



## BRIEFING PAPER

Number 7774, 7 August 2020

# Child Maintenance: Fees, enforcement and arrears

By David Foster, Philip Loft, Rod McInnes

### Contents:

1. Arranging child maintenance and associated fees
2. Do parents comply with child maintenance arrangements?
3. Resolving arrears without CMS enforcement
4. Collecting and enforcing arrears
5. How often are collection and enforcement powers used?
6. Northern Ireland
7. Key contacts



# Contents

<b>Summary</b>	<b>4</b>
<b>1. Arranging child maintenance and associated fees</b>	<b>6</b>
1.1 Terminology	6
1.2 Application fees	7
1.3 CMS: Collection fees	7
<b>2. Do parents comply with child maintenance arrangements?</b>	<b>9</b>
2.1 Compliance rates	9
Collect and Pay	9
Direct Pay	9
2.2 Total arrears	10
<b>3. Resolving arrears without CMS enforcement</b>	<b>11</b>
3.1 Person with Care's lack of enforcement/collection powers	11
3.2 Arrears payment plans	12
3.3 If the Non-Resident Parent or their partner is in receipt of benefits	12
3.4 Part-payment plans as full and final settlements	13
3.5 Writing off arrears	14
<b>4. Collecting and enforcing arrears</b>	<b>15</b>
4.1 Introduction	15
Arrears accumulated off Collect and Pay	15
4.2 Collection actions	16
Deduction from earnings order (DEO)	16
Deduction from earnings request (DER)	17
Deduction order	17
Collection of assets from a deceased paying-parent's estate	17
4.3 Enforcement actions	17
England, Wales and Scotland	18
England and Wales only	18
Scotland only	19
4.4 The possible return of using debt collection agencies	19
4.5 Financial Investigations Unit (FIU)	19
4.6 Complaints on child maintenance	20
<b>5. How often are collection and enforcement powers used?</b>	<b>21</b>
5.1 Collection powers	21
5.2 Enforcement powers	22
<b>6. Northern Ireland</b>	<b>26</b>
6.1 Coronavirus	26
6.2 Compliance report	26
6.3 Collection and enforcement powers	26
6.4 Fees and charges	27
6.5 Income from fees and enforcement charges	27
6.6 Enforcing cases across the UK	27
<b>7. Key contacts</b>	<b>28</b>



## Summary

### Box 1: Child maintenance and Coronavirus

The Child Maintenance Service [said](#) during the Coronavirus outbreak that it was “not currently contacting paying parents about missing payments. You may have to wait longer to get money that’s owed to you”. They [advised](#) that the Parent with Care “keep a record of any payments you receive and any missed payments. If any payments are missed, we will begin collection activity to recover any unpaid child maintenance as soon as we are able to return to full service”. In July 2020, the DWP said it was currently working with its partners, such as bailiffs and courts, to establish arrangements to support enforcement. Once its partners were ready to support CMS referrals, the DWP said, it would “move quickly to re-establish our normal and full range of enforcement service”.<sup>1</sup> As of 6 August 2020, the [CMS Direct page](#) says “if any payments are missed, we will review your case and may begin collection activity to recover any unpaid child maintenance” (August 2020). The [CMS in Northern Ireland](#) similarly may not pursue arrears during the Coronavirus period.

This Library briefing describes what steps the Child Maintenance Service (CMS) may take when a Non-Resident Parent (also known as a “Paying Parent”) fails to pay child maintenance on time or in full. It also provides information on the application, collection and enforcement fees charged by the CMS, and briefly summarises analysis on the effectiveness of the CMS’s enforcement and collection system.

The briefing focuses on the use of enforcement measures in CMS cases (the “2012 scheme”), though they may also be applied to arrears arising from arrangements organised under the 1993 and 2003 schemes with the Child Support Agency (CSA).

**This paper relates primary to Great Britain: Section 6 describes Northern Ireland’s system.**

Information on how child maintenance is calculated can be found in the Library Briefing [Child Maintenance: Calculation, variation and income](#). [Child Maintenance: Cases when someone lives overseas](#) may be useful in circumstances where one parent lives abroad.

### Fees

Individuals must pay a £20 fee for applying to the CMS to calculate child maintenance. The fee is not charged if a person is aged 18 years or under, or is a victim of domestic abuse or violence and has reported this to [“an appropriate person”](#).

For those under [“Direct Pay”](#), where the CMS calculates the rate and payments are made between parents, there are no additional collection fees.

For those using [“Collect and Pay”](#), where the CMS collects and passes on payments, the Non-Resident Parent must pay an extra 20% of the maintenance due and the Parent with Care receives 96% of the child maintenance allowance paid by the Non-Resident Parent.

### Initial CMS response to the build-up of arrears

If arrears have been accumulated under the Collect and Pay system, the Paying Parent is usually sent an arrears notice, and caseworkers may negotiate and put in place a repayment plan. The CMS has said that it aims to recover arrears within 2 years and expects the Paying Parent to pay up to 40% of their net income to clear them. The CMS may also seek, or accept a proposal of, part-payment in satisfaction of liability for the

---

<sup>1</sup> [PO 72877 \[Children: Maintenance\], 21 July 2020](#)

whole arrears. The written consent of the Person with Care (or child applicant in Scotland) must be obtained before this is accepted.

The CMS does not monitor payments made under Direct Pay. However, the DWP states that where parents do not pay their liability in full and on time, the Person with Care should inform the CMS who will “take swift action to move the case to Collect and Pay to enforce payment and recover any arrears”.<sup>2</sup>

## Collection Powers

Without a court order, the CMS may collect arrears through:

- A **[Deduction from Earnings Order](#)**: An employer deducts payment for arrears direct from the Paying Parent’s salary.
- A **Deduction from Earnings Request**: As above, but for the Armed Forces.
- A **Deduction Order**: Either a lump sum or regular deductions are made from bank accounts.
- **Collection of Assets** from a deceased paying-parent’s estate.

## Enforcement Powers

With a Court-obtained **[liability order](#)**, the CMS may take the a range of enforcement action.

In England and Wales these powers include using bailiffs to take control of goods and applying to the court for an order of sale of an asset, once it is registered by a court. In Scotland, powers include requesting a sheriff to make a charge of payment to require payment after 14 days, or freezing assets to prevent them being sold or transferred.

Fees may be charged when the CMS takes enforcement action against a non-paying parent— current fees can be seen at Gov.UK, [Enforcement charges](#).

In Great Britain, on successful application to the courts, an individual may also be disqualified for driving or from holding a passport.

Persons with Care on Direct Pay must first transfer their case to Collect and Pay for the CMS to bring enforcement action against the Paying Parent.

## Writing off-arrears

Since 2018, the UK Government has had the power to write-off arrears that accumulated when a case was administered by the CSA under the legacy 1993 and 2003 child maintenance schemes. This can be done if no payment towards those arrears has been made for three months and other conditions are met. For more information, see the Library paper [Child maintenance: The write-off of arrears on Child Support Agency cases](#).

---

<sup>2</sup> PQ 277773 [[Children: Maintenance](#)], 22 July 2019; PQ 3239 [[Children: Maintenance](#)], 21 January 2020

# 1. Arranging child maintenance and associated fees

## 1.1 Terminology

There are currently three statutory child support schemes operating in Great Britain under the [Child Support Act 1991](#):

- **2012 scheme** (also known as **CS3**): the current scheme and open to new applicants. It is administered by the Child Maintenance Service (CMS);
- **1993 and 2003 schemes**: these are closed to new applicants and all cases with ongoing maintenance liabilities have been transferred to the 2012 scheme. Only “arrears-only” cases continue to operate under these schemes, although the Department for Work and Pensions (DWP) is implementing a large-scale write-off of arrears that accrued under them. The legacy schemes are administered by the Child Support Agency (CSA). More information on the write-off of arrears may be found in the Library Briefing, [Child maintenance: The multi-billion pound write-off of arrears on Child Support Agency \(CSA\) cases](#).

