

Factsheet

For single parents in England and Wales June 2016

Freephone

0808 802 0925

Gingerbread Single Parent Helpline

Enforcing payment of child maintenance through the Child Maintenance Service

This factsheet is for parents who use the Child Maintenance Service (CMS) to collect child maintenance. The CMS can take action if your child maintenance payments stop, become irregular or there are arrears. There are various methods it can use to collect payments and make parents pay.

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

You must have a child support calculation with the CMS before it can help you. It cannot enforce private arrangements for child support. If you don't have a case with the CMS or the CSA see our factsheet [Making arrangements for child maintenance](#).

For more information or to discuss your circumstances, contact our Helpline on 0808 802 0925. Calls are free from landlines and mobiles.

Key terms

Child maintenance/child support: child maintenance is the term used to describe the money your child's other parent (see below) should pay towards their child's upbringing. Sometimes child maintenance is also called child support.

Receiving parent: the parent who lives with their child most of the time. The parent with care is entitled to receive child maintenance.

Paying parent: the parent who does not live with their child most of the time. Your child's other parent is required to pay child maintenance.

Shared care: a term used to describe a situation where a child spends time living with both parents in different households. Your child does not necessarily have to spend an equal amount of time in each house but shared care usually means that the child spends some nights sleeping in each home.

Child you pay/receive child maintenance for or 'non-resident parent': the term used by the CMS to describe a child for whom child maintenance should be paid.

Arrears: unpaid child maintenance that is owed to you by your child's other parent

What should I do if payments stop?

Many parents using the CMS pay each other directly – this is called 'direct pay'. This means that although the CMS works out how much should be paid, your child's other parent pays you directly without the money going through the CMS.

If your child's other parent is paying child maintenance directly to you, the CMS will not know that payments have stopped until you tell them. If payments stop the first thing you should do is tell the CMS

Some maintenance payments are made through the CMS's collection service called 'collect and pay'. This means your child's other parent pays the CMS, which passes the money to you. There are charges to use this service – for more information on CMS charges, view our interactive graphic here: www.gingerbread.org.uk/content/2148/Child-maintenance-charges.

If you are using collect and pay, the CMS should know straightaway if the payment isn't made, but you may wish to contact them to find out what action they are taking.

If your child's other parent pays child maintenance out of their benefits, Jobcentre Plus should tell the CMS if they stop claiming benefits. If your child maintenance payments stop, you should phone the CMS as soon as possible.

The CMS has a wide range of powers to enforce child maintenance payment. It is up to the CMS to decide which of these powers to use and it will depend on the other parent's circumstances. Below is a guide to the steps they could take. These steps may change according to the CMS's policy or your child's other parent's circumstances.

Step one

The CMS will contact your child's other parent to find out why payments have stopped. If possible it will start up payments again and agree to clear any arrears.

Step two

If your child's other parent doesn't respond to the CMS's attempts to contact them or does not pay the arrears, the CMS will take action depending on the method of payment being used.

If you and your child's other parent had been using direct pay, the CMS may move your case to collect and pay and retrieve the money for you. There is a charge for using this service and it will affect the amount of money you receive. Our website has more information on child maintenance charges: www.gingerbread.org.uk/content/1985/Child-maintenance-charges.

If collect and pay had been used and payment has stopped, the CMS may take enforcement action if your child's other parent does not cooperate.

The CMS may try again to reach a voluntary arrangement with your child's other parent to start regular payments and clear any arrears before starting enforcement action.

See 'Enforcement powers' for the different ways the CMS may enforce child maintenance payments.

Step three

If the CMS can't reach an agreement, it may apply to the court for liability order. The CMS has a range of legal enforcement powers it can use – such as using bailiffs, disqualification from driving or imprisonment. Only one method can be used at a time.

Be prepared

Chasing child maintenance arrears is often frustrating and stressful. Not only are you dependent on the CMS to act but some parents will go to great lengths to avoid paying and others simply don't have the money to pay.

Be realistic

The key is to understand the system, be very persistent, give the CMS as much information as you can and use the complaints procedure if things are handled badly. Unfortunately despite even the best efforts, it might not be possible for you to get all the money you're owed.

Keep a record of all contact with the CMS

Keep copies of letters and make a note of telephone calls, including the date and who you spoke to. If action is promised within a certain time, remind the CMS when that time is up. Keeping a record helps you talk to the right people the next time you call. It is also useful if you want to complain or get your MP to take up your case.

