

Chapter 1

Introduction to child support

This chapter covers:

1. What is child support (below)
2. The Child Support Agency (p5)
3. Changes to child support from 2008 (p8)
3. Using this *Handbook* (p10)

1. What is child support

Child support is the name given to child maintenance paid by parents who do not live with their children, where the Government calculates and enforces liability for this maintenance. Child maintenance is intended to reflect the legal responsibility of parents to provide financial support for their children. Some people make voluntary arrangements to pay maintenance, others have arrangements made following a court order, and some people have maintenance (child support) calculated by the Child Support Agency (CSA). Some people may pay or receive child maintenance in more than one of these ways. This *Handbook* deals mainly with the rules of the child support scheme and the work of the CSA, and is intended to help parents who use the CSA, and their advisers.

Since 1993 there has been a child support system administered by the CSA. This calculates the amount of child support people have to pay in different situations. The original complex formula for calculating child support (the 'old rules' formula) was replaced by a simpler calculation from 3 March 2003. This 'new rules' calculation mostly applies to applications made on or after this date (but see Chapter 8). An even more basic system of calculating child support, operated by a new body, the Child Maintenance and Enforcement Commission (C-MEC), is expected to be introduced in 2010 (see p8).

The main features of the existing child support scheme are as follows.

- The CSA, which assesses and enforces child maintenance.
- The use of a standard mechanism to set the level of child maintenance.
- Before 14 July special rules for parents claiming certain benefits if they did not live with the other parent of the child(ren) for whom they cared. These parents were treated as applying for child maintenance and may have faced a reduction in benefit if they did not co-operate.

Responsibility for child maintenance

It is a legal principle that both parents of a child have a duty to contribute to the maintenance of that child.¹ This liability is met when a parent who does not have the main care of a child makes payments of child maintenance assessed under the formula or calculation.²

This duty applies whether or not:

- the child is living with the other parent or with someone else who is not legally her/his parent (see below); *or*
- the child is living with a lone parent or with a couple; *or*
- the child's parents are on benefit.

Definitions

The following terms are used throughout this *Handbook*. For more detailed definitions, see Chapter 2.

A parent who does not live with her/his own child is a '**non-resident parent**'.

A child who does not live with both her/his parents is a '**qualifying child**'.

The person with whom the child is living and who provides her/him with day-to-day care is the '**person with care**'.

If a person with care is also a parent of the qualifying child, s/he is a '**parent with care**'.

A child living with the non-resident parent, for whom s/he or any new partner receives child benefit, is a '**relevant child**'.

'He' is used to refer to a non-resident parent, and 'she' to refer to a person or parent with care, although this will not always be the case.

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Calculating maintenance: 'old rules' and 'new rules'

Whether a case comes under the 'old' or 'new' rules for calculating child support is important, not only because it dictates how much maintenance should be paid, but also because there are some differences in how other aspects of child support apply – eg, enforcement. In addition, the legislative references are often different. The '**new rules**' are those that came into force on 3 March 2003 (not the proposed simplified system, planned to be introduced in 2010). The '**old rules**' are those introduced with the child support system when it started in 1993. Both sets of rules have been amended since they were introduced.

The 'old rules' use a complicated formula with several steps to work out how much maintenance should be paid (see Chapter 9). An application can be made for departure from the formula in certain circumstances (see Chapter 16). The 'new rules' use one of four rates of child support maintenance for each non-resident parent, based on his income (see Chapter 6). The calculation can be varied in certain circumstances (see Chapter 7).

Generally, if an application for child support is made on or after 3 March 2003, it is a 'new rules' case, and if the application was made before that date, it is an 'old

rules' case. However, there are some exceptions to this, and some 'old rules' cases that are connected to a 'new rules' case may be converted to the new rules (see also Chapter 8). Apart from these cases, however, it is now unlikely that 'old rules' cases will convert to 'new rules', because the Government proposes that a third, and even more simple, calculation will be introduced in the future. No one will be able to apply under this new system, or be transferred to it, until 2010 at the earliest.³ In the meantime, existing cases will continue to fall under either the 'old rules' or the 'new rules'.

2. The Child Support Agency

The Child Support Agency (CSA) is the body set up by the Secretary of State for Work and Pensions to administer the child support scheme. It is responsible for calculating child maintenance payments and, in some cases, their collection and enforcement. This includes tracing non-resident parents and investigating parents' means. The CSA is part of the Department for Work and Pensions (DWP).

