

Factsheet

For single parents in England and Wales June 2016

Freephone

0808 802 0925

Gingerbread Single Parent Helpline

Challenging your Child Maintenance Service calculation

This factsheet explains what to do if you think you're not getting the right amount of child maintenance from the Child Maintenance Service (CMS). It covers what to do if the information used in your child maintenance calculation is wrong, your circumstances have changed, or you don't think the full circumstances have been taken into account. The CMS is for all new claims for child maintenance and for parents who used to use the Child Support Agency (CSA) and whose cases have been closed.

This factsheet is not applicable to parents who still have an ongoing CSA case. If you're using the CSA the rules for challenging your child maintenance calculation are different. See our factsheet [Challenging your Child Support Agency calculation](#) for this information.

If your CSA case has not been closed you should [see our child maintenance webpage](#) for more information and resources..

For advice on using the CMS please [see this information](#) or call the Gingerbread Single Parent Helpline free on 0808 802 0925. All calls are free.

Challenging the amount of child maintenance you receive

The CMS has a standard way to calculate child maintenance. It is based on:

- How much your child's other parent earns
- How many children they pay child maintenance for
- Whether your child stays overnight with their other parent
- If there are any other children living with your child's other parent.

You may want to challenge the calculation because:

- You believe the CMS has used the wrong information to calculate the child maintenance
- Either your or your child's other parent's circumstances have changed since the amount was calculated
- You want other information about the other parent's income or circumstances taken into account.

If you're unhappy with a decision the CMS has made, there are several ways to challenge it. The table on the following page shows the options available. It is important to request the type of action that applies to your specific circumstances. This factsheet explains how to do this.

First steps

Before taking any formal action, such as applying for a revision, supersession, variation or appeal, contact the CMS to find out more. Ask the CMS how they calculated the child maintenance, what figures have been used and what information was taken into account.

The CMS will only give you a limited amount of information about your child's other parent's income. If you think the figures are wrong, you can get more information by appealing. See below.

You can contact the CMS by phone (the number should be on the last letter you received from them), or call the national helpline. You should take a note of who you speak to and what information they give you.

The table below shows the types of challenges you can make, and when you should use them.

| Action | When it is used |
|--|--|
| Revision (also known as Mandatory Reconsideration) | The amount was calculated using the wrong information |
| Supersession | Your circumstances, or those of your child's other parent, have changed since the child maintenance was calculated. A new calculation is needed. |
| Variation | You want additional information about your child's other parent's finances to be taken into account |
| Appeal | You want to challenge a decision made by the CMS, such as a decision to refuse your request for a revision. A refusal to a request for a supersession or variation can also be appealed but a revision request must be made first. |

Revision: the CMS has used the wrong information

A revision is how you ask the CMS to look at the decision again. It is also known as a mandatory reconsideration.

You can ask for a revision if you think the CMS has used incorrect information to calculate the child maintenance. For example, where the CMS has:

- Made a mistake about the number of children your child's other parent pays maintenance for
- Used incorrect income figures
- Not included all the days you or your child's other parent care for your child.

If you think your child's other parent hasn't disclosed all of their earnings, then ask for a revision. When you later appeal this will give you more information on what income the CMS has recorded. See below for more information on appeals.

Alternatively, if you believe your child's other parent has income other than wages or self-employed earnings, or unearned income from capital worth over £2,500 a year, you could ask for a variation (see below for more information on variations).

How do I apply?

Details of how to ask for a revision should be on the child maintenance calculation sent by the CMS. You must ask for a revision within 32 days of the date of the original calculation letter, by letter or phone.

A request for revision later than this will only be considered in special circumstances. If it's too late to apply for a revision then you could ask for a supersession instead.

If the CMS agrees to revise the decision, they will calculate the amount again. If you're entitled to more child maintenance, you should be paid any money that you've missed out on from the date of the original calculation.

Note: remember to have a written record of any requests you make to the CMS. If you speak to someone on the phone, it is a good idea to follow it up with a letter confirming the reasons for the request you have made.

Supersession: there has been a change in circumstances

When there has been a change of circumstances and the child maintenance calculation needs to be changed, this is called a supersession. Either parent can ask for a supersession. For example, you can ask for a supersession because the contact arrangements for your child have changed; eg if the number of nights your child stays with their other parents has changed.

How do I apply?

You can apply at any time by contacting the CMS by phone or in writing. If you're entitled to more child maintenance, you're also entitled to any money you've missed out on from the date you asked for the supersession.

Note: Remember to have a written record of any requests you make to the CMS. If you speak to someone on the phone, it is a good idea to follow it up with a letter confirming the reasons for your request.

