

# **What action can the Child Support Agency take if parents don't pay?**

**child support agency**

Part of the Department for Work and Pensions



# **What is this leaflet about?**

This leaflet explains what action we will take if non-resident parents don't pay child maintenance. It starts by telling you how we can take maintenance direct from a non-resident parent's earnings or pension. It then gives details of the different court actions we can take to make sure child maintenance gets paid.

In this leaflet, we use some standard terms to explain our services and the way we work. We have included a glossary at the end of this leaflet in case any of the terms are unfamiliar.

## **Important information about this leaflet**

This leaflet is only a guide and does not cover every circumstance. We have done our best to make sure that the information in this leaflet is correct as of April 2008. It is possible that some of the information is oversimplified, or may become inaccurate over time, for example because of changes to the law. We recommend that you get independent advice before making any financial decisions based on the information in this leaflet.

## About us

The Child Support Agency (CSA) is part of the Department for Work and Pensions (DWP). Our role is to make sure that parents who live apart from their children contribute financially to their upkeep by paying child maintenance.

You may have heard that the Government plans to replace the CSA with a new organisation and a new approach to child maintenance. You can find out more about these plans on our website at **[www.csa.gov.uk](http://www.csa.gov.uk)**. In the meantime we will continue to help parents who live apart to sort out arrangements for child maintenance.

You can contact us if you:

- have any questions about how we work out child maintenance
- want help or more information after you have read this leaflet, or
- want us to send you any of our other leaflets.

You can call our national helpline. See the details below for how to do this.

Or, you can visit **[www.csa.gov.uk](http://www.csa.gov.uk)** for more information on how we work out child maintenance and for our online child maintenance calculator. We will not keep any information you provide when you use the online calculator.

To get help or more information, you can call us on **0845 713 3133** or **0845 713 8924** (textphone). Both lines are open from 8am to 8pm Monday to Friday and 9am to 5pm on Saturdays. Please see page 27 for details of call charges and our Welsh-language helpline.

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# **What action can the CSA take if the non-resident parent doesn't pay child maintenance?**

If a non-resident parent doesn't pay the right amount of child maintenance at the right time, we will take action to get any money owed to a parent with care or the Government.

We can:

- take money direct from a non-resident parent's earnings as an employee, or
- take action through the courts.

We can use more than one action at a time. The action we take will depend on the circumstances of each case.

Taking action through the courts can be expensive and can result in the non-resident parent:

- paying their own legal costs and our legal costs, as well as the child maintenance they owe
- having their driving licence confiscated, or
- even going to prison.

**If you are a non-resident parent and you know you are going to be late making a payment, you must tell us straight away.**

If you miss a child maintenance payment, you can pay it by phone using a debit or credit card. If you do, we will not need to take action.

We can take action as soon as we are aware that the non-resident parent has failed to keep to the agreed payment arrangements, and has not responded to any warnings we have given them. We can also take court action if a non-resident parent avoids paying child maintenance by:

- failing to give us information when we ask for it, or
- giving us information that they know is false.

This is a criminal offence and applies to anyone who deliberately gives us inaccurate information or refuses to provide the information we need to work out child maintenance. We can take them to court and, if they are convicted, they can be fined up to £1,000.

# **How does the CSA take money direct from the non-resident parent's earnings?**

If the non-resident parent works for an employer or receives an occupational pension, we can take child maintenance direct from their earnings or pension. We will do this using a compulsory '**deduction from earnings order**'. This is normally the first step we will take if a non-resident parent who is employed has missed payments and cannot give us a good reason why.

On average, each year 73,500 new deduction from earnings orders are sent to employers to take money from a non-resident parent's earnings or pension.

We will tell the non-resident parent's employer how much to take from their earnings or pension. Their employer must take this amount and pass it to us on behalf of the non-resident parent.