Check the amount of the arrears

Check with the CMS how much you are actually owed. When the arrears are collected, the CMS should give priority to paying you what you are owed first. Child maintenance payments no longer affect the amount of benefits and tax credits you can receive. If you claim benefits now, these will not be reduced if you receive child maintenance.

Understand how arrears are calculated

Sometimes, arrears will have built up because your child's other parent failed to provide information. In this case the CMS may have made an interim maintenance assessment or default maintenance decision. These are temporary estimated calculations based on what information the CMS had at the time. If the parent then provides the necessary information about their income, the amount owed will have to be recalculated. This figure could be less than the amount you were expecting.

Can you reach an agreement with your child's other parent?

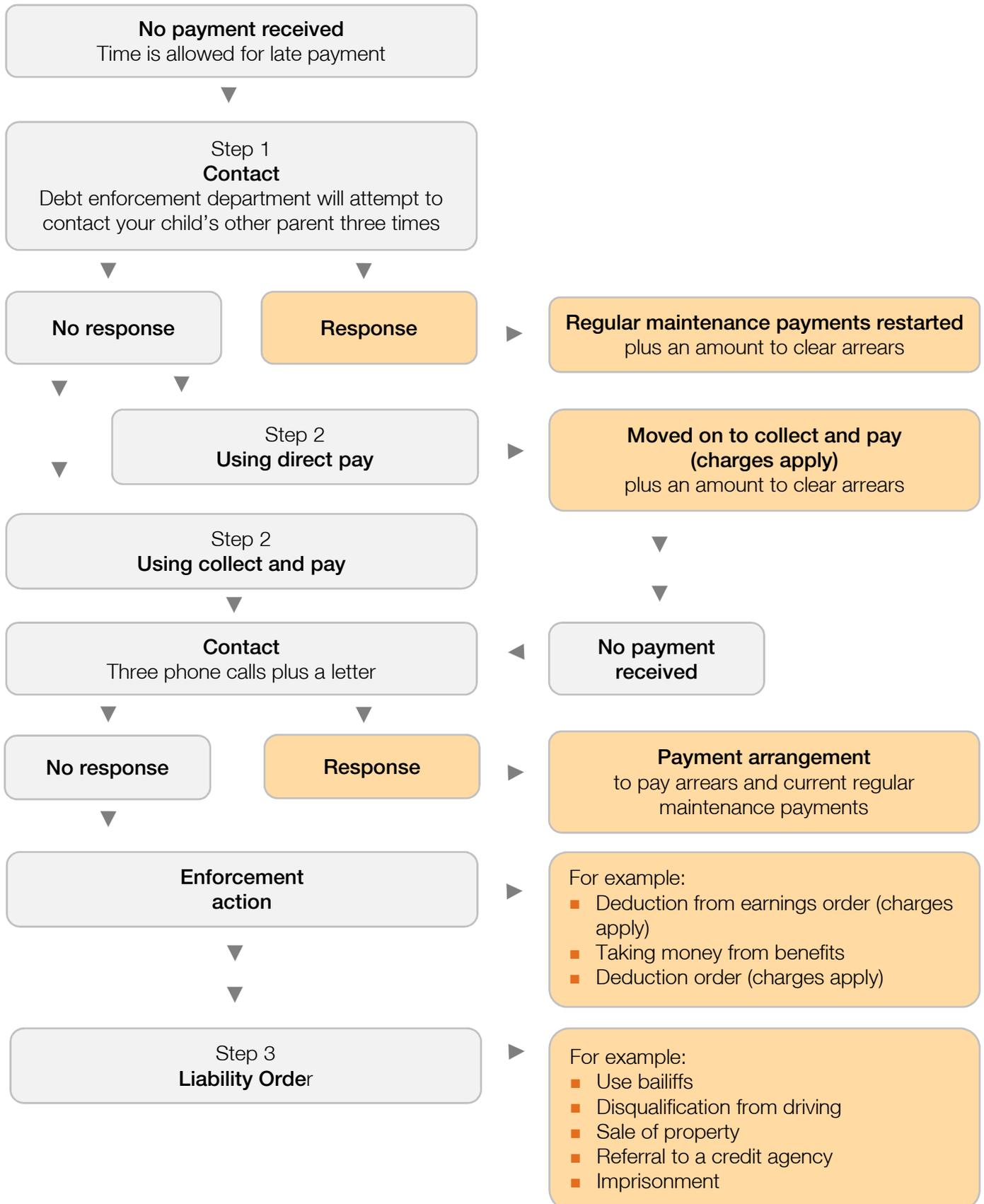
If you want to, you can agree with your child's other parent that you will accept a smaller sum in full and final settlement of arrears owed. This is your decision and the CMS should accept it. Try to think of all the pros and cons before agreeing. For example, receiving a lump sum may affect the benefits and tax credits you receive, so check first.