Relevant parties can also agree a private child maintenance arrangement themselves (referred to as “family-based arrangement”) without regard to the CMS. These can take the form of a written maintenance agreement and, if such an agreement is endorsed by a court in a [consent order](#), the CMS is prevented from accepting an application for child maintenance for 12 months from the date it was made (providing it was made after 3 March 2003).<sup>3</sup>

Arrears accumulated under child maintenance arrangements other than Direct Pay or Collect and Pay (see box 2 below) – such as family-based arrangements – cannot be collected by the CMS.

### Box 2: Child maintenance terminology

Below is a list of common terminology on child maintenance employed under the [Child Support Act 1991 \(the 1991 Act\)](#) and in [CMS literature](#):

- **Non-Resident Parent (“Paying Parent”)**: a parent who does not live with the child in question
- **Person with Care (“Receiving Parent”)**: the person with whom the child has their home and who usually provides day-to-day care of the child. The Person with Care does not have to be a parent of the child or have parental responsibility for them.<sup>4</sup>
- **Qualifying child**: the child for whom child maintenance is payable.
- **Relevant child** (or “**relevant other child**”): a child other than a Qualifying Child for whom Child Benefit is payable to the Non-Resident Parent (or their partner).
- **Child in Scotland/Child Applicant**: in Scotland, a child aged 12-19 may apply for maintenance if they are in full-time, non-advanced education or approved training;
- **Duty to Maintain**: Section 1 of the [1991 Act](#) states that “each parent of the Qualifying Child is responsible for maintaining [them]” and “where a maintenance assessment made under this Act requires the making of periodical payments, it shall be the duty of the absent parent with respect to whom the assessment was made to make those payments”.
- **Gross weekly income**: the Non-Resident Parent’s income calculated as a weekly amount before any deductions for tax but after any contributions to approved personal or occupational pension schemes have been made.

<sup>3</sup> [Child Support Act 1991](#) (as amended), ss 4 (10)(a) and 7(10)(a); Child Poverty Action Group (CPAG), Child Support Handbook 2019/20, 2019, p19

<sup>4</sup> [Child Support \(Maintenance Calculation Procedure\) Regulations 2001](#), Regulation 21(1).

- **Direct Pay:** where the CMS calculates the rate of maintenance, and payments are made directly between parents.
- **“Collect and Pay”:** where the CMS calculates, collects and passes on payments between parents.
- **Child Maintenance Group (CMG):** the post-2012 successor to the Child Maintenance and Enforcement Commission.

## 1.2 Application fees

Under the [Child Support Fees Regulations 2014](#), individuals who apply to the CMS for it to calculate child maintenance must pay an **application fee of £20**, unless they are:

- Aged 18 years or under; or
- Living in Northern Ireland; or
- A victim of domestic abuse or violence and have reported this to [“an appropriate person”](#) (e.g. the police). The person must declare to the CMS that they have experienced domestic abuse or violence and state which “appropriate person” they reported the abuse to.<sup>5</sup>

The [Impact Assessment for the 2014 Regulations](#) stated that the introduction of an application fee was intended to “encourage parents to consider family-based arrangements as an alternative to the CMS and to provide value for the taxpayer”, by acting as a “reflection point” for the involved parties.<sup>6</sup>

The application fee is the only CMS fee that it is possible to be exempt from.

## 1.3 CMS: Collection fees

For those under Direct Pay (see box 2 above), there are no additional collection fees charged by the CMS.

For those using Collect and Pay, the Non-Resident Parent must pay an extra 20% of the child maintenance due and the Parent with Care receives 96% of the child maintenance paid by the Non-Resident Parent (paying a fee of 4%). This is a recurring fee, paid each time child maintenance is paid. The DWP provides the following example:

A maintenance liability is calculated as £100 per month. The PWC [Parent with Care] collection charge is £4 per month and the NRP [Non-Resident Parent] collection charge is £20 per month. The NRP’s payment schedule is then set up as £120 per month. When the monthly payment of £120 is received, £20 is allocated to the NRP collection charge, £100 to maintenance paid. £4 is then allocated to the PWC collection charge and £96 is passed to the PWC.<sup>7</sup>

### Income from £20 application fee, 2014/15-2017/18

2014/15	£0.83m
2015/16	£1.69m
2016/17	£1.80m
2017/18	£1.52m

Source: [PO 281114 \[Child Maintenance Service\]](#), 23 July 2019

### Proportion of new intake who received application fee exemptions

In quarters ending

Jun-18	43%
Sep-18	52%
Dec-18	53%
Mar-19	53%
Jun-19	54%
Sep-19	54%
Dec-19	55%
Mar-20	56%

Source: DWP, [Child Maintenance Service statistics: Data to March 2020](#), June 2020, Table 2

<sup>5</sup> Department for Work and Pensions (DWP), [Guidance on Regulation 4\(3\) of the Child Support Fees Regulations 2014: How the Secretary of State will determine if an applicant is a victim of domestic violence or abuse](#), December 2013

<sup>6</sup> DWP, [Impact assessment – The Child Support Fees Regulations 2014](#), 31 March 2013, pp1, 9

<sup>7</sup> [Ibid](#), p12, para 72

The DWP has stated that making both parents liable for collection fees creates “an ongoing incentive for both parents to move their case into Direct Pay, where collection fees do not apply”.<sup>8</sup>

There are currently no exemptions from the Collect and Pay collection fees.

During a 2013 consultation on fees, the then-Government noted that “many respondents expressed concerns over collection fees for victims of domestic violence.”<sup>9</sup> However, the DWP has

stated that the CMS provides support in alternative ways to victims of domestic abuse in these circumstances, including

facilitating the exchange of bank details and ensuring information is not shared, whilst “keep[ing] our policy under review”.<sup>10</sup>

Income from collection fees under Collect and Pay			
	Paying Parent (20% fee)	Receiving Parent (4% fee)	Total
2014/15	£1.65m	£0.33m	£1.97m
2015/16	£5.57m	£1.09m	£6.66m
2016/17	£10.49m	£2.03m	£12.52m
2017/18	£16.88m	£3.24m	£20.12m
2018/19	£27.91m	£5.43m	£33.34m

Sources: [PO 281113 \[Child Maintenance Service\], 23 July 2019](#); [PO 25685 \[Child Maintenance Service\], 5 March 2020](#)

### Box 3: The DWP's 30-month review of charging (2017)

The DWP commissioned a review of charging, and published independent research as [Child Maintenance Reforms: 30 months of charging](#) in 2017. The survey found that around 61% of receiving parents who paid the £20 application fee to set up a Direct Pay arrangement found it very/quite easy to afford, but “over half of parents on very low incomes find the application fee difficult to afford”. The ongoing charges on Collect and Pay was found to partly influence “roughly half” of surveyed parents choosing Direct Pay, though other factors, such as their relationship with the Paying Parent, also had an impact. 33% of surveyed parents involved in the decision to use Direct Pay, specifically did so to avoid paying charges.

In response, the DWP stated that “the findings from this Review do not indicate that charges are the overriding factor affecting parents’ decisions to use the reformed system and we do not have any plans to change the charging structure”. However, it “triggered...a variety of improvements to external communications and operational processes”.<sup>11</sup>

<sup>8</sup> DWP, [Government response to the consultation supporting separated families; securing children’s futures](#), Cm8742, November 2013, p14, para 8

<sup>9</sup> [Ibid](#), p11, para 8

<sup>10</sup> [PO 222043 \[Children: Maintenance\], 14 February 2019](#)

<sup>11</sup> DWP, [Child maintenance reforms: 30 month review of charging, Cm 9481](#), August 2017, paras 24, 29, 30, 45

