

# A GUIDE TO CHILD SUPPORT

This information sheet has been prepared to provide a basic outline of changes in child support legislation that came into force from **3 March 2003** and the steps you can take to claim child support from your former partner.



## What is child support?

**Parents have a responsibility to provide financially for their children even if, following separation, they no longer live with them. The Child Support Act 1991 (CSA 1991) and the Child Support, Pensions and Social Security Act 2000 (CSPSSA 2000) are the main sources of child support law in England and Wales. The Courts now have very limited powers to make orders for child maintenance. Child support in England and Wales is calculated and collected by the Child Support Agency (CSA) and then passed on to the parent with whom the children live.**

## Which scheme?

Parents who have a child support assessment calculated **before 3 March 2003** must continue to follow the previous regulations set by the CSA 1991. Those parents who applied to the CSA **on or after 3 March 2003** will have their child support calculated according to the new regulations set by the CSPSSA 2000. **This information sheet only sets out the details of the new scheme; if you have an assessment under the old scheme you should seek legal advice.**

## Reform of the CSA

The Government has announced its intention to overhaul the current systems in place to calculate and collect child maintenance by replacing the CSA with a new organisation with greater powers to enforce maintenance payments from non-resident parents. Parents will be encouraged to reach their own agreements about maintenance. The requirement that all parents with care who claim benefit are also treated as applying for child maintenance will be removed and the

amount of maintenance that parents with care on benefits can keep will be increased. The new organisation will only get involved when parents can't agree on maintenance.

It is not known when the Government will introduce these changes or how many parents will be affected by them.

Meanwhile the current arrangements for child support will therefore remain in place and parents must continue to co-operate with the CSA. Seek legal advice to find out whether these reforms become law and whether they apply to you.

## Terminology

**Parent** – a biological or adoptive parent.

**Parent with care (PWC)** – the parent who has caring responsibility for the greatest number of nights.

**Non-resident parent (NRP)** – the parent who has caring responsibility for the smallest number of nights.

## How will maintenance be calculated?

Maintenance will be calculated on the basis of the NRP's net income. Net income is calculated by deducting income tax, National Insurance and pension contributions from the NRP's gross income. Tax credits and occupational pensions can count towards weekly income.

**Basic rate:** For NRPs whose income is £200 per week or more the rates payable are as follows:

- 15% of net income for 1 child
- 20% of net income for 2 children
- 25% of net income for 3 or more children

**Reduced rate:** NRPs with a net income of less than £200 per week but more than £100 per week will pay reduced rates of maintenance. This rate is £5 a week on the first £100 of net income plus a percentage of the net weekly income over £100. The percentages used are different to those mentioned above.

**Flat rate:** NRPs with a net income of £100 per week or less and those on certain benefits (including contribution-based or income-based Jobseekers Allowance, Income Support, Incapacity Benefit, State Retirement Pension) will pay a flat rate of £5 per week.

**Nil rate:** NRPs with a net income of less than £5 per week or who fall into certain specific categories such as some students, prisoners or some people living in residential care or nursing homes will pay no child support

**Variations:** The calculation takes into account the NRP's children from any new relationship or living with them in their current family. The NRPs net income will be reduced as follows:

- 15% for 1 child in the current family
- 20% for 2 children in the current family
- 25% for 3 or more children in the current family

Sometimes it is possible to take in to account exceptional circumstances, and a parent (either a PWC or an NRP) could seek a variation of a maintenance payment either upward or downward.

The calculation will not take in to account

- the income of the PWC
- the income of either parent's current partner
- housing costs
- travel to work costs.

**Reductions for shared care or contact arrangements:** the amount of child maintenance will be reduced depending on the number of nights the child stays with the NRP.

- 52 to 103 nights will lead to a 14% or  $\frac{1}{7}$ th reduction
- 104 to 155 nights will lead to a 29% or  $\frac{2}{7}$ th reduction
- 156 to 174 nights will lead to a 43% or  $\frac{3}{7}$ th reduction
- 175 or more nights will lead to a 50% reduction

Maintenance will also be reduced by an additional £7 for each child the NRP looks after for 175 nights or more a year. Maintenance will not be reduced if the child stays with the NRP for less than 52 nights a year.