Variation: you want other information or circumstances to be taken into account

You can ask the CMS to look at the other parent's income that may not have been included in the original CMS calculation. This is called a variation. When you request a variation, you ask the CMS to take into account income or circumstances that it hasn't already considered.

You can use this procedure if you believe that your child's other parent's income is higher than they have declared to the CMS. For example, you might suspect that your child's other parent is using self-employment or payment by dividend to make their salary income look artificially low.

Therefore, a variation would ensure that the CMS recalculates your child maintenance more accurately, using the additional information.

How do I ask for a variation?

You can apply for a variation by phone or in writing to the CMS. If you call, you may be sent a form to fill in. Make sure to keep a note of who you speak to and what you discuss.

There are three grounds, which are the reasons for a variation. You must clearly state which of the grounds your request falls under. As they can overlap, use as many grounds as you think are relevant – you can ask for a variation using all of the grounds if relevant.

The three grounds for a variation are:

1: Unearned income

This includes all other types of taxable income from assets such as rental income from property, savings, shares or other investments. You must be able to show that the total value of this unearned income is at least £2,500 per year.

Information about company shareholders can be found on the share register of the company, a public document held by the company registrar. Information is also held by an organisation called Companies House (see useful organisations).

2: Earned income

This can be used when your child's other parent is paying maintenance at a 'nil' or 'flat' rate, but you believe they have a gross weekly income of £100 or more from employment, self-employment or a pension.

For more details on the grounds that your child's other parent may be paying the 'nil' or 'flat' rate of maintenance, see our factsheet [Using the Child Maintenance Service](#).

3: Diversion of income

This can be used when your child's other parent can control their own income so they appear less well off than they are. This category often applies when your child's other parent is self-employed or runs their own business.

Examples of when this can be used are:

- They employ a relative and pay them more than their job is worth
- They make excessive contributions to their pension, leaving themselves with less income
- They have a business which makes substantial profits but they aren't paying themselves a dividend
- They have given an interest in their business to a new partner or a relative.

Difficulties with variations

It can be hard to successfully apply for a variation because the CMS will expect you to prove the facts. The CMS will not usually carry out a detailed investigation itself. Ask for a variation under as many of the three grounds as you think apply and provide as much information as you can.

If you don't get the outcome you want, or the CMS do not investigate, you can ask for a mandatory reconsideration and then appeal.

What can I do if a variation isn't successful?

If your application for a variation is rejected, the next step is to request a mandatory reconsideration. If the mandatory reconsideration fails then you can appeal. The benefit of going through each process is that once you reach the appeal stage your case will be decided by an independent panel rather than the CMS.

Appeal: you want to challenge the decision made by the CMS

If you don't agree with the mandatory reconsideration decision, you can appeal. Most decisions made by the CMS can be challenged by an appeal.

Appeals are decided by an independent tribunal, which has the power to get much more detailed information from your child's other parent and from the CMS.

Some examples of when to appeal are:

- The CMS has refused to make a calculation, or to revise or supersede a decision
- You don't agree with a maintenance calculation and your mandatory reconsideration request was unsuccessful
- You're unhappy with the result of your revision or supersession.

You shouldn't appeal because there's been a delay or you've received poor service; you should complain instead. See our factsheet [Using the Child Maintenance Service](#) for more information.

Why should I appeal?

The decision is made by an independent tribunal, and the benefits of this process include:

- The CMS will be asked to explain how it worked out your child's other parent's income and what evidence they used

- Paperwork will be sent to you that could provide details of your child's other parent's income
- The tribunal can demand more in-depth information from your child's other parent
- They will check that information that was given to the CMS is correct
- If your child's other parent has complicated finances you can request that a finance professional sits on the tribunal panel. This is usually an accountant who can unpick all the finances in detail.

How do I appeal?

You should appeal within one month of the date of your mandatory reconsideration notice. You should include as much information as possible, including details of the decision and reasons for your appeal.

Who makes the decision?

Once the CMS receives your appeal it will prepare a response and send you a copy. All paperwork is then sent to an independent tribunal. The tribunal will either make a decision based on the papers or it can hold a hearing that you can attend. It's usually best to ask for a hearing that you can attend as it gives you a chance to explain your case and to answer any questions. The tribunal is **not** part of the CMS.

There can be two stages to the tribunal process. The first stage tribunal considers your appeal and makes a decision. Usually, this is the end of the matter. You can only appeal to the second stage of the tribunal process if the tribunal has made a legal mistake, such as misinterpreting the law.

Frequently asked questions

Q My child's other parent is no longer able to look after our child at weekends – will my maintenance change?