Enforcement powers

Deduction from Earnings Order	<p>The CMS require an employer to take maintenance directly from the earnings of a non-resident parent. An amount can be taken to cover current regular maintenance payments as well as arrears.</p> <p>If your child's other parent is employed (rather than being self-employed), you can ask the CMS to use a deduction from earnings order.</p> <p>There are charges to use this service – the paying parent may have to pay an additional £50 on top of the amount deducted from their earnings.</p>
Taking money from benefits	<p>The CMS can take up to £7.40 a week from your child's other parent's benefits to pay child support, depending on which scheme applies to your case. A further deduction can be taken to pay any arrears.</p> <p>If your child's other parent is claiming universal credit the calculation will be different and you will need to seek further advice.</p>
Regular Deduction Order	<p>The CMS deduct a regular fixed sum of maintenance and/or arrears directly from a non-resident parent's bank/building society account without the parent's permission.</p> <p>It can either take a lump sum to clear arrears or set up regular deductions. This is useful if your child's other parent is self-employed and money can't be taken from their wages.</p> <p>There are charges to use this service – the paying parent may have to pay an additional amount on top of their deduction from earnings.</p>
Lump Sum Deduction Order	<p>The CMS freeze and then deduct a lump sum in respect of arrears directly from a non-resident parent's bank/building society account.</p>
Liability Order	<p>The CMS can apply to the court for legal recognition of the amount of maintenance debt arrears owed over a period of time. The order opens the door to further enforcement actions – see below.</p>
Referral to a credit reference agency	<p>The CMS can share information about a parent's child maintenance legally recognised debt with a credit reference agency. This power has existed since March 2015.</p>
Bailiff Referral (England and Wales)	<p>A legally recognised debt can be referred to a bailiff company who can seize a non-resident parent's belongings and sell them to realise the debt owed.</p>
Charging Orders (England and Wales)	<p>An order from the County Court which adds the child maintenance debt to the non-resident parent's property.</p>
Orders for Sale (England and Wales)	<p>An order for the sale of a property to secure the arrears owed.</p>
Committal Action	<p>Action in the magistrates court leading to an actual or suspended prison sentence; actual or suspended disqualification from driving; and/or an order to make payment.</p>

Enforcement steps

This chart shows steps the CMS may take when payments stop. These steps may change according to the CMS's policy or your child's other parent's circumstances.



Child Support Agency arrears

If you have arrears from a previous child maintenance case with the Child Support Agency, you have a right to the money you are owed. Although there are charges for using the CMS collection service you will not pay any charges or fees for collecting any outstanding CSA arrears.

I have an ongoing CMS case and outstanding CSA arrears

If you have an ongoing maintenance case with the Child Maintenance Service, you will have your CSA arrears transferred to the CMS and integrated into your current payment plan.

It is important that you actively request for the CMS to collect your CSA arrears. You may have to request this repeatedly until action is taken. It may help to remind the CMS if your child's other parent had been paying their arrears before your CSA case closed. You can request that these repayments continue as they had previously.

If enforcement action stops or slows down there may be a reason for this. See below for why this might be, and for action you can take if you think nothing is happening to collect the outstanding CSA arrears you are owed.

I don't have an ongoing CMS case, but I do have outstanding CSA arrears

If you do not have an ongoing maintenance case with the CMS, but do have arrears outstanding with the CSA, your arrears should be transferred to the CMS once your case is closed. The CMS should then manage your arrears case and collect the money you are owed.

If you don't want to use the CMS for ongoing maintenance but still want your arrears paid, it is important that you actively request for repayments to start. You may have to request this repeatedly until action is taken.

It may help to remind the CMS if your child's other parent had been paying their arrears before your CSA case closed. You can request that these repayments continue as they had previously.

If enforcement action stops or slows down there may be a reason for this. See below for why this might be, and for action you can take if you think nothing is happening to collect the outstanding CSA arrears you are owed.

If you are entitled to ongoing maintenance and have outstanding CSA arrears, it is worth considering making an application to the CMS. Any outstanding CSA arrears will be scheduled into a new payment plan with your ongoing maintenance. For information on applying to the CMS, see our factsheet [Using the Child Maintenance Service](#).