## 2. Do parents comply with child maintenance arrangements?

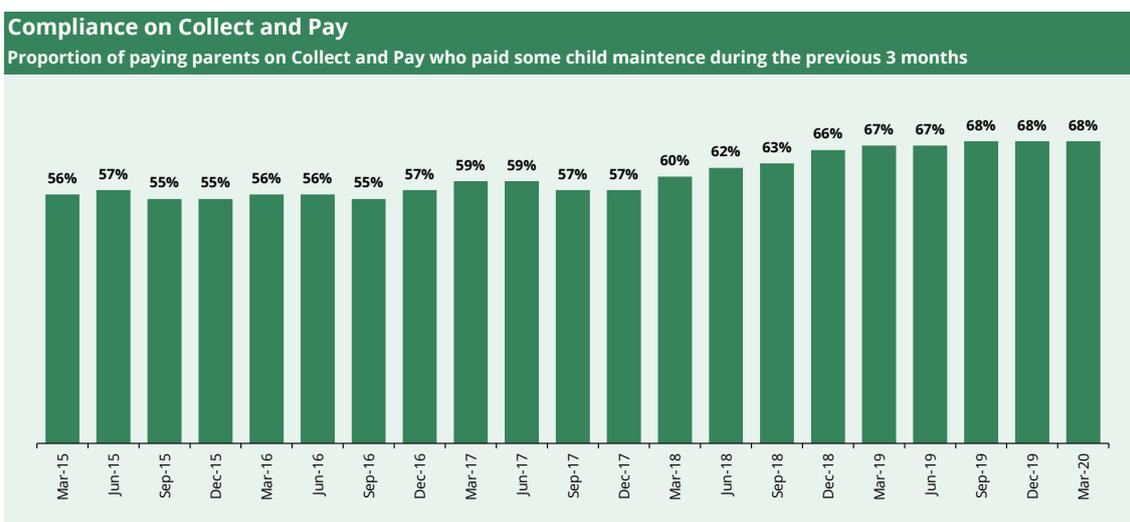
### 2.1 Compliance rates

In March 2020 there were **515,636 child maintenance arrangements under the 2012 CMS scheme**, and 483,000 Paying Parents (a parent may be liable to pay more than one arrangement).<sup>12</sup>

#### Collect and Pay

Excluding those arrangements not yet assigned to a scheme, **189,313 were on Collect and Pay (37%) in March 2020**. The proportion of arrangements assigned to Collect and Pay was 30% in March 2017 and has risen gradually since then.<sup>13</sup>

The below chart shows that around **67-68% of parents on Collect and Pay have contributed a form of payment in each quarter since December 2018**. This is an increase from around 55-56% in the period March 2015 to September 2016.



Source: DWP, [Child Maintenance Service statistics: Data to March 2020 \(Experimental\), Great Britain](#), June 2020, Table 8.

#### Direct Pay

On compliance with **Direct Pay** arrangements, a survey report published by the DWP in 2016 found that of all receiving parents who had a Direct Pay calculation, 49% had an “effective arrangement” after three months. This rose to 53% after 13 months. An effective arrangement was defined as “payments were being made on time, in full and the Receiving Parent perceived the arrangement to be working well”.<sup>14</sup>

This means that 51% of parents at 3 months and 47% at 13 months who had a Direct Pay calculation were not successful in establishing a working arrangement and did not move on to Collect and Pay. Surveyed parents gave several reasons for deciding not to change to Collect and Pay, including that they believed the Non-Resident Parent would

<sup>12</sup> DWP, [Child Maintenance Service statistics: Data to March 2020 \(Experimental\), Great Britain](#), June 2020, Table 7; DWP Stat-Xplore, [Child Maintenance, Table 1- Service Type & Paying status by quarter](#), June 2020

<sup>13</sup> Excluding those not assigned to either Direct Pay or Collect and Pay. DWP, [Child Maintenance Service statistics: Data to March 2020 \(Experimental\), Great Britain](#), June 2020, table 4; DWP Stat-Xplore, [Child Maintenance, Table 1- Service Type & Paying status by quarter](#), June 2020

<sup>14</sup> DWP, [Survey of Child Maintenance Service Direct Pay clients](#), December 2016, p67

not pay (48%), that the other parent could not afford to pay (13%), there was a domestic violence issue (10%), or that they had made alternative arrangements (10%).<sup>15</sup>

## 2.2 Total arrears

The table below shows the growth in cumulative arrears under the 2012 scheme. At the end of **March 2020, total cumulative arrears were at £354.2m**. Arrears under the 2012 scheme account for **10% of the total child maintenance/child support that should have been paid by that date**.

Child maintenance arranged in the 2012 CMS Scheme						
Cumulative figures by the end of	Child Maintenance that should have been paid			Unpaid and now needing to be collected through		
	Total Due	Of which: Collection arrangement		Collect and Pay	Collect and Pay	
		Direct Pay	Collect and Pay			
	£m	£m	£m	£m	% of total due	
Mar-15	152.1	92.3	59.8	26.0	17%	
Jun-15	202.7	130.2	72.6	30.7	15%	
Sep-15	264.1	175.5	88.7	38.1	14%	
Dec-15	335.2	228.0	107.2	46.4	14%	
Mar-16	418.6	290.7	127.9	55.8	13%	
Jun-16	519.5	366.5	153.0	67.9	13%	
Sep-16	635.0	453.1	181.9	82.4	13%	
Dec-16	764.3	550.9	213.4	97.6	13%	
Mar-17	907.8	659.6	248.2	113.7	13%	
Jun-17	1,071.6	784.1	287.6	133.0	12%	
Sep-17	1,250.9	919.0	331.9	154.2	12%	
Dec-17	1,440.2	1,059.0	381.2	177.1	12%	
Mar-18	1,637.6	1,203.6	434.0	197.8	12%	
Jun-18	1,853.5	1,361.4	492.1	219.0	12%	
Sep-18	2,081.7	1,527.8	553.9	240.8	12%	
Dec-18	2,313.8	1,698.1	615.7	259.2	11%	
Mar-19	2,544.6	1,867.3	677.3	275.3	11%	
Jun-19	2,788.3	2,047.0	741.3	293.6	11%	
Sep-19	3,045.8	2,235.5	810.3	315.3	10%	
Dec-19	3,330.2	2,421.4	878.7	335.3	10%	
Mar-20	3,560.6	2,613.0	947.6	354.2	10%	

Source: DWP, [Child Maintenance Service statistics: Data to March 2020 \(Experimental\), Great Britain](#), June 2020, Table 10

Maintenance that is “unpaid and now needing to be collected” includes unpaid maintenance under Direct Pay arrangements, child maintenance that accumulated before the first payment was due, unpaid maintenance due to differences between the date when payments are due and paid, and overdue maintenance due under Collect and Pay.

<sup>15</sup> [Ibid](#), p84, figure 7.4

## 3. Resolving arrears without CMS enforcement

When a Non-Resident Parent builds up child maintenance arrears because they have not paid in full and on time, there are steps that can be taken to avoid the CMS using its collection actions and enforcement power.

Decisions about enforcement and collection action are discretionary, and the CMS will give the Non-Resident Parent the opportunity to first pay voluntarily.<sup>16</sup> The CMS will, if the Non-Resident Parent is already on the Collect and Pay system, issue an arrears notice and the parent will have the opportunity to negotiate a payment. If an arrears notice has already been issued within the last 12 months, the CMS is not required to issue another before taking enforcement or collection action.<sup>17</sup>

The CMS does not monitor payments made under Direct Pay. However, the DWP states that where parents do not pay their liability in full and on time, the Person with Care should inform the CMS who will “take swift action to move the case to Collect and Pay to enforce payment and recover any arrears”.<sup>18</sup> In such cases, the CMS will issue a payment schedule detailing the maintenance and arrears due to be paid (section 4 provides information on collection and enforcement powers).

### Box 4: Child maintenance and Coronavirus

The CMS [said](#) during the Coronavirus outbreak that it was “not currently contacting paying parents about missing payments. You may have to wait longer to get money that’s owed to you”. They [advised](#) that the Parent with Care “keep a record of any payments you receive and any missed payments. If any payments are missed, we will begin collection activity to recover any unpaid child maintenance as soon as we are able to return to full service”. In July 2020, the DWP said it was currently working with its partners, such as bailiffs and courts, to establish arrangements to support enforcement. Once its partners were ready to support CMS referrals, the DWP said, it would “move quickly to re-establish our normal and full range of enforcement service”.<sup>19</sup> As of 6 August 2020, the [CMS Direct page](#) says “if any payments are missed, we will review your case and may begin collection activity to recover any unpaid child maintenance”. The [CMS in Northern Ireland](#) similarly may not pursue arrears during the Coronavirus period.