### Civil partnership and child maintenance

You may have a financial duty to provide financial support for any children of your civil partnership who do not live with you following separation even if the children are not biologically or legally related to you. Whether you will be required to financially support children of your civil partnership will depend on their legal relationship to you and your family's circumstances see our **Guide to Financial Arrangements Following Civil Partnership Breakdown** for further information.

### Failure to co-operate

It is a criminal offence to fail to provide information when the CSA needs it or knowingly to provide false information.

Anyone who fails to co-operate in these circumstances risks being prosecuted and could be liable to a £1000 fine. If an NRP does not provide enough information to the CSA it can make them pay a rate of child maintenance based on the average amount for the number of qualifying children. A PWC who is on benefits and who does not cooperate with an assessment may have their benefits reduced.

### Enforcement of payment

The CSA may take the following action against the NRP to obtain payment of maintenance:

**Deduction from earnings order** – an employer of an NRP may be ordered to make deductions from the NRP's income before he/she receives their salary. This is only available where the NRP is in employment.

**Liability order** – the CSA can apply to the Court for an order where an NRP is in arrears and a deduction from earnings is not appropriate for some reason. Once the Court makes such an order it can be enforced in a number of ways, for example by the NRP's goods being seized and sold to pay the debt, or obtaining a charging order on any interest in property that the NRP may have or as a last resort, imprisonment or disqualification from driving.

## Complaints

If you are not satisfied with the way that the CSA has dealt with your case you can complain by:

- Speaking to someone in the CSA's Complaint Resolution Team who will investigate and try and resolve your complaint.
- If you are not satisfied with the Complaint Resolution Officer's reply, you can contact the Area Director for the area you live in (you will be told who this is).
- If you are not satisfied with the Area Director's response you can contact the Chief Executive of the CSA and either they, or someone on their behalf, will look into the complaint.

For further information on the CSA's three stage complaints procedure see their leaflet *How to complain* (CSL 119).

**The Independent Case Examiner (ICE)** investigates complaints about the way that the CSA deals with cases. It cannot deal with complaints about the level of child maintenance set by the CSA but can deal with complaints about issues like mistakes or delays in dealing with your case.

The ICE can only investigate your complaint **after** you have exhausted the CSA's complaints procedure. You must complain to the ICE within 6 months of the CSA's final response to you. Depending on the outcome of its investigation the ICE can recommend that the CSA takes action to put matters right, offer you an apology or explanation, give you compensation or review CSA procedures.

## Child maintenance, benefits and domestic violence

If you are a PWC and you or your partner claim certain benefits then your claim for these benefits will also be treated as a claim for child maintenance through the CSA. This means that you will have to give details about the NRP (even if he is not named on your child's birth certificate and does not have parental responsibility – see our **Guide to Parental Responsibility**).

However, if the CSA contacting the NRP will put you or your child at risk of harm or undue distress, for example because you have experienced domestic violence, you can **opt out** of making the application. You can do this by explaining why an application would put you or your child **at risk of harm or undue distress** to a Jobcentre Plus decision maker in an interview. The decision maker will decide on the basis of what you have told them whether or not you have **good cause** for opting out. If you are in a refuge your reasons for opting out can be given in writing and accepted. The Jobcentre Plus decision maker should accept your reasons for opting out unless they are contradictory, improbable or they have evidence that what you are saying is untrue. For further information about opting out see the CSA's leaflet *Child support: Your child maintenance interview* (CSL 100).

## Child maintenance from someone living abroad

The CSA only deals with applications for child support where both parents live in the UK unless the PWC or NRP is working abroad for the Government (e.g. a diplomat), the Armed Forces, a UK based company or on secondment for certain organisations (e.g. from an NHS trust or local authority).

The UK has arrangements with over 100 countries and overseas territories that enable someone from one jurisdiction to claim maintenance from someone in another. The **Reciprocal Enforcement of Maintenance Orders (REMO)** is the process by which maintenance orders made by UK courts can be registered and enforced by courts or other authorities in other countries. For further information about getting maintenance from an NRP living abroad seek legal advice or contact one of the organisations in the *Other useful telephone numbers* section.