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Changes in 2008

The Child Maintenance and Enforcement Commission (C-MEC) was launched in July 2008. It is planned that in the future this body will take over all the functions of the CSA. At the time of writing, however, it administers the maintenance options service (see p42) and the CSA continues to operate all other functions.⁴ C-MEC is a non-departmental public body (ie, separate from the DWP).

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The DWP is responsible for child support policy issues and for the legislation governing the CSA's activities. The Chief Executive of the CSA issues guidance to CSA staff and is ultimately responsible for its administration.

The CSA works closely with Jobcentre Plus, which is responsible for identifying cases where a parent with care claims income support (IS) or income-based jobseeker's allowance (JSA). **Note:** from 14 July 2008, parents with care who claim IS/income-based JSA are no longer treated as applying to the CSA. Also from this date, no parents with care will be subject to a reduced benefits decision. Instead, Jobcentre Plus staff will pass the parent with care's details to C-MEC's maintenance options service (see p42), which will contact her to discuss the different options for pursuing child maintenance.

The CSA has wide powers to gather information. These are covered in Chapter 5. If a parent is unhappy with a child support decision, there are procedures for challenging these (see Chapter 18), and for appealing most sorts of decisions (see Chapter 19).

Structure of the Child Support Agency

The CSA is divided into six regional business units. Apart from the one for the east of England, they are all based in the areas they serve (see Appendix 1). Each business unit has a Child Support Agency Centre (CSAC), which assesses child maintenance.

Under the Operational Improvement Plan, which runs from 2006 to 2009, the CSA is working towards the following structure:⁵

- new client teams supporting new applications;
- client service teams managing ongoing cases and processing changes of circumstances;
- debt management teams taking action when a payment is missed;
- legal enforcement teams ensuring that payment is enforced.

There should also be specialist client teams for different areas of work, usually determined by the employment status of the non-resident parent (eg, teams dealing with benefit claimants, employed clients and self-employed clients).

The CSA also has local offices around the country, called local service bases or field offices (some of these are based in Jobcentre Plus premises). These may be used to conduct face-to-face interviews with parents.

Communicating with the Child Support Agency

The first port of call when contacting the CSA will usually be the CSAC which applies to the parent's area. You can write to or telephone the CSAC. It is advisable to keep copies of letters, and make a note of the date, time and content of telephone calls. Telephone numbers and addresses are in Appendix 1.

Dates of postage

If you fall under the 'new rules' and the CSA posts a document to you, it will usually be treated as sent on the day of posting.⁶ If you send a document to the CSA, it is treated as being sent on the day the CSA receives it.

If you fall under the 'old rules', documents are treated as being sent to you by the CSA on the second day after the day of posting (unless this day is a Sunday or bank holiday).⁷ If more than one document is required to be sent and they are posted on different days, or they need to be sent to different people and this is done on different days, they are treated as having been posted on the latest of the dates concerned (and so sent on the second day after this).⁸ If you send a document to the CSA, it is treated as being sent on the day the CSA receives it, but in some cases the CSA can treat documents as having been sent earlier if there was unavoidable delay.⁹

It is important to bear these rules in mind, especially where time limits are concerned.

Representatives

Anyone dealing with the CSA can appoint a representative to act on her/his behalf.¹⁰ If the person is not legally qualified, authorisation for her/him to act needs to be confirmed in writing, although if the client is with the representative during a telephone call s/he can authorise the representative verbally for the duration of the call. An authorised or legally qualified representative can complete forms, receive documents and supply information. A person with care may also choose to have payments of child support made to a representative.

A representative who understands the law and/or is experienced in dealing with the CSA may find it easier to get a quick response and clearer information from the CSA. S/he can also help you to understand your rights and what options are open to you. For information about how to find independent advice, see Appendix 4.

Representatives with legal authority to act for a CSA client (eg, someone with power of attorney, a receiver, or a mental health appointee/Scottish mental health custodian) are able to act for the client in every respect, as if they were the client.¹¹

The legal help scheme (advice and assistance scheme in Scotland) can cover child support cases. A client does not have to pay back any money out of sums recovered if the money is for maintenance.

What to expect when you contact the Child Support Agency

If you contact the CSA by telephone, you should be able to get through. The Client Charter states that the CSA aims to answer the telephone within one minute.¹² If you write to the CSA, it aims to reply to your letter, resolving the issue or agreeing what will happen next, within three weeks.¹³ If you have difficulty in contacting the CSA or obtaining a response within a reasonable time, you should complain. For more information about standards of service and how to complain, see Chapter 21.