### 3.1 Person with Care’s lack of enforcement/collection powers

The House of Lords, when it was the UK’s highest civil court, [determined](#) in 2005 that the *Child Support Act 1991* removed a Parent with Care’s private right to enforce payment of child maintenance through the courts. This meant that the state has sole responsibility for enforcing obligations and has discretion whether to pursue enforcement.<sup>20</sup> The position was [confirmed](#) in the European Court of Human Rights in 2008.<sup>21</sup>

<sup>16</sup> CMS, [What happens if a paying parent doesn’t pay child maintenance?](#), 2013 p10

<sup>17</sup> [The Child Support \(Management of Payment and Arrears\) Regulations 2009](#), Sections 3 and 3A

<sup>18</sup> [PO 277773 \[Children: Maintenance\], 22 July 2019](#); [PO 3239 \[Children: Maintenance\], 21 January 2020](#)

<sup>19</sup> [PO 72877 \[Children: Maintenance\], 21 July 2020](#)

<sup>20</sup> [R \(Kehoe\) v Secretary of State for Work and Pensions, \[2005\] UKHL 48](#), 14 July 2005

<sup>21</sup> [Kehoe v UK \(App No 2010/06, ECHR\) \(2008\)](#)

In the same case, it was argued that a parent could proceed via judicial review to ask a Court to determine whether the CMS used its enforcement and collection powers properly.<sup>22</sup>

The Government stated in 2018 that it has no intention of introducing measures to enable parents to pursue arrears separately through the legal system.<sup>23</sup>

### 3.2 Arrears payment plans

The CMS aims to begin action within days of a payment being missed. In the first instance, the CMS will contact the Non-Resident Parent directly to discuss the reasons for non-payment, and signpost relevant sources of independent advice (e.g. debt advisory services).<sup>24</sup>

If the Non-Resident Parent has missed one or more child support payments, the CMS must issue an arrears notice stating the total of outstanding arrears and requesting payment. The CMS does not send an arrears notice if Direct Pay arrangements are in place.

There are no set rules on the level of payments or how quickly arrears will be recovered. While the CMS “always begin[s] by requesting full payment of the outstanding arrears”, a Non-Resident Parent may be able to reach an agreement to pay the amount in instalments.

In determining whether to accept a repayment plan, the CMS must take into account the welfare of any child likely to be affected. It should also consider:

- the needs of the Non-Resident Parent (and their new family, if applicable)
- the Person with Care and the qualifying child or children
- any representations from the Non-Resident Parent concerning hardship.

The Person with Care and Qualifying Children are not consulted about the level at which arrears are collected but are informed when a decision has been made.

The CMS aims to recover arrears within two years and expects the Non-Resident Parent to pay up to 40% of their net income to clear them. If a repayment plan is likely to result in there being over £1,000 arrears still owing after two years, then the CMS will be “likely” to obtain a liability order so it can use its enforcement powers (see section 4 below). Similarly, if a repayment agreement is not reached, or a Non-Resident Parent fails to keep to an agreement, enforcement action will be taken.<sup>25</sup>

### 3.3 If the Non-Resident Parent or their partner is in receipt of benefits

Before 2019, the maximum the CMS could deduct from benefits towards arrears was £1.20 a week.<sup>26</sup> Since 2019, if a Non-Resident Parent is in receipt of one of the benefits that make them eligible to pay the flat rate of child maintenance (see box 5 below), but does not have any ongoing maintenance liability, then the CMS can deduct up to £8.40 a week to meet any arrears (at the flat rate of £7 plus a 20% collection fee of £1.40,

<sup>22</sup> [R \(Kehoe\) v Secretary of State for Work and Pensions, \[2005\] UKHL 48](#), 14 July 2005, p22, para 45

<sup>23</sup> [PO 198381 \[Children: Maintenance\], 3 December 2018](#)

<sup>24</sup> DWP, [Preparing for the future, tackling the past](#), 2013, para 1.6, 4

<sup>25</sup> CPAG, [Child Support Handbook 2019/20](#), 2019, pp147-9.

<sup>26</sup> DWP, [Explanatory Memorandum to The Child Support \(Miscellaneous Amendments\) Regulations 2019](#), para 6.3; [The Child Support \(Miscellaneous Amendments\) Regulations 2019](#)

totalling £8.40.<sup>27</sup> Deductions for benefit are administrated by the Collect and Pay Service.<sup>28</sup>

Where a Non-Resident Parent has an ongoing child maintenance liability at the flat rate, they do not have to also contribute to the payment of arrears. This means that the amount of child maintenance payable never exceeds £8.40.

This also applies to an individual receiving Universal Credit (with or without earnings) who meets the criteria for the flat rate of child maintenance (they may not have a flat rate calculation in place, if they no longer have an ongoing maintenance liability and only owe arrears).<sup>29</sup>

#### **Box 5: Arrears reduction from benefits**

The flat rate of child maintenance is payable if the Non-Resident Parent has gross weekly income of between £7 and £100 or receives, or their partner who they live with receives, a certain type of benefit/pension—see the Library briefing [Child maintenance: How it calculated under the 2012 scheme](#) for more information.

There are 15 benefits, including carer’s allowance, some forms of state pension, income support, Universal Credit, and income-based jobseeker’s allowance, that are liable for deductions. The DWP said that “around 20% of Paying Parents currently claim one of these benefits so [we] anticipate that this would be successful in maintaining on-going compliance and helping collect outstanding arrears.”<sup>30</sup>

### **3.4 Part-payment plans as full and final settlements**

The CMS can, in certain circumstances, treat a part payment of arrears as “full and final settlement” of all the arrears owed. This will be considered if the Non-Resident Parent offers, or the Person with Care suggests it.<sup>31</sup>

In deciding whether to accept a part payment as full and final settlement, the CMS must consider the welfare of any child likely to be affected, and the likely success of continued enforcement action against the Non-Resident Parent. It will also investigate the Non-Resident Parent’s circumstances.<sup>32</sup> The CMS may demand the full arrears amount being paid if it determines the Non-Resident Parent has the ability to do so and there is a “reasonable chance” of those arrears being recovered.<sup>33</sup>

If the part payment is made in full, it has the effect of extinguishing the Non-Resident Parent’s liability on any outstanding arrears. If it is not paid or not paid in full, the liability persists, and the CMS can pursue recovery.

Before accepting the part payment offered by the Non-Resident Parent, the CMS must obtain the written consent of the Person with Care (or a child applicant in Scotland, and the Person with Care of that child).<sup>34</sup> The Child Poverty Action Group’s (CPAG) Child Support Handbook notes that the CMS may not inform the Person with Care of the proposal if it deems it “unreasonable”.<sup>35</sup>

<sup>27</sup> [The Child Support \(Miscellaneous Amendments\) Regulations 2019](#), Part 2, Regulation 5 (3a)(ii)

<sup>28</sup> DWP, [Child maintenance: A new compliance and arrears strategy](#), December 2017, Para 44

<sup>29</sup> [Explanatory Memorandum to The Child Support \(Miscellaneous Amendments\) Regulations 2019](#), p2

<sup>30</sup> DWP, [Child Maintenance: A new compliance and arrears strategy – Public consultation](#), December 2017, pp14 and 15, paras 50, 51, 55.

<sup>31</sup> Under Section 41D of the [Child Support Act 1991](#), as amended

<sup>32</sup> DWP, [The draft Children Support Management of Payments and Arrears \(Amendment\) Regulations 2012: Government response to consultation](#), 15 October 2012, para 36

<sup>33</sup> CPAG, [Child Support Handbook 2019/20](#), 2019, pp152-3

<sup>34</sup> [The Child Support \(Management of Payments and Arrears\) Regulations 2009](#), Part 4A

<sup>35</sup> [Ibid](#), 15 October 2012, para 40; Child Poverty Action Group, [Child Support Handbook 2019/2020](#), 2019, pp152–153

### 3.5 Writing off arrears

Maintenance arrears can be written off entirely in some circumstances, including when:

- the receiving parent (or child in Scotland, who can apply for maintenance in their own right) has requested that they no longer wish the arrears to be collected.
- the receiving parent (or child in Scotland) has died.
- the paying parent died before 25 January 2010, or there is no further action that can be taken to recover arrears from their estate.
- The CMS have previously advised the paying parent that it would never take any further action to collect the arrears, for example they have written to the paying parent and told them their debt no longer exists.
- the arrears relate to liability for child support maintenance for any period in respect of which an interim maintenance assessment was in force between 5 April 1993 and 18 April 1995.<sup>36</sup>

In addition, the Government has started the large-scale write-off of arrears that accumulated under the legacy 1993 and 2003 statutory child maintenance schemes administered by the CSA. Arrears that fall within this programme are those where no payment has been made for the past three months and are arrears-only. The Library briefing paper, [Child maintenance: The write-off of arrears on Child Support Agency cases \(UK\)](#), provides more information on the write off of arrears, and the circumstances in which it may be done.