The employer must send this money to us by the 19th day of the month that follows the month when they took the child maintenance from the non-resident parent's earnings or pension. If the employer fails to do this without a good reason, we can take them to court and they can be fined. (For example, if the employer took the child maintenance from the non-resident parent's earnings in February, they must pass this payment to us by 19th March.)

An employer may also take up to £1 from the non-resident parent's earnings for each payment they have to take. This is to help with their administration costs.

If an employer does not take the full amount direct from the non-resident parent's earnings or pension, we will contact the employer to find out why. There may be a good reason why the employer has not taken the full amount – for instance, because the non-resident parent did not earn enough during the pay period to take the full amount.

In these circumstances, the employer must take as much as possible. We will look at ways to make sure that the non-resident parent pays the full amount the next time and pays what they missed as well.

If the non-resident parent still fails to pay, **we can also take the non-resident parent to court to claim any child maintenance they owe.**

When we receive the money the non-resident parent owes, we will then arrange to make the correct payment to the parent with care. This should take no more than 10 working days after we receive the payment from the employer.

**We can also take a non-resident parent to court if they do not tell us that they are no longer working for an employer, have become unemployed or changed jobs. It is a criminal offence if the non-resident parent does not tell us within one week of when this change starts from. They can be fined up to £500.**

If the non-resident parent gets benefits, State Pension or a War Pension, we will usually take the amount owed direct from their benefits or pension.

If the non-resident parent is in **Her Majesty's Armed Forces** and has failed to make their payments, we will send a request to the Ministry of Defence to take the amount owed.

If the non-resident parent is **self-employed**, we cannot use a compulsory deduction from earnings order but we can still take action through the courts to make them pay.

# What action can the CSA take through the courts?

We can take action through the courts to claim any debt a non-resident parent owes because they have not paid any child maintenance or not paid the right amount of child maintenance.

Every year we pass on 12,700 cases to the courts for non-resident parents who have not paid the child maintenance they owe.

Taking action through the courts is costly and a non-resident parent could end up:

- paying their legal costs and our legal costs, as well as the child maintenance they owe
- having their driving licence confiscated, or
- even going to prison.

The first step we take is to apply for a **liability order** for the missed child maintenance. This shows that the law recognises that there is a debt to be paid, and gives us the authority of the court to take action to get the child maintenance owed.

We apply to the magistrates' court in England and Wales (and to the sheriff court in Scotland) for a liability order. In Scotland, if the non-resident parent does not object to our application, the sheriff court may grant the liability order without a hearing.

If a court (or sheriff court in Scotland) does not grant a liability order, and we have good reasons, we can appeal against the decision.

### **What happens after the courts grant the CSA a liability order?**

Once we have been granted a liability order, we then have a number of options, including taking further court action. The action we can take is set out on the following pages. This action is in no particular order and we can often take more than one action at a time. The action we take will depend on whether the non-resident parent lives in England or Wales, or in Scotland.

# **What action can the CSA take if the non-resident parent lives in England or Wales?**

## **Bailiffs**

Bailiffs can take possession of a non-resident parent's belongings and sell them to get the money the non-resident parent owes. The bailiffs can also add their charges to the amount the non-resident parent owes.

On average, 13,000 non-resident parents have their cases passed to bailiffs each year.

## **Register of Judgments, Orders and Fines**

We can enter a liability order on the Register of Judgments, Orders and Fines. This register can be used by credit reference agencies to set someone's credit rating. It can also affect someone's membership if they want to join a professional organisation.

If a non-resident parent has their own business and their suppliers are aware that the parent is on this register, how and when the parent can pay for anything they need for their business may change.

## **Third-party debt order**

A county court can make a third-party debt order to tell an individual, or a business such as a bank, building society or the Post Office, to freeze money in an account in the non-resident parent's name on a given date.

Once the money is frozen, the non-resident parent cannot use that money without the court's permission. The county court can then order the individual or business to pay us the money shown on the third-party debt order.