If your case with the CSA has not yet been closed, visit our website to read up on the [changes to child maintenance](#) and see [how case closure may affect you](#).

Arrears from before 12 April 2010

If the arrears are for a period before 12 April 2010 and you were receiving income support or jobseeker's allowance, not all arrears can be paid to you. Some will be paid to the Department for Work and Pensions (DWP). This is because you were entitled to less income support or jobseeker's allowance if you got child maintenance as well. So, DWP are owed the money you received in benefits that you wouldn't have received if your child's other parent had paid child maintenance at the right time.

If enforcement action on your case stops or slows down

There can be a number of reasons why enforcement action on your case has slowed down or stopped.

The CMS can't find your child's other parent

The CMS will stop pursuing a case when it has tried all its tracing techniques and hasn't tracked down your child's other parent. It can look at information held by government departments and organisations including Jobcentre Plus. If the CMS stops pursuing your case, it may remain inactive until they have more information.

If you have any information about where your child's other parent is you should tell the CMS. If you think the CMS hasn't done enough to find the other parent, you can complain. See our factsheet [Using the Child Maintenance Service](#) for details on how to complain.

Your child's other parent says they can't pay

The CMS may put enforcement action on hold because the parent has been unemployed. If this was some time ago, or you think they are now working, you can ask the CMS to review their decision.

Give the CMS any information or evidence that you have about the other parent's financial position.

For example, you may know that in the past they had two jobs, or worked cash-in-hand, or were paid a large bonus at the end of the year. You may know that they earned considerably more when you lived together and believe that they still earn this amount or more. You may have financial papers which show details of their income and assets.

If you think your child's other parent has been working cash in hand, or has self-employed earnings, consider whether there are internet searches you could make on trade or social networking sites which might reveal more about this income or show evidence of it. It may be that they have set up a company which pays dividends as well as earnings. Dividends are not usually included in a basic child maintenance calculation, but this can be challenged and the CMS will need to re-calculate the amount of child maintenance due to you to reflect this dividend income.

If you want additional information about your child's other parent's finances to be taken into account, you can ask the CMS for a 'variation'. To find out more about the different grounds for variation, see our factsheet [Challenging your child maintenance calculation through the Child Maintenance Service](#). You can also call the Gingerbread Single Parent Helpline on 0808 802 0925 for more information and advice.

The CMS says your case is too old to take action

If the arrears are from before 12 July 2000, the CMS can't take legal action to enforce the payment of arrears, but it can still apply for deduction from earnings orders or deduction orders. Ensure that you request this from the CMS.

If you think nothing is happening

If you can't tell what action is being taken on your case or you haven't received a good enough explanation, it's worth complaining to the CMS.

Here are some things you can do:

- Complain to the team handling your case and explain why you are not happy with the service you have received. This will be logged as a 'dissatisfaction' and should be dealt with quickly
- If you are not satisfied with the outcome from this, don't be disheartened – you can escalate your issue to a 'formal complaint', and then to the Complaints Review Team if need be. For more details on how to complain see [What to do if you're unhappy with the Child Maintenance Service](#), published online at www.gov.uk. Complaints can be made by phone or in writing
- If you send a letter of complaint to the CMS, you might consider sending a copy to your MP too.

Our factsheet [Using the Child Maintenance Service](#) has further information on this issue.

Further help and information

Gingerbread Single Parent Helpline

Freephone 0808 802 0925

www.gingerbread.org.uk

Provides free, confidential advice for single parents. Free information on a range of issues including maintenance, benefits, tax credits, debt, employment, education, legal rights and holidays.

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 about your options for arranging child maintenance and making an agreement best suited to your circumstances. Information booklets, a maintenance calculator and a private agreement form are on the website.

Child Maintenance Service

0345 266 8792

www.gov.uk/child-maintenance

For questions about child maintenance cases.

National Family Mediation

0300 400 0636

www.nfm.org.uk

Can answer general enquiries relating to mediation and put callers in contact with local mediation services.

Family Mediation Council

www.familymediationcouncil.org.uk

Search online for a local mediation service

Resolution

01689 820272

www.resolution.org.uk

Association of solicitors specialising in family law, who adopt a constructive, non-confrontational approach to family problems. It can provide a list of local members. The website contains free information on splitting up, parenting apart and child maintenance.

More from Gingerbread

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

- > [Making arrangements for child maintenance](#)
- > [Using the Child Maintenance Service](#)
- > [Challenging your CMS child maintenance calculation.](#)

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.

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