## Alternatives to the CSA – Schedule 1 of the Children Act 1989

There are certain limited circumstances when a PWC can seek orders from the Court under **Schedule 1** of the **Children Act 1989 (CA)** in addition to through the CSA, or where no assessment is available.

Under the CA you can apply to the court for periodical payments, a lump sum or the transfer of property into your sole name. When deciding an application the court will consider the:

- income, earning capacity, property and financial resources of both parties now and in the future
- financial needs, obligations and responsibilities of the parties now and in the future
- financial needs of the child
- income, earning capacity, property and other financial resources of the child
- physical or mental disability of the child
- how the child was or was expected to be educated or trained

Any financial provision that the court orders will last until your child reaches 18 unless she or he is, or would be, in full time education or training or there are special reasons why the provision should continue (e.g. because your child has a disability and requires further support).

The issues relating to child support can be complex and we have provided a very basic overview of terminology, law and court practice and procedure. We would also strongly advise you to contact the CSA directly and seek legal advice by either telephoning our legal advice line or a solicitor.

**Please note that the law referred to in this information sheet is as it stood at the date of publication. The law may have changed since then and accordingly you are advised to take up to date legal advice. Rights of Women cannot accept responsibility for any reliance placed on the legal information contained in this information sheet. This information sheet is designed to give general information only.**

For free confidential legal advice on family law including divorce and relationship breakdown, civil partnerships, children and contact issues, domestic violence and lesbian parenting call the Rights of Women Advice Line on **020 7251 6577 (telephone) or 020 7490 2562 (textphone).**

**Tuesday, Wednesday and Thursday 2pm – 4pm and 7pm – 9pm**

**Friday 12noon – 2pm**

For free legal advice on sexual violence and the criminal law please call our Sexual Violence Advice Line on **020 7251 8887 (telephone) or 020 7490 2562 (textphone).** **Monday 11am – 1pm Tuesday 10am – 12 noon**

### Other useful telephone numbers

Child Support Agency	08457 133 133	<a href="http://www.csa.gov.uk">www.csa.gov.uk</a>
Community Legal Service (for finding a family solicitor)	0845 345 4345	<a href="http://www.clsdirect.org.uk">www.clsdirect.org.uk</a>
Gingerbread	0800 018 4318	<a href="http://www.gingerbread.org.uk">www.gingerbread.org.uk</a>
National Debtline	0808 808 4000	<a href="http://www.nationaldebtline.co.uk">www.nationaldebtline.co.uk</a>
National Domestic Violence Helpline	0808 2000 247	<a href="http://www.womensaid.org.uk">www.womensaid.org.uk</a>
National Family Mediation	01392 271610	<a href="http://www.nfm.u-net.com">www.nfm.u-net.com</a>
One Parent Families	0800 018 5026	<a href="http://www.oneparentfamilies.org.uk">www.oneparentfamilies.org.uk</a>
Relate	0845 130 40 16	<a href="http://www.relate.org.uk">www.relate.org.uk</a>
Reciprocal Enforcement of Maintenance Orders	0845 345 5303 <a href="http://www.dca.gov.uk/family/remo/contents.htm">www.dca.gov.uk/family/remo/contents.htm</a>	
Resolution (for finding a family solicitor)	08457 585671	<a href="http://www.resolution.org.uk">www.resolution.org.uk</a>
Samaritans	08457 909090	<a href="http://www.samaritans.org.uk">www.samaritans.org.uk</a>
Shelterline	0808 800 4444	<a href="http://www.shelter.org.uk">www.shelter.org.uk</a>
Working Families	0800 0130313	<a href="http://www.workingfamilies.org.uk">www.workingfamilies.org.uk</a>

**Rights of Women, 52-54 Featherstone Street, London EC1Y 8RT**

**Office/Admin: 020 7251 6575/6 Textphone: 020 7490 2562**

**Fax: 020 7490 5377 Email: [info@row.org.uk](mailto:info@row.org.uk)**

**Website: [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)**

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