



# Guide to Child Maintenance

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**Using Goodwins For Child Maintenance Cases**

Goodwins Family Law Solicitors are experts in child maintenance law. If you would like to know more about what we do, please get in touch with us today and we'll be more than happy to help with anything you need.

\*All figures in this guide are correct as of March 2017 and may be subject to change in the future

## What Is Child Maintenance & Why Is It Important?

Child maintenance is a series of regular payments made by one parent to another after a divorce that are used as a contribution towards a child's everyday living expenses. It is paid by the parent who does not have day-to-day care of the child in question, and the money is paid to the parent who is the primary carer of the child. In situations where the child is looked after by someone other than their parents, the child maintenance can be paid to a grandparent or guardian.

### The law on child maintenance

Parents have a legal responsibility to provide for their child financially, even if they do not live with them anymore. It is essential to help ensure the child has food, clothing, and other essentials, as well as things like education. This financial responsibility is separate from 'parental responsibility'. It is important to remember that all fathers are financially responsible for their children, even if they:

- Don't have formal parental responsibility
- Don't live with the mother of the child
- Are not named on the child's birth certificate

The Child Support Act provides the legal framework for child maintenance payments using the Government's statutory child maintenance service.



*Child Maintenance is essential to help ensure the child has food, clothing, and other essentials.*



# Child Maintenance Options

When it comes to actually arranging the payment and receipt of child maintenance, you have a few options at your disposal:

## Family-Based Arrangement

## Consent Order

## Child Maintenance Service



### Family-based arrangement

This arrangement is where the parameters of the child maintenance payments are arranged between both parents in private. There does not need to be any outside influence or assistance with this agreement; it is entirely down to the parents themselves.

As it is a private agreement, there is no official documentation, but you may want to make a written record of the agreement for future reference, in case there is a disagreement in future. You may agree, for example, that the paying parent will contribute:

- A proportion of their income
- A regular set amount
- Payments for school clothes, for example, instead of a standard financial contribution

### Consent orders

A Consent Order is a financial contract that is drawn up between a divorcing couple. This is a legally binding document that outlines how much child maintenance will be paid, how it should be paid and how often it should be paid. It must be drafted by your solicitor and then signed by both parents, before being reviewed and approved by a family court judge.

## Child maintenance service

If a private agreement cannot be reached or is not something you want to consider, there are statutory arrangements that can be put in place by the Government's child maintenance service. The Child Maintenance Service can provide assistance in several areas. It can work out an amount of child maintenance that is legally enforceable, collect them from the paying parent and pass them to the parent with care (legal term for the receiving parent).

The CMS can also:

- Attempt to locate the other parent if you cannot find them
- Help to resolve disagreements about parentage
- Look at child maintenance payments again, once case has been opened and parents' circumstances are reported to have changed
- Take action against missed payments

In order to encourage more parents to opt for private arrangements and avoid using the courts or Child Maintenance Service, the Government has introduced fees for using the Child Maintenance Service.

- An application fee for applying to the scheme
- A 20% collection fee on top of the usual payments for paying parents using the Collect & Pay service

There are also various charges for paying parents who don't pay child maintenance on time, including:

- If the Child Maintenance Service has to take out a lump sum deduction order
- If the Child Maintenance Service has to take out a regular deduction order
- If the Child Maintenance Service has to make a deduction from earnings request (for those in the Armed Forces)
- If the Child Maintenance Service has to take out a deduction from earnings order (for all other employers).

### Calculating payments

If you are unsure how much the payments should be, you can use the Government's online child maintenance calculator to work out how much you should be paying or receiving.



## How Is Child Maintenance Worked Out?

Child maintenance is worked out using a number of variables and factors. If both parents cannot agree on an amount between themselves, then the Child Maintenance Service will help. The factors taken into account include:

- How many children you have
- The income of the paying parent
- How much time the children spend with the paying parent
- Whether or not the paying parent is also paying maintenance for other children

Child maintenance is usually paid until the child is 16, or 20 if they are in further education.

The rates of child maintenance are worked out using certain income brackets. These income brackets and the percentages that are applied to them are liable to change at any time.