Each year, we apply for up to 2,000 third-party debt orders.

## **Charging order**

We apply to the county court to make a charging order. If the non-resident parent owns a house or land, we can then register with the Land Registry that we have a charging order against the non-resident parent. We can also register a charging order if the non-resident parent owns other assets, such as stocks and shares or interest in a trust.

When the property or those assets belonging only to the non-resident parent are sold, any money left after paying any other orders or charges that have a priority (such as a mortgage) should be paid direct to us. Sometimes we may decide to apply to the county court for an order for sale. This forces the non-resident parent to sell the property or assets so we can get the money owed.

We can also apply for a charging order on a property that is jointly owned by the non-resident parent and someone else. But, when that property is sold, we will collect the child maintenance from the share of the money that they get from the sale.

Over a period of 12 months, we applied for 1,685 charging orders.

# **What action can the CSA take if the non-resident parent lives in Scotland?**

## **Charge for payment**

If the non-resident parent lives in Scotland, we start by applying to the sheriff court for a liability order.

Once we have got a liability order, we then ask the sheriff's officers to issue a demand for payment on our behalf. This gives parents 14 days to pay the money they owe, or 28 days if they are living temporarily outside the UK. If they do not meet this demand, we take further legal action to get the child maintenance the non-resident parent owes.

In one year, the court granted the CSA 845 liability orders.

We will take the action we think will be most effective in each individual case. We can use more than one of our powers at a time.

## **Arrestment**

An arrestment freezes money belonging to, or owed to, a non-resident parent on a given date. This includes stopping a non-resident parent from being able to receive money they are owed or from withdrawing the money frozen in their bank, building society or Post Office account.

Once the money is frozen, we ask the non-resident parent to sign a letter which we will issue to the individual or business, bank, building society or Post Office telling them to pay us the amount that is owed on the liability order for child maintenance. If a non-resident parent does not do this, we will ask the court to order the non-resident parent to make the payment to us.

In one year, we applied for 615 arrestments.

## Attachment and auction

An 'attachment' is when the sheriff's officers list and value items that:

- belong to a non-resident parent
- are kept outside their home, and
- can be moved.

This may include cars or motorbikes, or the contents of a garage or outbuilding.

If a non-resident parent is self-employed, the sheriff's officer can carry out an 'attachment' at their place of business.

The items on the list can then be sold at a public auction to get the money the non-resident parent owes as child maintenance.

We applied for 255 attachments over a period of 12 months.

If, through this process, we can't get the money the non-resident parent owes, we can apply for an 'exceptional attachment' and auction. Under an 'exceptional attachment', sheriff's officers value and remove items that:

- belong to a non-resident parent
- are kept inside their home, and
- can be moved.

The items on the list can then be sold at a public auction to get the money the non-resident parent owes as child maintenance.

## **Inhibition**

The amount on the liability order can be registered against the non-resident parent to stop them selling or transferring any 'heritable property' they own. This is known as 'inhibition'.

Heritable property includes houses, garages, business premises and land. This means that the non-resident parent cannot sell or transfer the heritable property until they pay the money they owe as child maintenance.

In one year, we registered 850 of this type of liability order.

# **When could a non-resident parent lose their driving licence or be sent to prison?**

If the non-resident parent has refused to pay the child maintenance they owe, we can apply to the courts for:

- an **order of disqualification** – taking the non-resident parent’s driving licence away or preventing them from getting a driving licence for up to two years, or
- a **warrant of commitment** – sending a non-resident parent to prison for **up to six weeks**.

**Even if the non-resident parent is disqualified from driving or goes to prison, they will still have to pay all the money they owe.**

We only use these powers as a last resort when other ways to get payments have not worked.

Over a period of 12 months, 425 non-resident parents received immediate or suspended sentences.

In the same period, 35 non-resident parents received immediate or suspended driving-licence disqualifications.