A You should ask for a supersession if there's been a change in circumstances which you think may affect your child maintenance. You should provide as much information as possible to support your claim, including any evidence you can obtain.

Q I have been told that my child's other parent does not have to pay child maintenance because they are a full-time student - but they also do paid work.

A Under the CMS full-time students don't pay the 'nil' or 'flat' rate of maintenance. You can apply for a revision if you think the CMS have not included your child's other parent's income in their maintenance calculation. Or you could apply for a supersession if your child's other parent has started paid work since the original calculation was made, as this may be classed as a 'change in circumstance'.

Q My child's other parent was living with a partner and their child, so I got less maintenance. They've now separated. Will my maintenance change?

A If your child's other parent doesn't live with their partner's child, your maintenance may go up. Apply for a supersession on the grounds that there's been a change of circumstances.

Q The CMS has refused to calculate maintenance because they say that I'm not the main carer for my child.

A You can request a mandatory reconsideration to ask the CMS to look at their decision again. If your application is refused you can appeal the decision not to calculate the maintenance.

Q My child's other parent is self-employed and I don't think they're declaring their full income in their accounts.

A The CMS are unlikely to challenge accounts accepted by HM Revenue and Customs (HMRC), so you can ask for a **variation** on the grounds that the other parent has **unearned income** not taken into account and a **diversion of income**. If your child's other parent has been paying at the 'nil' or 'flat' rate of pay and you think their undeclared income is £100 a week or more, you can also ask for a variation on the grounds of **earned income**. It is important to request a variation on as many grounds as possible to strengthen your case at this point. If your application is refused you should ask for a mandatory reconsideration and after that appeal if necessary. An independent tribunal then hears the appeal and can ask for more information and go through the accounts in more depth.

Q My child's other parent is self-employed, has an expensive car and regular holidays abroad but I don't receive much child maintenance.

A If they pay themselves a low wage but cover personal expenses, such as travel, with money gained through their business, then this could be considered a **diversion of income**. They could also be paying themselves in ways other than wages, such as dividends or company loans. If they receive income from assets such as rental income from property, savings, shares or other investments, then this may be considered **unearned income**. Apply for a **variation** under the grounds of **unearned income**, and a **diversion of income**. If your child's other parent has been paying at the 'nil' or 'flat' rate of pay and you think their undeclared income is £100 a week or more, you can also ask for a variation on the grounds of **earned income**. If your variation is unsuccessful, you should appeal the CMS's decision as the independent tribunal can fully investigate the disputed income and uncover more details.

Further help and information

Gingerbread Single Parent Helpline

Freephone 0808 802 0925

www.gingerbread.org.uk

Provides free, confidential advice for single parents. No matter the challenge – around your finances, contact arrangements or help you could receive – our trained advisers are here with tailored advice that works for you.

One Parent Families Scotland Lone Parent Helpline

Freephone 0808 801 0323

www.opfs.org.uk

Run by our partner organisation, One Parent Families Scotland, the Lone Parent Helpline provides free, confidential advice and information for single parents in Scotland.

Child Maintenance Options

0800 988 0988

www.cmoptions.org

Information on making arrangements for child maintenance.

Child Maintenance Service

0845 266 8792

www.gov.uk/child-maintenance

For questions about new child maintenance cases.

Companies House

0303 1234 500

www.companieshouse.gov.uk

The official register of UK companies. Search for company names or details and order documents and other reports.

Land Registry

0300 006 0411

www.landregistry.gov.uk

For information on property ownership.

More from Gingerbread

The following related Gingerbread factsheets for single parents are also available:

- > [Making arrangements for child maintenance](#)
- > [Enforcing payment of child maintenance through the CMS](#)
- > [Using the CMS](#)

Download them from our [website](#) or call 0808 802 0925 to request them from the Helpline

Become a Gingerbread member

Membership is available to single parents in England and Wales. Join a community of thousands of single parents who benefit from the mutual support, free advice and information provided by Gingerbread. You can also meet other single parents at one of our local support groups.

Visit our [website](#), call 0800 018 4318 or email membership@gingerbread.org.uk

Gingerbread
Single parents, equal families

Gingerbread, the charity for single parent families, is registered in England and Wales as a company limited by guarantee, no. 402748, and a registered charity, no. 230750. The Gingerbread Single Parent Helpline is supported by the Department for Education, HMRC, The Big Lottery and other funders and is accredited by the Helplines Partnership.

www.gingerbread.org.uk

520 Highgate Studios, 53-79 Highgate Road, London NW5 1TL

Tel 020 7428 5400 Fax 020 7482 4851



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