### Child maintenance for multiple children

**For one or more children** - percentage of gross weekly income

For those earning more than the base amount, the rates are as follows:

**One or more children** - percentage of gross weekly income on the first increment, percentage of gross weekly income on the rest

For parents who are already paying maintenance for other children, the amount of weekly income taken into account by the CMS is altered when working out how much maintenance is required for the new application.

**One other child** - income reduced by a percentage

**Two other children** - income reduced by a slightly higher percentage

**Three or more other children** - weekly income reduced by a higher percentage



### The difference between the Child Support Agency and the Child Maintenance Service

The Child Maintenance Service was established in 2012, and it now manages every new application for a statutory arrangement. It is a different organisation to the Child Support Agency (CSA) - the CSA is used to manage existing applications and does not take on any new ones.



## Misconceptions of Child Maintenance

There are several misconceptions about child maintenance, and these can make it seem a lot more complicated and daunting than it actually is. Some misconceptions include:

### **You can only receive maintenance through the CSA or CMS:**

This isn't true. Parents can come to an agreement between themselves, with no third party required. Alternatively, they can use a CMS 'Direct Pay' agreement.

Statutory agreements do exist, but they are only for parents who cannot come to an agreement between themselves.

### **Child maintenance is used to punish absent parents:**

Again, not true. Child maintenance is used to ensure that the child does not suffer or go without necessities due to his or her parents divorcing. Financially supporting a child is the responsibility of both parents, and it is only right that both parents contribute to this upkeep.

### **Child maintenance is a state benefit:**

Child maintenance is not claimed from the state by a parent, it is paid by the other parent to ensure the child has everything it needs even when the parents are living apart. Statutory maintenance services are used when an agreement cannot be reached between parents.

## Examples Of When Child Maintenance Payments Might Stop

Child maintenance payments usually stop when the child reaches 16. If the child is in full time education up to A-level or equivalent, child maintenance can continue until they are 20. Other times the maintenance may stop include:

- The receiving parent stops being the child's main carer
- The receiving parent no longer wants to receive child maintenance
- Either parent dies
- The paying parent is not eligible to pay maintenance, as they are either a student or incarcerated - this is called the 'nil rate'. (If a parent stops being eligible for the 'nil rate', the payments will begin automatically)
- When maintenance stops, any outstanding amounts up to that point must be paid



### I am in receipt of child maintenance

You do not have to pay tax on any child maintenance payments that you receive.

### I am the paying parent

Tax relief is generally unavailable on child maintenance payments. If, however, you or the receiving parent was born before 6th April 1935, you may be able to claim tax relief.

### Do I have to report maintenance as taxable income?

Child maintenance payments will not affect any tax credits that you may be in receipt of, but you may need to check with HM Revenue and Customs to determine whether you need to report the maintenance payments on your Income Tax or Annual Return.

## Frequently Asked Questions

### Do I have to pay both child maintenance and spousal support?

You may have to pay spousal support in addition to child maintenance, but any payments of this type are calculated according to the reasonable financial expectations of the paying parent and the reasonable financial needs of the receiving party.

### Can we change an existing child maintenance agreement?

Yes you can. If you have a family-based agreement, you can alter it whenever circumstances change, providing the proposed changes are agreed upon by both parents. If you are paying child maintenance using a statutory agreement, you can close this case at any time if you want to change to a family-based agreement.

### My ex partner is moving abroad, are they still expected to pay child maintenance overseas?

You can make a family-based agreement with your partner in this case, if you can agree on the terms of it. If not, the statutory Child Maintenance Service may be able to arrange the maintenance for you. Alternatively, you may be able to go through the UK courts to arrange the payments, as a UK court order can be enforced in many foreign countries.

### Is it necessary to have contact with the other parent regarding the child maintenance agreement?

If you want to negotiate a family-based agreement, you will need to speak to the other parent to get their consent and signature for said agreement. If you cannot locate the other parent or they are not willing to speak to you about it, then the Child Support Agency can assist you with locating them and receiving money from them.

### How I choose how my child maintenance money is spent by the other parent?

With a family-based agreement, you can agree on who buys what for the child, such as clothes and school uniforms. With statutory agreements, the receiving parent has sole control over what the money is spent on. If you are worried about what the money will be spent on, a family-based arrangement is best.



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