---

<sup>36</sup> Section 41E of the [Child Support Act 1991](#), as amended, and 13G of [The Child Support \(Management of Payments and Arrears\) Regulations 2009](#); DWP, [Child maintenance: A new compliance and arrears strategy – Public consultation](#), December 2017, pp20–21, para 91

## 4. Collecting and enforcing arrears

### 4.1 Introduction

There is a spectrum of powers available to the CMS to collect arrears, which are either:

- **Collection actions:** measures that the CMS can take under its own initiative; or
- **Enforcement powers:** measures that can only be taken when a court makes a “[liability order](#)”.

Before taking enforcement or collection action on unpaid child maintenance, the CMS must have issued the Non-Resident Parent with an arrears notice in the last 12 months and come to no arrangement over repayment.<sup>37</sup>

Non-Resident Parents who pay by an enforced method or have undergone legal enforcement action are likely to be deemed “unlikely to pay” by the CMS and required to use Collect and Pay.<sup>38</sup>

Those required to pay through the Collect and Pay system because they have been deemed “unlikely to pay” must demonstrate, for at least six months, that they can pay in time and in full before the CMS considers returning a case to Direct Pay.<sup>39</sup>

### Arrears accumulated off Collect and Pay

Collection action and enforcement powers will be utilised by the CMS when a case is on the Collect and Pay scheme. Where arrears have accumulated on a case on Direct Pay, the case must be first moved to Collect and Pay before the CMS applies its powers.<sup>40</sup>

In terms of alerting the CMS to a missed payment on Direct Pay, this is the responsibility of the Person with Care: the CMS does not monitor Direct Pay transactions.

Arrears accumulated under child maintenance arrangements other than Collect and Pay and Direct Pay – such as family-based arrangements – cannot subsequently be collected by the CMS.

The Library briefing, [Child Maintenance: Cases when someone lives overseas](#) provides information on maintaining and enforcing maintenance when one parent lives abroad.

#### Box 6: New CMS compliance strategy, 2018

The DWP launched a [new compliance strategy in 2018](#), following a [consultation](#). Key measures on arrears and compliance included:

- Permitting deductions for ongoing maintenance at the flat rate from those Universal Credit claimants who have earnings;
- Allowing deductions from welfare benefits where arrears have accrued but ongoing child maintenance is no longer paid;
- Allowing deductions from unlimited partnership bank accounts;

<sup>37</sup> [The Child Support \(Management of Payment and Arrears\) Regulations 2009](#), Section 3A; Voice of Child, [CMS: DEOs and Request: Decision making guidance](#), u.d, p1

<sup>38</sup> [Child Support Act 1991](#), Section 4 (2A); Voice of the Child, [CMS: Unlikely to pay: Contents](#), u.d., p2. The CPAG handbook states that arrears do not have to be paid by the same method as ongoing child maintenance (meaning arrears could be collected under Collect and Pay whilst ongoing maintenance is made under Direct Pay), but in practice the CMS prefers to use the same method of payment for both: CPAG, [Child Support Handbook 2019/20](#), 2019, p151.

<sup>39</sup> [PQ 169399 \[Children: Maintenance\]](#), 6 September 2018

<sup>40</sup> [PQ 277773 \[Children: Maintenance\]](#), 22 July 2019.

- Disqualifying Non-Resident Parents from holding or obtaining a passport where all other enforcement action is ineffective;
- Allowing more legacy CSA cases where debt is owed to the Person with Care to be written off, subject to certain safeguards;
- Writing off all CSA debt owed to the Government by Non-Resident Parents.

The Government said “the changes mean that more money will be going to children to support their upbringing”.<sup>41</sup> Gingerbread, a single-parent’s charity, welcomed the strategy as a “step forward” but said “today’s announcement sets out some tough new powers, but we know these are unlikely to be used.”<sup>42</sup> More information can be found in the Library briefing [Child maintenance: New steps to improve compliance and to allow arrears to be written off \(UK\)](#).

## 4.2 Collection actions

If a child maintenance case is under Collect and Pay, the CMS may, without a court order, collect arrears through the below methods.

**Collection fees** are in place for regular deduction orders, deductions from earnings requests or orders, and lump sum deduction orders. [Current fees](#) are:

- Lump sum deduction order- £200
- Regular deduction order- £50
- Deduction from earnings request/order- £50

### Deduction from earnings order (DEO)

These are given to an employer by the CMS to deduct payment for arrears (or regular child maintenance) from a Non-Resident Parent’s salary before it is paid.<sup>43</sup>

In determining the rate at which the arrears shall be repaid under a DEO, the Child Support Handbook explains:

The “normal deduction rate” is the amount that will be deducted each payday, provided it does not bring net earnings below a certain amount (the protected earnings proportion). The normal deduction rate can include the current child support liability and an amount for any arrears, penalty payments and any fees due. There are no special rules on how quickly the CMS should aim to clear the liability, although often the maximum deduction rate of 40 per cent of net income is applied. [..]

The “protected earnings proportion” is 60% of net earnings. Deductions must not reduce earnings below this level.<sup>44</sup>

Because the CMS uses gross weekly income to calculate child maintenance it is unaware of a Non-Resident Parent’s net weekly income; the Non-Resident Parent’s employer “is therefore responsible for calculating the protected earnings proportion” when setting up a DEO.<sup>45</sup>

<sup>41</sup> DWP, [Child maintenance: Changes to compliance measures](#), 14 December 2018

<sup>42</sup> Gingerbread, [Government U-turn on child maintenance avoidance is “welcome but not enough”](#), 12 July 2018

<sup>43</sup> Section 31 of the [Child Support Act 1991](#), as amended, and [The Child Support \(Collection and Enforcement\) Regulations 1992](#)

<sup>44</sup> CPAG, Child Support Handbook 2019/20, 2019, p161

<sup>45</sup> Ibid; DWP, [What is a deductions from earnings order?](#), October 2013

## Deduction from earnings request (DER)

DERs are when the Ministry of Defence (MoD) deducts payments for arrears direct from a serving member of the armed forces.<sup>46</sup>

Unlike a DEO, there is no legal obligation to make deductions through a DER, but the Child Maintenance Group has a memorandum of understanding with the MoD to support deduction from earnings.<sup>47</sup> In answer to a [2019 parliamentary question](#), the Ministry of Defence stated that unless an individual is on active operations, child maintenance deductions are “always made”.<sup>48</sup>

## Deduction order

Deduction orders can be made to take a lump sum or regular deduction from certain bank accounts. Deductions are made in the following order: first from an account of an individual, then from personal joint accounts, and finally from certain business accounts (namely sole trader and unlimited partnership business accounts).<sup>49</sup>

In terms of safeguards, no deductions from partnership bank accounts can allow the balance of the account to fall below £2,000 and if it is not clear how much of the fund in a shared account belongs to the Paying Parent, the amount will be split by the number of account holders.

All account holders have the right to ask the CMS to review a decision and to provide information on the amount each person contributes to the shared account or how a business uses the account.<sup>50</sup> A Non-Resident Parent and, in the case of an order on a joint account, another account holder, can also appeal (to the Family Court in England and Wales, and to the Sheriff Court in Scotland) against a regular deduction order or a lump sum deduction order.

