

Child maintenance

Parents have two options to deal with child maintenance, either to reach an agreement between themselves or to approach the Child Support Agency (CSA).

If a couple are divorcing or going through a dissolution, they can incorporate the agreement in to their court order as part of the overall settlement. Either party may then after a 12 month period apply to the CSA for an assessment and should give two months notice of their intention to do so.

Even if parents wish to use the CSA, they cannot if there is a pre existing order prior to 3 March 2003, where there is a foreign element, where the children are between 16 and 19 and have completed secondary education or where there has been no separation from the non-resident parent.

There is an old and new formula under the CSA with different formulae to calculate maintenance. The new regime was introduced on 3 March 2003 and will apply to any applications made after this date.

CSA assessment criteria

A qualifying child is one who is under the age of 16, or between 16 and 19 and in full time, non-advanced education. This means not undertaking a course that is higher than A-level standard.

Maintenance is worked out as a percentage of the non-resident parent's net weekly income. No account is taken of the income of the person with care or their partner's income. Net income is calculated by deducting tax, national insurance and pension contributions from gross income. Any bonus, commission or overtime payments are included, as are receipts from any pension scheme, tax credits, employment credits and disabled person's tax credits. Income from savings, investments, benefits, student grants and loans are excluded.

Where a parent has a net income of less than £100 per week, or for parents in receipt of certain types of benefit a flat liability of £5 per week is paid.

A nil liability will arise if the non-resident parent is of a prescribed description (e.g. students, children, prisoners, persons in nursing homes in receipt of benefits) or has a net weekly income of less than £5.00.

A non-resident parent will pay 15% of their net income (up to a maximum income of £2,000 per week) for one qualifying child, 20% for two and 25% for three or more.

A reduction will be made if the non-resident parent has a relevant other child living in their household. To qualify for a reduction, either the non-resident parent or their partner must receive child benefit for the child. The non-resident parent's net weekly income is reduced by 15% for one relevant other child, 20% for two other relevant children and 25% for three or more other relevant children.

A reduction will also be made for the amount of overnight stays a qualifying child spends with the non-resident parent.

Nights spent per annum with non-resident parent	Fraction to subtract
<52	Nil
52-103	1/7th (14.29%)
104-155	2/7th (28.57%)
156-174	3/7th (42.86%)
175+	_ (50%) and deduct further £7 per week per child

Example

Mr X earns £280 per week. He has one child (Y) with his ex wife and two children with his current partner. He has Y to stay overnight every Friday night.

- Mr X's net weekly income of £280.00 is reduced by 20% because he has two relevant other children living in his household.
 $£280.00 \times 20\% = £56.00$
- Deducting £56.00 from his net income of £280.00 = £224.00
- Mr X's child maintenance is 15% (because he has to pay for one child)
 $£224.00 \times 15\% = £33.60$
- A 1/7th deduction of £4.80 is applied for staying contact of between 52 - 103 nights a year.
 $£33.60 - £4.80 = £28.80$
- Mr X's maintenance payment is rounded up to the nearest whole pound and so his payment is £29.00 per week.

Further details including an online calculator can be accessed on the Child Support Agency website at www.csa.gov.uk or by calling the national helpline on 08457 133 133.

Variations

Either parent can make an application for a variation of the assessment. There are three main categories:-

- (1) Special Expenses e.g. contact costs, boarding school fees, prior debts incurred whilst the parties were together as a couple.
- (2) Property or capital transfers pre-April 1993 which provided for an element of capitalised maintenance.
- (3) Additional Cases e.g. where the Non Resident parent has assets or where their lifestyle is inconsistent with their stated income.

Termination

An assessment will be terminated if one parent dies or if the parties cohabit for more than six months or alternatively there is no longer a qualifying child.

There will be a review every two years.

Enforcement

The CSA has wide powers of enforcement from deduction from earnings orders, to removal of a driving licence to committal to prison.

G O R V I N S

FAMILY LAW

For advice on child maintenance or any other family matters contact **Gorvins Solicitors Family Team** at:

4 Davy Avenue
Knowhill, Milton Keynes
MK5 8NL

Tel: +44 (0)1908 354 154
Fax: +44 (0)1908 354 155
E-mail: enquiriesmk@gorvins.com
www.gorvins.com

2-14 Millgate
Stockport, Cheshire
SK1 2NN

Tel: +44 (0)161 930 5151
Fax: +44 (0)161 930 5252
E-mail: enquiries@gorvins.com
www.gorvins.com