Face-to-face interviews

A CSA client can request a face-to-face interview with a CSA member of staff, or the CSA may decide that a face-to-face interview is needed to obtain information or resolve a parent's query. CSA guidance states that an interview should only be used where 'there is a clear business need or it is beneficial to the client'.¹⁴ For example, you might request a face-to-face interview because of difficulties with written or telephone communication, or because English is not your first language.

In some cases, the CSA is required to hold a face-to-face interview – eg, where the results of a DNA test need to be communicated and it is important to check that the correct person has been tested.

If you are requesting a face-to-face interview, be aware that the guidance states the service should only be used if it is necessary, or the most effective way

to make contact, or if all other ways of progressing the case have been tried.¹⁵ However, if you feel that your request for a face-to-face interview has not been adequately considered, or you are not happy with the service, you should think about making a complaint (see Chapter 21).

If you are going to be interviewed, the CSA will contact you to arrange this. If you have any language or access needs, the face-to-face service should accommodate these. You may be interviewed at a Jobcentre Plus office or other approved venue, your place of work or, in certain circumstances, your home. A home visit will only be arranged where there is a clear business need (eg, you are housebound or the interview would otherwise involve unreasonable travelling time) and there is no threat to the safety of the face-to face officer. The interview will be recorded on the CSA database.¹⁶

Arrangements in Northern Ireland

The child support system is the same throughout the UK, but there is a separate Child Maintenance and Enforcement Division for Northern Ireland, which is part of the Department for Social Development (DSDNI). Its powers are the same as the CSA in England, Scotland and Wales. Before 1 April 2008 child support was dealt with by the Northern Ireland Child Support Agency. For the time being, cases will be dealt with in the same way as before this date. The changes that will take place in England, Scotland and Wales from 2008 (see below) will also apply in Northern Ireland. See www.dsdni.gov.uk for updates.

The address of the Northern Ireland CSA is the same as the Eastern Business Unit that assesses cases for the eastern area of England. They are based at the same location, but they operate separately. Also part of DSDNI is the Social Security Agency, the Northern Ireland equivalent of Jobcentre Plus.

Where this *Handbook* is being used in Northern Ireland, references to the DWP should be read as references to DSDNI and references to Jobcentre Plus should be read as references to the Social Security Agency (see also p10). **Note:** some legislative references are different in Northern Ireland.

3. Changes to child support from 2008

After several years of problems with the child support system, particularly delays in assessments and difficulties in enforcing payment, the Government is bringing about the following changes to the child support system.

Timetable for change

At the time of writing, the Government's proposed timetable includes the following changes.¹⁷

In 2008/09:

- **The Child Maintenance and Enforcement Commission (C-MEC) is launched in July 2008.** In the future, it will take responsibility for all existing Child Support Agency (CSA) operations, and will have enforcement and collection powers. At present, however, it operates a new information and guidance service for parents, the child maintenance options service (see p42). This is a telephone helpline, giving information about different options to arrange child maintenance. The new helpline will try to encourage parents to try to come to their own arrangements if they can. CSA staff will still deal with cases from the same offices and will continue to collect any child maintenance owed and chase up arrears.
- **The requirement to co-operate for parents with care on income support (IS) or income-based jobseeker's allowance (JSA) is abolished from 14 July 2008.** Parents with care who make a new claim for IS or income-based JSA on or after this date will be free to choose whether or not to use C-MEC to calculate and collect child maintenance. From October 2008 existing IS/income-based JSA claimants can choose to opt out of using the CSA without having to show good cause for doing so. From 14 July 2008, all parents with care who were receiving a reduced amount of IS or income-based JSA because they were refused permission to opt out of using the CSA will have their benefit increased to the full amount.
- **The maintenance premium (disregard) will be extended to all 'old rules' cases and the amount of the disregard will be increased.** All persons with care, including those who are covered by the 'old rules', who receive IS or income-based JSA will have up to £20 each week of any maintenance ignored when calculating their benefit entitlement.
- **New powers for collection and enforcement.** At some point during 2008/09, new powers for collecting and enforcing child maintenance payments are likely to be introduced. These include pilot schemes to allow the routine collection of maintenance from earnings. Currently, this does not happen until after payments have been missed. New enforcement powers will include the possibility of taking away a non-resident parent's passport until arrears are paid and deducting child maintenance payments directly from a non-resident parent's bank account. It is also expected that there will be a new provision to allow the CSA to claim any arrears of child support outstanding at the time of the death of the non-resident parent.
- **New powers to write off arrears.** The CSA is expected to be given new powers to write off certain child support arrears or to accept a lesser sum in some limited circumstances. The CSA will also be able to set off other payments made by the non-resident parent against his liability to pay child support.