## Collection of assets from a deceased paying-parent's estate

The CMS may request the payment of arrears from a deceased person's estate. This person must have died on or after 25 January 2010. The CMS may contact the administrator or executor of the estate to request payment.<sup>51</sup>

On making the CMS aware of the death of a Non-Resident Parent, the CPAG's Child Support Handbook states “it is understood that the CMS is notified electronically when other government departments are informed of the death”, but that the Person with Care may also wish to inform the CMS of the death of the Non-Resident Parent who owes arrears of child support.<sup>52</sup>

## 4.3 Enforcement actions

Obtaining a [liability order](#) from a court gives legal recognition of the debt, which then allows the CMS to use the enforcement powers outlined below. A liability order will

---

<sup>46</sup> [The Armed Forces \(Forfeitures and Deductions\) Regulations 2019](#), made under the [Armed Forces Act 2006](#)

<sup>47</sup> Commanding Officers Guide of Service Law, [Chapter 20: Forfeitures and Deductions](#), 2011, para 46

<sup>48</sup> [PQ 271551 \[Children: Maintenance\], 1 July 2019](#)

<sup>49</sup> DWP, [Child maintenance: Changes to compliance measures](#), 14 December 2018; [Child maintenance: A new compliance and arrears strategy – Government response to the consultation](#), 12 July 2018, pp13-15, paras 36, 57; [Explanatory Memorandum to The Child Support \(Miscellaneous Amendments\) Regulations 2018](#), 2018, para 6.3

<sup>50</sup> DWP, [Child Maintenance: Changes to compliance measures](#), 14 December 2018; DWP, [Child maintenance: A new compliance and arrears strategy – Government response to the consultation](#), 12 July 2018, pp14-15, paras 51-2 and 56.

<sup>51</sup> Regulation 11 of [The Child Support \(Management of Payments and Arrears\) Regulations 2009](#)

<sup>52</sup> CPAG, [Child Support Handbook 2019/20](#), 2019, p175

“usually” be sought when arrears total at least £500.<sup>53</sup> A fee of £300 is payable to the CMS by the Non-Resident Parent if a liability order is made.<sup>54</sup>

## England, Wales and Scotland

- **Registering the debt with a credit rating agency:** This will affect a person’s credit rating, among other matters. The circumstances in which the CMS will register a debt were set out in answer to a [July 2019 parliamentary question](#).<sup>55</sup>
- **Preventing the disposal of assets:** Orders preventing the disposal of assets or their transfer overseas can be sought from the High Court (England and Wales) or the Court of Session (Scotland).<sup>56</sup>
- **Disqualification from driving and removal of passport:** The DWP says that if a debt is over £1,000, it will consider making an application for a Paying Parent to be disqualified from holding or obtaining a passport or driving licence for up to two years.<sup>57</sup>
- **Imprisonment and Curfew:** This may be ordered if a court finds that there has been “wilful refusal or culpable neglect”.<sup>58</sup>

### Box 7: Powers legislated for but not in use

Section 25 of the [Child Maintenance and Other Payments Act 2008](#) provides for the Child Maintenance Group to have the power to make an **administrative liability order**. Currently, if a liability order is granted by a Court, the CMS can then take steps to recover arrears (see Section 4.3 for a list). The 2008 Act allows for the CMS to issue an administrative liability order, and take the steps listed in Section 4.3 of this briefing. The provision, however, has never been brought into use.<sup>59</sup> When the power was introduced in 2008, it was taking an average of 107 days to obtain a liability order through the Magistrates court. This fell to an average of 60 days in 2014.<sup>60</sup>

The [Child Support Act 1991](#), Section 41, as amended, allows the Secretary of State to make provision for parents who are in arrears to make **penalty payments**. No regulations have, however, been laid setting out the necessary details of a penalty payment scheme (such as detailing the time at which a penalty payment is to be payable or when such a payment may be waived). An answer to a [February 2020 parliamentary question](#) confirmed that no Paying Parent had been fined to date.<sup>61</sup>

## England and Wales only

- **Use bailiffs to take control of goods/negotiate a payment.**<sup>62</sup>
- **Seeking a Charging Order from the courts:** [Charging Orders](#) place a charge against an asset owned by the non-compliant Paying Parent. Where this is not

<sup>53</sup> [PQ 130458 \[Children: Maintenance\], 28 February 2018](#)

<sup>54</sup> UK Government, [Manage your child maintenance case](#), accessed 29 June 2020

<sup>55</sup> [PO 280280 \[Children: Maintenance\], 22 July 2019](#)

<sup>56</sup> CPAG, Child Support Handbook 2019/20, p180; [Child Support Act 1991](#), as amended, Section 32L

<sup>57</sup> DWP, [Child Maintenance: Changes to compliance measures](#), 14 December 2018. Sections 27 and 29 of [The Child Maintenance and Other Payments Act 2008](#) amended the *Child Maintenance Act 1991* to create these powers.

<sup>58</sup> Sections 28 and 29 of [The Child Maintenance and Other Payments Act 2008](#) amended the *Child Maintenance Act 1991*

<sup>59</sup> [PO 268611 \[Child Maintenance\], 24 June 2019](#)

<sup>60</sup> DWP, [Child Maintenance and Other Payments Act 2008: Post-legislative scrutiny](#), Cm 8986, 2014, p37

<sup>61</sup> [PQ 15112 \[Child Maintenance\], 12 February 2020](#)

<sup>62</sup> [Child Support Act 1991](#), Section 35, as amended, and [The Taking Control of Goods Regulations 2013](#) Regulations 8-10

possible, a caution against dealing may be obtained so that the CSA/CMS are notified of sale. Once either has been registered, the CSA/CMS can apply to the court for an order of sale.<sup>63</sup>

### Scotland only

- **Charge for payment:** A sheriff may grant a [charge for payment](#), a formal request requiring the Paying Parent to pay the debt, usually within 14 days.
- **Arrestment:** An [arrestment](#) freezes money or goods in an account and prevents it from being used.
- **Attachment:** If granted, an [attachment](#) prevents the Non-Resident Parent from selling or transferring certain moveable belongings owned by the debtor. The goods may be seized and sold at public auction and the proceeds paid to the CMS if the arrears are not paid. There are different types of order and rules governing what may and may not be taken.<sup>64</sup>
- **Inhibition:** The Sheriff can be asked to register the amount owed against any “heritable property” (such as a home) in the [Register of Inhibitions and Adjudications](#) preventing their sale or transfer.<sup>65</sup>

## 4.4 The possible return of using debt collection agencies

In its July 2018 response to the Compliance and Arrears Strategy consultation (see box six above), the DWP stated that it was “planning a trial referring low debt cases to external contractors” – presumably debt collection agencies (DCAs). They would, the response stated, “undertake limited arrears recovery action and encourage parents who are liable to make child maintenance payments to engage with CMS”:

These external agents will request lump sum payments of unpaid child maintenance arrears in cases where the arrears have not yet reached the level at which we would apply for a liability order. If no payments are forthcoming the agent will ask that the liable parent contacts CMS to negotiate payment of the arrears.<sup>66</sup>

In July 2018, the Parliamentary Under Secretary of State for Family Support, Housing and Child Maintenance, Justin Tomlinson, told the House the Department “expect to be in a position to confirm the trial strategy by early Autumn”.<sup>67</sup>

To date, however, the DWP has not made any further announcements. In 2017 the DWP said that the collection of arrears by debt collection agencies from 2006 to 2009 “did not achieve the anticipated rate of collection”.<sup>68</sup>

## 4.5 Financial Investigations Unit (FIU)

The role of the CMS’s FIU is to ensure that any maintenance calculation reflects a Paying Parent’s true income. Evidence from its investigations, such as details on bank accounts or assets, may be used to recover unpaid maintenance. CMS caseworkers forward cases to the FIU if they believe there to be “credible, evidence-based challenges to a child maintenance assessment” that cannot be resolved through standard processes.<sup>69</sup>

---

<sup>63</sup> CPAG, *Child Support Handbook 2019/20*, 2019, p179

<sup>64</sup> Scotland Debt Solutions, [What is an attachment of property for individuals in debt?](#), 14 May 2020

<sup>65</sup> [Child Support Act 1991](#), Section 38

<sup>66</sup> DWP, [Child maintenance: A new compliance and arrears strategy – Government response to the consultation](#), 12 July 2018, p18, para 67

<sup>67</sup> [PO 164826 \[Children: Maintenance\]](#), 23 July 2018

<sup>68</sup> DWP, [Child maintenance: A new compliance and arrears strategy – Public consultation](#), December 2017, p20, para 87

<sup>69</sup> [PO 123212 \[Children: Maintenance\]](#), 17 January 2018

The FIU does not have powers to investigate Paying Parents outside of the UK.<sup>70</sup>

## 4.6 Complaints on child maintenance

It is possible for a Person with Care to make a [complaint to the CMS](#) if they believe the Service has not taken sufficient action in respect of collecting arrears.

