of the CMS in Northern Ireland are governed by the [Child Support \(Collection and Enforcement\) Regulations \(Northern Ireland\) 1992](#).⁸⁵

4.1 Collection and enforcement powers

If the paying parent uses the CMS collect and pay service but does not make a payment or does not pay the full amount, the CMS will telephone and write to them. The CMS will tell the paying parent they will start enforcement action within one week unless they agree to:

- make an agreement to pay the full amount missed, or
- keep to the original child maintenance decision.⁸⁶

Without a court order, the CMS in Northern Ireland can use deduction from earnings orders or requests (DEO/DERs) and make deductions from both bank accounts and some benefits.⁸⁷

The CMS in Northern Ireland may also apply to a Magistrates' Court for a liability order to take legal action against a paying parent in arrears.⁸⁸ Once this order is registered with the Enforcement of Judgments Office, the actions the CMS may take include issuing an order of seizure against any goods the paying parent owns or freezing their bank account. If a liability order remains unpaid, the CMS may also, for example, seek an order of disqualification to remove the paying parent's driving licence for up to two years.⁸⁹

⁸⁵ [The Child Support \(Collection and Enforcement\) Regulations \(Northern Ireland\) 1992](#) (SR 1992/390)

⁸⁶ NI Direct, [Enforcement of non-payment of child maintenance](#) (accessed 19 November 2024)

⁸⁷ [As above](#)

⁸⁸ Part 4 of [The Child Support \(Collection and Enforcement\) Regulations \(Northern Ireland\) 1992](#).

⁸⁹ NI Direct, [Legal action Child Maintenance Service can take](#) (accessed 19 November 2024)

Answering an Assembly Question in 2013, the then-Minister for Social Development stated there was no prescribed amount that must first be outstanding before enforcement action is considered.⁹⁰

4.2 Fees and charges

If a paying parent misses a payment, or are late in paying, they will be subject to enforcement charges. These cover liability orders, lump sum deduction orders, regular deduction orders and DEOs/DERs. Fees operate in the same way as in Great Britain and [current fees are published by the Northern Ireland Child Maintenance Service](#). The following fees are charged:

- Liability order: £300
- Lump sum deduction order: £200
- Regular deduction order: £50
- DEO/ DERs: £50.⁹¹

There is no application fee for Northern Ireland residents. The Northern Ireland Executive said this was to “ensure that the child maintenance statutory service remains accessible to those who need it”.⁹²

4.3 Enforcing cases across the UK

The enforcement of maintenance orders within different parts of the UK is governed by [Part 32 of the Family Procedure Rules](#) (PDF). In the case of any disputes when one parent lives in Great Britain and the other in Northern Ireland, the authority with whom the maintenance arrangement was agreed should be contacted in the first instance.

An [archived page from NI Direct](#) explains if a paying parent lives in England or Wales, then the parent with care, living in Northern Ireland, will have their case referred to the CMS in Great Britain and should ask them to apply for a magistrate’s order to begin the enforcement process.⁹³

⁹⁰ [AQW 18957/11-15, 11 February 2013](#)

⁹¹ NI Direct, [Collection fees and enforcement charges 2012 scheme](#) (accessed 19 November 2024); [AQW 808/16-21 16 December 2016](#)

⁹² [AQW 31387/11-15, 6 March 2014](#)

⁹³ NI Direct, [Enforcement of non payment of child maintenance in England and Wales](#) [archived] (accessed 19 November 2024)

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