



GUIDE CHILD MAINTENANCE and the Child Maintenance Service 'CMS'

When it comes to child maintenance there are two questions most parents want answers to

1. How much do I need to pay? – The payer
2. How much will I receive? – The recipient

The new CMS (Child Maintenance Service) is, in effect, a rebranding of the old CSA. The same Government body and officials carry out the work.

However, there have been some significant changes to the formula.

THE NEW FORMULA - <http://www.cmoptions.org/en/calculator/>

The new formula is as follows;

Gross weekly income up to **£800**

1 child	12%
2 children	16%
3 children	19%

Gross weekly income between **£800- £3000**

1 child	9%
2 children	12%
3 children	15%

So, if there is 1 child and the paying parent earns **£1000** a week, they would pay

£800 x 12% (£96) plus **£200** x 9% (£18) = **£114 a week**

Important notes

1. **Pension contributions** by the paying person can be deducted from the gross income before calculating the formula
2. Where the weekly income falls **below £200 a week** the reduced nil and flat rates apply
3. Any income **above £3000 a week** (£156,000 pa) will be ignored by the CMS

TYPICAL CHILD MAINTENANCE ISSUES

Second family children ('relevant children')

The paying person can **first deduct** the following percentages (below) for children in their current family ('relevant children') before calculating how much to pay for the children from the first family ('qualifying children') living in a different household (according to the % calculations above)

1 child	11%
2 children	14%
3 children	16%

Example

So, what if there are 2 children in the current family and 2 children from previous family and the paying parent earns £40,000 (£769 a week ie less than the £800 threshold)?

First deduct: £40,000 x 14% for the 2 children in **current household = £5,600**

Then pay: £34,400 x 16% for the 2 children from the first family **in another household = £5,504**

Note- child benefit has to be received in relation to the relevant children.

SHARED CARE

The following discounts apply to the formula depending on the number of nights the children stay with the paying person.

52-103 nights a year	1/7
104-155 nights a year	2/7
156-174 nights a year	3/7
175+ nights a year	Half* unless exactly equal shared care (see below)

In the absence of a court order or agreement, the CMS look at the pattern over the previous 12 months.

Where shared care is agreed but there is an issue about the number of nights, **the CMS will assume one night a week or 52+ nights a year ie 1/7 reduction, until one parents provides sufficient evidence to the CMS**

EQUAL SHARED CARE

Where there is shared care of exactly the same amount, there will be **no child support liability** whatever the difference in incomes between the two households

SELF EMPLOYED

Unearned income such as dividend, investment and property income will **only be included** if the parent with care makes a successful variation application to the CMS. The burden is on them to do so.

CMC and HM Revenue and Customs

Income data will now be provided by HMRC and not the paying party.

The CMS will only use 'current data' rather than the 'historical data' provided by HMRC if either parent can show that current income differs from historical income by 25%

INCONSISTENT LIFESTYLE

The parent with care can no longer apply for additional child support on the basis that the paying parent's life style is inconsistent with their declared level of income ie second homes abroad or other assets of significant value ignored if they do not produce an income.

FIXED FOR A YEAR

A CMS award will only be altered if there is a significant change of circumstance or a 25% change in income.

AGE LIMIT

Liability will continue until a child is 20 years old provided they remain eligible for child benefit

OPTING OUT

Either parent with child maintenance provision in a court order may opt out of the court order and apply to the CMS after 12 months from the date of the court order, by giving one month's notice to the other parent.

USING MEDIATION TO REACH YOUR OWN PRIVATE CHILD MAINTENANCE AGREEMENTS

Parents who use the CMS to calculate and collect child maintenance will now pay a hefty price!;

1. If a parent uses the new CMS they will pay a 20% admin charge. So, for every £100 of child maintenance the **paying parent will have to pay £120** to the CMS AND
2. The **receiving parent will receive £96**, because the CMS will take a £24 admin charge from the £120 paid by the paying parent.

To avoid these charges parents must make their own private agreements known as '**Family based arrangements**'

MEDIATION

The Government's vision is for most parents to reach their own financial agreements, following the end of their relationship, without using Child Maintenance Service or Family Courts.

To encourage parents to do so, the Government is, among other things;

1. **imposing financial charges** on separated parents for using the CMS (see child maintenance guide above)
2. **offering legal aid** to separated parents who choose mediation to help them reach their own agreements (see our legal aid guide and online calculator)
3. **making it compulsory** for separated parents to attend a MIAM (a mediation information and assessment meeting) to find out about mediation, before making applications to court.
4. **removing legal aid** from family lawyers

Even if one or both of the separated parents do not qualify for legal aid for mediation the Government still believes that mediation is the answer for most situations because

1. Mediation enables and supports separated parents to reach their own agreements
2. Mediation shifts the emphasis from a win/lose (polarising) approach to a 'how can we both achieve what we want/need in the most effective way' approach.
3. Mediation offers a structured, safe, confidential and solution focused environment.
4. Mediation provides a neutral problem solving approach where the problem of reaching a private child maintenance agreement becomes the focus (rather than the relationship between the parents).

NEXT STEPS

Contact us and we will do our best to bring both parents together in mediation to reach your own agreement.

Using the combination of a mediator to assist with communication and the CMS formula to make the calculation, we are able to help most parents quickly reach their own child maintenance agreements.

Where there are other issues such as time with the children to sort out, the mediator can help here to.

This is only designed to be a guide and not relied on. If you require specific advice you are recommended to seek independent legal advice
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