The CMS's complaint procedure (which applies to all complaints) is as follows:

- 1 [Contacting](#) the CMS
- 2 Asking the office managing your case to contact the Complaints Resolution Team
- 3 Ask the Complaints Review Team to examine the decision of the Complaints Resolution Team
- 4 Ask the [Independent Case Examiner](#) (ICE) to look into the case. An individual must have exhausted the full complaints process of the CMS before doing this.<sup>71</sup>
- 5 If an individual is unhappy with the ICE's decision, they can ask their MP to ask the [Parliamentary and Health Service Ombudsman](#) to examine the case.<sup>72</sup>

---

<sup>70</sup> [PO 240473 \[Children: Maintenance\]. 3 April 2019](#)

<sup>71</sup> Independent Case Examiner, [How to bring a case to the ICE](#), 24 February 2020

<sup>72</sup> UK Government, [Manage your CMS case](#), accessed 9 July 2020

## 5. How often are collection and enforcement powers used?

### 5.1 Collection powers

As shown below, the number of **deduction orders** in process each quarter increased from a low of 1,200 in the quarter ending June 2016, collecting £0.5m, to a peak of 3,800 in the quarter ending December 2019, collecting £2.7m. The highest amount collected by deduction orders was £3.0m, in the quarter to ending September 2019.

Number and value of Deduction Orders in process							
	Lump Sum		Regular Deduction		Total		
	Number	Collected (£m)	Number	Collected (£m)	Number	Collected (£m)	
Jun-16	100	0.2	1,100	0.3	1,200	0.5	
Sep-16	100	0.3	1,100	0.4	1,200	0.7	
Dec-16	200	0.3	1,200	0.4	1,400	0.7	
Mar-17	300	0.4	1,300	0.5	1,600	0.9	
Jun-17	300	0.5	1,400	0.5	1,700	1.0	
Sep-17	400	0.6	1,700	0.6	2,100	1.2	
Dec-17	400	0.7	1,900	0.7	2,300	1.4	
Mar-18	500	0.8	1,900	0.8	2,400	1.6	
Jun-18	500	1.0	1,800	0.8	2,300	1.8	
Sep-18	600	1.0	2,400	0.9	3,000	1.9	
Dec-18	700	1.3	2,500	1.0	3,200	2.3	
Mar-19	700	1.4	2,700	1.3	3,400	2.7	
Jun-19	700	1.6	2,700	1.3	3,400	2.9	
Sep-19	700	1.6	2,800	1.4	3,500	3.0	
Dec-19	800	1.4	3,000	1.3	3,800	2.7	
Mar-20	700	1.6	2,900	1.1	3,600	2.6	

Note: Figures rounded to nearest hundred. These are [experimental statistics](#) and subject to future revision.

Source: [Child Maintenance Service statistics: Data to March 2020, GB](#), June 2020, table 11.1

The below chart shows that in the majority of arrangements subject to **Deduction from Earnings Orders or Requests** (DEO/DERs), Paying Parents (and their employer(s), if applicable) are compliant with them: rising from an average of 66% compliance in 2015 and 2016, to 73% in 2017 and 2018, to 81% in 2019. The total number of orders/requests grew from 8,500 in the quarter ending July 2015 to a high of 50,200 in the quarter ending December 2019, declining to 49,200 in the quarter ending March 2020.



Note: Figures rounded to nearest thousand. These are [experimental statistics](#) and subject to future revision. Includes arrangements where parents have voluntarily asked for a DEO/DER. Parents may have several employers, but these figures calculate the compliance of Paying Parents with DEO/DERs in the round. Source: [Child Maintenance Service statistics: Data to March 2020, GB](#), June 2020, table 11.1

## 5.2 Enforcement powers

The table below provides the number of Paying Parents for which the relevant enforcement action was ongoing at the end of the quarter. **The figures for the totals collected includes any child maintenance collected from Paying Parents whilst the liability order or sanction was in process.**

Enforcement Actions for Child Maintenance						
	Liability Orders in process		Sanctions Initiated		Enforcement Agent Referrals in progress	
	Number	Collected (£m)	Number	Collected (£m)	Number	Collected (£m)
Jun-15	800		0		300	
Sep-15	1,100		0		400	
Dec-15	1,900	0.0	0		600	0.0
Mar-16	2,500	0.0	100		900	0.1
Jun-16	2,900	0.0	0		1,200	0.0
Sep-16	3,000	0.0	100		1,600	0.1
Dec-16	3,200	0.0	200		2,000	0.2
Mar-17	3,900	0.0	200		2,400	0.3
Jun-17	4,300	0.6	200	0.1	2,600	0.3
Sep-17	4,800	0.7	600	0.0	2,900	0.4
Dec-17	6,000	0.7	500	0.1	3,500	0.5
Mar-18	6,400	0.9	400	0.1	4,200	0.5
Jun-18	6,300	1.1	400	0.2	5,100	0.7
Sep-18	6,700	1.1	500	0.2	5,800	0.8
Dec-18	6,900	1.1	800	0.2	6,100	0.9
Mar-19	6,900	1.3	900	0.3	6,400	0.8
Jun-19	4,900	1.2	600	0.3	6,700	0.7
Sep-19	3,900	1.0	800	0.5	5,700	0.8
Dec-19	3,600	1.0	900	0.5	5,300	1.0
Mar-20	3,700	1.1	900	0.5	4,500	1.0

Note: Figures rounded to nearest hundred. These are [experimental statistics](#) and subject to future revision. Source: DWP, [Child Maintenance Service statistics: Data to March 2020, GB](#), table 11.1

**Liability Orders in process** during each quarter rose from 800 in the three months ending June 2015 to a peak of 6,900 in the quarter ending March 2019. The DWP have

stated that the fall in the number of liability orders from June 2019 was a result of operational changes.<sup>73</sup>

**Sanctions initiated** include sending Paying Parents to prison and disqualifying them from holding or obtaining a passport or driving licence. The DWP say that these “are a last resort and only used when every other method of recovering unpaid child maintenance has been tried. The Child Maintenance Service only pursues these sanctions when they believe the Paying Parent can pay but are refusing to do so”.<sup>74</sup>

**Enforcement Agent Referrals in process** are when the CMS has referred a Paying Parent's unpaid child maintenance to an enforcement agent. The referral will remain until unpaid child maintenance and fees that are covered by a liability order have been paid or the Enforcement Agents return the case. Their number has increased from 300 in the quarter ending June 2015, to a peak of 6,700 in the quarter ending June 2019. **These only occur in England and Wales.**<sup>75</sup>

As illustrated in the below table, DWP figures show that, since the quarter ending September 2019, seven **passports** have been subject to either suspended or immediate confiscation orders, eight **driving licences** have been disqualified either immediately or under a suspended order, and 265 **prison sentences**, either suspended or immediate, have been passed. These figures do not include cases where a sanction has been suspended as a result of the Paying Parent complying with an agreed repayment schedule.

On **driving licenses**, to 2 October 2019, more than 1,000 warning letters had been sent to Paying Parents.<sup>76</sup>

	Suspended			Immediate		
	Prison sentence	Passport confiscation	Driving License Disqualification	Prison sentence	Passport confiscation	Driving License Disqualification
Sep-19	86	1	1	3	2	0
Dec-19	111	3	4	3	1	0
Mar-20	68	0	3	3	0	0

Note: These figures do not include cases where a sanction has been suspended as a result of the Paying Parent complying with an agreed repayment schedule, or closed court cases.