**What happens if a non-resident parent is disqualified from driving and then pays what they owe?**

If the non-resident parent pays the full amount they owe, they or we can apply to the court for the order of disqualification to be cancelled. If this happens, the non-resident parent can then apply to the Driver and Vehicle Licensing Agency (DVLA) to have their driving licence returned.

If the non-resident parent pays only part of the amount they owe, either we or the non-resident parent can apply to the court for an order of disqualification to apply for a shorter period or for the order of disqualification to be cancelled.

If they still have not paid any amount at the end of the order of disqualification, we can apply for another period of disqualification or for a prison sentence.

**What happens if a non-resident parent is sent to prison and then pays what they owe?**

If the non-resident parent pays the full amount they owe, they will be released straight away.

If the non-resident parent pays only part of the amount they owe, the prison sentence can be reduced. If any amount is still unpaid at the end of the prison sentence, we cannot apply for a further disqualification or prison sentence for the same debt. However, we can continue to take other action to recover this debt.

**If the non-resident parent builds up new debt (by not paying maintenance again), we can go back to the court for any new debt that the non-resident parent builds up. They can be disqualified from driving, or sent to prison, for each new debt.**

# Can a non-resident parent get legal help and advice?

## Legal advice for non-resident parents

If we are taking legal action against a non-resident parent, they may want to get help and advice from a solicitor. They should do this **before any court hearing** we arrange. They may have to pay for this advice.

A non-resident parent may be able to get free advice from a solicitor under the Legal Help scheme. This is also known as the Green Form Scheme in England and Wales, and the Pink Form Scheme in Scotland. Their solicitor can tell them if they are eligible for help under this scheme.

# Where can I get more help and information?

If you want to know how much child maintenance you might receive, you can use our online calculator. You can find the online calculator at **[www.csa.gov.uk](http://www.csa.gov.uk)**. We will not keep any of the information you provide when you use our online calculator.

Contact our national helpline if, having read this leaflet, you:

- have any questions about how we work out child maintenance
- want help or more information, or
- want us to send you any of our other leaflets.

You can phone us on **0845 713 3133** from 8am to 8pm Monday to Friday and 9am to 5pm on Saturdays.

If you have speech or hearing difficulties, a textphone service is available on **0845 713 8924**.

Textphones are for people who find it hard to speak or hear clearly. If you do not have a textphone, some libraries or citizens advice bureaus may have one. Textphones do not receive text messages from mobile phones.

The person taking your call will not have your personal information to be able to answer questions on your case. However, they can help you with anything general to do with child maintenance. They will also be able to give you the phone number of the office handling your case if you want to speak to someone who can answer specific questions.

If you want to speak to us in Welsh, you can ring our Welsh-language helpline on **0845 713 8091**. The line is open from 9am to 5pm, Monday to Friday.

If English is not your first language, you can use your own interpreter or one that we provide.

Please have your National Insurance number with you when you call.

We may record our phone calls to check our service and to train our employees.

## Call charges

From 1 August 2007, calls to **0845** numbers from BT landlines should cost no more than 4p a minute with a 6p charge for setting up the call. You may have to pay more if you use another phone company or a mobile phone, or if you are calling from abroad. Calls from mobile phones can cost up to 40p a minute, so check the cost of calls with your service provider.

To visit our website, go to **[www.csa.gov.uk](http://www.csa.gov.uk)**.

## Other formats

This leaflet is available in other languages, in large print, in Braille and on audio cassette. You can get these formats by contacting our national helpline.

