

Help For the Paying Parent/NRP

Non Resident Parents (NRP), or Paying Parents are liable to pay child maintenance if they live apart from their children. Although NRPs are often vilified in the media for not financially supporting their children, statistics show that only a minority of NRPs fail to pay child maintenance at all.

Compliant paying parents are often subjected to unfair procedures, lack of response to queries, incorrect calculations and debts created through backdated decisions that CMS have failed to acknowledge for long periods of time. Non-compliant paying parents often manage to evade the system for significant periods. .

Below we list some basic guidelines for the Paying Parent to consider:

- Register for the CMS Online Portal and communicate as often as you can via that method. This will often be much quicker than using postal service, or waiting for the long call times.
- Always keep a record of telephone calls with CMS, including the date and case officers name that you speak to. Ask that the details of your conversation is recorded in their Freetext log.
- If you write to them, be sure to send letters recorded post. Keep copies of the letter together with the postage receipt.
- Do not allow too much time to pass in between contact if you are waiting for matters to be resolved. Aim to contact them every 2 weeks for a progress report until your matter has been finalised.
- If your caseworker fails to provide you with an appropriate response, be prepared to escalate the query through the complaints process. Involving your MP is always worthwhile when raising the matter through complaints.
- As a Paying Parent you are legally obliged to report certain changes, including a change of address, employment status if you are paying through a DEO, or a change to income if you are paying maintenance based on a current income, and your income has changed by more than 25%. You **do not** need to report a change of income if your assessment is calculated on your current income.
- Changes to maintenance cannot be made retrospectively. If there are changes that will benefit you, you must report them immediately and provide the relevant evidence. Any reported change in circumstance that has not been substantiated with the required evidence will be rejected.

- If you report a change and it is rejected, you may need to consider raising a mandatory reconsideration and/or appeal.
- Maintenance is reviewed every year, usually on each anniversary of the start of claim. Mid term changes for any income variation will only occur if the income has increased/decreased by more than 25%. Proof of income changes is necessary - P60s are not accepted as evidence, as this relates to any single employment.
- Disputed paternity must be raised at the initial point of contact, or at the soonest opportunity thereafter. You must comply with DNA testing for the paternity issue to be decided. Failure to take the test may result in maintenance being calculated on "Presumed Parentage." If you are found not to be the father of the child, the case will close but you may not receive all of your money back.
- Child maintenance payments provide financial support to the children. There are no rules over accountability, and you cannot withhold child maintenance through objection of how that money is spent.
- Child maintenance can be reduced if you have overnight access for more than 52 nights per year. If you have more than 184 nights per year, there may be a realistic challenge of who is the primary carer of the child.
- The amount of maintenance calculated will be legally due irrespective of any financial hardship you may suffer. If you believe the calculation is wrong you must take the necessary steps to challenge the decision but must maintain payment at the original rate until a new calculation is made. This can take a long time, so seek advice at your earliest opportunity.
- The default payment method is Direct Pay, where you will pay your ex-partner directly. If you do not pay according to the last notified pay schedule, your case will convert to the Collect and Pay service, and a 20% fee will become payable **in addition** to your regular maintenance. This rule applies even if you are disputing the calculation of maintenance.
- If you make payments in addition to the amounts on the pay schedule, the CMS will treat them as 'gifts' and will disregard them as child maintenance payments.

- To dispute any calculation, or refusal to calculate maintenance, you must request a Mandatory Reconsideration within 30 days of the decision being notified to you. Without requesting the Mandatory Reconsideration your dispute will not progress and you cannot take your case to a Tribunal.
- Certain costs can be considered against your maintenance liability by applying to the variation scheme. Details of the variation scheme can be found on our main website.
- CMS may enforce debts that are deemed due. It is your responsibility to prove, using the necessary legislation and evidence to prove the debt is not correct. This often requires sound knowledge of the law – so seek advice as soon as possible.
- If you and your ex-partner agree amounts for child maintenance which do not align with the CMS calculation, it constitutes a “family based arrangement”. You should arrange for the CMS case to close and proceed with your “family-based arrangement”. Never have a family-based arrangement and a CMS account active at the same time.

This help sheet is for general guidance only. It does not replace case specific advice. If you have questions specific to your circumstances, please consider purchasing a preliminary consultation.