From 2010:

- **A new child maintenance calculation will be introduced.** The amount payable will be fixed for a year and based on the non-resident parent's yearly gross income (before tax and national insurance), using the latest available tax year information from HM Revenue and Customs. As the new calculation will be based on gross rather than net income, the percentage of income the non-resident parent will be expected to pay is lower. If the non-resident parent's income is below £800 a week, the rates will be:
 - 12 per cent gross income for one child;
 - 16 per cent for two children; *and*
 - 19 per cent for three or more children.
 If his income is over £800 a week, a different percentage will apply to the excess above £800:
 - 9 per cent gross income for one child;
 - 12 per cent for two children; *and*
 - 15 per cent for three or more children.
- **The amount of the maintenance disregard will be increased.** The weekly amount of maintenance persons with care can receive before it affects any IS or income-based JSA they receive will be increased to £40 a week.
- **New applications from parents will be accepted under the new simplified rules.** Parents currently using the CSA will be required to choose whether to:
 - leave the system and make their own arrangements; *or*
 - move to the new system at some point from 2010 onwards.
 The transfer process for existing clients to the new simplified system will begin. The order in which people will be approached to make a choice has not yet been decided, but it is expected to take until 2013 before everyone who has chosen to use the C-MEC's child maintenance service has been transferred.

4. Using this Handbook

This *Handbook* covers the child support scheme in England, Wales and Scotland as at 1 August 2008. Northern Ireland has a similar scheme although some of its legislative references and guidance are different. Separate chapters detail how maintenance is worked out under the 'old' and 'new' rules. There are some references to earlier changes, but for full details of the scheme in previous years you should consult earlier editions. The other chapters cover general rules, such as how the Child Support Agency (CSA) obtains information or enforces payment, and how to challenge its decisions.

Structure of the book

Part 1 is an introduction to child support, the CSA and how to use this *Handbook*.

Part 2 explains the key principles and terms of the child support scheme, how

applications are made (including for parents treated as applying) and how the CSA seeks information. Once all the information is available, the amount of maintenance can be worked out – **Part 3** does this under the ‘new rules’ and **Part 4** under the ‘old rules’. The transitional rules on the conversion of existing cases to the new scheme are also covered in Part 3 (Chapter 9). **Part 5** covers CSA decisions, how to change, query or challenge them (by review and appeal), collection and enforcement of maintenance, and how to complain.

The **appendices** contain useful addresses, information about reference materials and an explanation of income support premiums. For benefit rates, see pxii.

The best way to find the information you need is to use the index at the back of the book.

Footnotes

At the end of each chapter are the footnotes. These contain the legal authorities and other sources of information which support the text, and some further information. Parents and advisers can quote the reference to the CSA if the statement in the text is disputed. Appendix 6 explains the abbreviations used in the footnotes, with information on how to get hold of the sources.

Some footnotes refer to the online guidance material provided to CSA staff. These are only guidance and are *not* law. Different guidance applies to ‘old rules’ and ‘new rules’ cases. This *Handbook* also includes references to relevant caselaw, in particular child support commissioners’ decisions (see p418).

Notes

1. What is child support

- 1 s1(1) CSA 1991
- 2 s1(2) and (3) CSA 1991
- 3 Sch 5 CMOPA 2008

2. The Child Support Agency

- 4 s3 CMOPA 2008
- 5 CSA Operational Improvement Plan 2006-2009
- 6 Reg 2 CS(MCP) Regs
- 7 Reg 1(6) CS(MAP) Regs
- 8 Reg 1(8) CS(MAP) Regs
- 9 Reg 1(7) CS(MAP) Regs

- 10 Reg 22 CS(MCP) Regs; reg 53 CS(MAP) Regs; DMG paras 2023-24; PG, Client Communications

- 11 DMG para 2025; PG, Client Communications

- 12 CSA Client Charter 2007, February 2007
- 13 CSA Client Charter 2007, February 2007
- 14 PG, Client Communications
- 15 PG, Client Communications
- 16 PG, Client Communications

3. Changes to child support from 2008

- 17 CMOPA 2008