# **Leaflets available from us**

**What is child maintenance and how does it affect me?**

(Reference: CSL301) For all parents

**How do I complain about the service I get from the Child Support Agency?**

(Reference: CSL308) For all parents

**How do I get child maintenance if I'm on benefits?**

(Reference: CSL302) For parents with care on benefits

**How do I apply for child maintenance?**

(Reference: CSL309) For children aged 12 and over in Scotland or their parents

**How is child maintenance worked out?**

(Reference: CSL303) For all parents

**What happens if someone denies they are the parent of a child?**

(Reference: CSL304) For all parents

**How can I appeal against a child maintenance decision?**

(Reference: CSL307) For all parents

**My case is moving to the child maintenance scheme introduced in 2003 – what will change?**

(Reference: CSL310) For any parent whose case is moving to the current scheme

**How does the Child Support Agency use and store information?**

(Reference: CSL311) For all parents

**How do I pay child maintenance?**

(Reference: CSL305) For non-resident parents

**How will I receive child maintenance?**

(Reference: CSL314) For parents with care

**What action can the Child Support Agency take if parents don't pay?**

(Reference: CSL306) For all parents

# **How a child maintenance case can progress**

The information below tells you how a child maintenance case can progress. This leaflet covers the part of the process shown in the box.

## **Information and guidance**

Parents can go to the CSA for information about child maintenance – such as what options there are for arranging child maintenance (either through us or in other ways) and what might be an acceptable amount in their case.

## **Application or referral**

A case officially begins either when a parent applies to us to set up child maintenance payments, or when Jobcentre Plus automatically refers one of their customers to us because they claim Income Support or income-based Jobseeker's Allowance.

**If there is a change in either parent's life that could affect the amount of child maintenance that should be paid, we can review your case – so let us know.**

## **Gathering information and calculation**

To work out the amount of child maintenance that should be paid, we need to gather important information. We ask both parents to provide certain information. When we have this, we will work out child maintenance

## **Payments**

The non-resident parent pays the agreed amount on the agreed dates and in the agreed way. This can be either direct to the parent with care, or to us. We then pass the payments on.

## **Enforcement**

**If the payments aren't made on time, we can take action.**

# **Glossary**

## **Charging order**

An order from a court that puts a ‘charge’ on someone’s property, such as a house or a piece of land. The ‘charge’ is the amount of money owed. When the person owing the money owns stocks or shares or other assets, the court can also put a charge on these. This stops the owner from selling the property, land or asset without paying what they owe.

## **Child**

For child maintenance purposes, someone is a child if they are aged:

- under 16, or
- under 19 and in full-time education doing a course that is not higher than A level or an equivalent standard.

## **Child maintenance**

Money paid by the non-resident parent to the parent with care to help pay for their child’s everyday living costs.

## **Deduction from earnings order**

Deduction from earnings orders are a compulsory way of collecting child maintenance direct from the non-resident parent's earnings or pension if they:

- fail to pay
- don't pay the correct amount, or
- don't pay on time.

## **Liability order**

A liability order legally recognises that there is a debt to be paid. It allows us to take further action to get the money owed. We must get a liability order before we can take any further court action.

## **Non-resident parent**

The parent who the child does not normally live with.

## **Parent with care**

The parent or carer who the child normally lives with and so pays for most of the child's everyday living costs. In some cases this can be a grandparent, guardian or other family member – who is known as a 'person with care', rather than a parent with care.

## **Third-party debt order**

An order the courts can issue against a third party, such as a bank or building society, to take money or other assets they have that belong to the non-resident parent. We can apply for orders to prevent a non-resident parent from withdrawing money from their bank or building society account. The money is paid to us from the account. A third-party debt order can also be sent to anyone who owes the non-resident parent money.

CSA leaflets are also available in other languages, in large print, in Braille and on audio cassette.

You can get any of these leaflets:

- by phone on **0845 713 3133** (the line is open from 8am to 8pm Monday to Friday and 9am to 5pm on Saturdays)
- by textphone on **0845 713 8924**, or
- from our website at **[www.csa.gov.uk](http://www.csa.gov.uk)**.

Where textphone numbers are provided, these are for people who find it hard to speak or hear clearly. If you do not have a textphone, some libraries or citizens advice bureaux may have one. Textphones do not receive text messages from mobile phones.



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