Source: DWP, [Child Maintenance Service statistics: Data to March 2020, GB](#), June 2020, table 11.2

The CMS does not record the number of cases referred to a **credit reference agency**.<sup>77</sup>

<sup>73</sup> DWP, [Child Maintenance Service statistics: Data to March 2020, GB](#), June 2020, table 11.1, note 13

<sup>74</sup> [Ibid](#), table 11.1, note 10

<sup>75</sup> [Ibid](#), table 11.1, note 9

<sup>76</sup> HC Deb, [Child Maintenance Service: Payment recovery from absent parents](#), c 383WH, 2 October 2019

<sup>77</sup> [PQ 290398 \[Children: Maintenance\], 24 September 2019](#)

The below table shows the number of outcomes of **Financial Investigations Unit (FIU)** actions.

Financial Investigation Unit outcomes									
Quarter ending	Earnings Order outcomes		Financial Investigations completed				Criminal Investigation outcomes		
	of which:		of which:		Sanctions investigation completed	Other enforcement identified	of which:		
	Total	Compliance achieved	Total	Assessment altered			Total	Dismissed	Parentage result accepted
Jun-17	95	45	195	60	55	30	65	60	10
Sep-17	130	50	500	135	80	145	35	30	5
Dec-17	205	90	335	110	30	45	35	20	15
Mar-18	155	50	625	250	20	10	25	15	10
Jun-18	145	50	635	250	15	10	20	-	20
Sep-18	210	65	635	240	5	5	25	10	15
Dec-18	225	105	710	270	10	5	25	10	15
Mar-19	145	55	755	290	5	-	15	10	5
Jun-19	125	70	650	270	10	-	10	10	-
Sep-19	85	60	555	240	5	-	10	5	-
Dec-19	85	55	520	165	10	-	130	130	-
Mar-20	130	90	950	380	5	-	85	75	5

Notes: Figures may not add up due to rounding.

1 Figures include cases referred for criminal prosecution in quarter ending June 2017

2 The DWP states that "in the quarter ending September 2019, a large number of ongoing financial investigations were re-assigned as criminal investigations as part of an exercise to ensure cases were classified appropriately. Work was carried out to ensure potential criminal cases are now identified as such at point of intake".

3 In the quarter ending March 2020, a number of Criminal and DNA Investigations were re-classified as Financial Investigations.

Source: DWP, [Child Maintenance Service statistics: Data to March 2020, GB](#), June 2020, table 12

An average of 145 investigations into employers who have not implemented a **Deduction from Earnings Order (DEO)** were completed in each quarter. Of these, an average of 65 investigations concluded with a DEO being set up. In the remainder of cases, a DEO was determined to be no longer appropriate (except in the quarter ending June 2017, when five cases were referred for criminal investigation).

**Financial investigations** are carried out by the FIU when a parent has complex earnings. An average of 590 investigations were completed in each quarter, and in an average of 220 the amount of maintenance due was changed as a result of new evidence being uncovered. An additional average of 20 per quarter resulted in additional sanctions being investigated and a further average of 20 resulted in new enforcement powers being identified (all figures rounded to the nearest five).

An average of 110 **criminal investigations** were completed in the two quarters from September 2019 (see notes 2&3 of the table for issues in comparing earlier figures). There was insufficient evidence to prosecute in an average of 105 of these cases (all figures rounded to the nearest five).

### **Box 8: How effective is Direct Pay? Gingerbread 2019 report**

The single-parent's charity, Gingerbread, published [Direct Pay child maintenance: Innovation or failure?](#) in March 2019. This examined the interplay between the Direct Pay and Collect and Pay systems. The report criticised the fee system operating under the 2012 CMS scheme, arguing that it had failed to "engender co-operation" between parents, which was one of its intentions when introduced.<sup>78</sup>

The report argued that there were several issues in the Direct Pay system, including:

- The extent of compliance could not be established because the DWP does not track payments on the Direct Pay system;
- Collect and Pay charges were both "insufficient to deter parents from not paying in full and on time" and a "double penalty" for receiving parents, "coming on top of the other parent's non-compliance"; and
- The burden for ensuring direct pay enforcement lying with the Receiving Parent.

The report made three core recommendations:

- Removing Collect and Pay Charges from the receiving parent;
- Introduce monitoring of Direct Pay compliance; and
- For the CMS to publish clearer thresholds for enforcement.<sup>79</sup>

---

<sup>78</sup> Gingerbread, [Direct Pay child maintenance: Innovation or Failure?](#), March 2019, p6

<sup>79</sup> [Ibid.](#), pp4-5, 14-15.

## 6. Northern Ireland

Northern Ireland has a similar, but separate, system of child maintenance to the rest of the UK. This section provides a brief overview of the CMS enforcement and collection powers in Northern Ireland. The Child Maintenance Service is provided by the Department for Communities and [guides to the system](#) may be requested from the Department.

The enforcement powers of the CMS in Northern Ireland are governed by [The Child Support \(Collection and Enforcement\) Regulations \(Northern Ireland\) 1992](#).<sup>80</sup> The Department for Communities (DfC) also maintains [list of appropriate legislation](#). Paying Parents are referred to as Non-Resident Parents in this legislation.

### 6.1 Coronavirus

The CMS in Northern Ireland has [said](#) that it “may not be able to pursue missed payments” during the coronavirus outbreak and will not pursue businesses that do not implement Deduction from Earning Orders (DEOs)s during this period.<sup>81</sup>

### 6.2 Compliance report

In May 2018, the DfC published a review of the Northern Ireland Child Maintenance Reform Programme. [The report cited evidence from 2016](#) that in around 84% of Direct Pay arrangements all maintenance due was usually received. The equivalent figure for Collect and Pay was 60%<sup>82</sup> Around 64% of arrangements were on the Direct Pay service at 31 December 2016, and almost a third of clients in the 2012 Scheme had opted for this arrangement to avoid charging.<sup>83</sup>

### 6.3 Collection and enforcement powers

If the Paying Parent uses the CMS Collect and Pay service but does not make a payment or does not pay the full amount, the CMS will telephone and write to them. The CMS will tell the parent that they will start enforcement action within one week unless they agree to:

- make an agreement to pay the full amount missed
- keep to the original child maintenance decision.<sup>84</sup>

Without a court order, the CMS in Northern Ireland can use DEO/DER’s and make deductions from both bank accounts and some benefits.<sup>85</sup>

The CMS in Northern Ireland may also apply to a Magistrates’ Court for a liability order in order to take legal action against a Paying Parent in arrears.<sup>86</sup> Once this order is registered with the Enforcement of Judgments Office, the actions the CMS may take include issuing an order of seizure against any goods the Paying Parent owns or freezing their bank account. If a liability order remains unpaid, the CMS may also, for example, seek an order of disqualification to remove the Paying Parent’s driving licence for up to two years.<sup>87</sup>

<sup>80</sup> Made under the [Child Support \(Northern Ireland\) Order 1991](#). Sections 29-40

<sup>81</sup> NI Direct, [Coronavirus and child maintenance services](#)

<sup>82</sup> DfC, [NI 30 Month Evaluation Report](#), May 2018, p34

<sup>83</sup> [Ibid](#), pp35, 36.

<sup>84</sup> NI Direct, [Enforcement of non-payment of child maintenance](#), accessed 20 March 2020

<sup>85</sup> NI Direct, [Enforcement of non-payment of child maintenance](#), accessed 20 March 2020

<sup>86</sup> Part 4 of [The Child Support \(Collection and Enforcement\) Regulations \(Northern Ireland\) 1992](#)

<sup>87</sup> NI Direct, [Legal action Child Maintenance Service can take](#), accessed 20 March 2020

Answering an Assembly Question in 2013, the then-Minister for Social Development stated that there was no prescribed amount that must first be outstanding before enforcement action is considered.<sup>88</sup>

## 6.4 Fees and charges

If Paying Parents miss payments, or are late in paying, they will be subject to enforcement charges. These cover liability orders, lump sum deduction orders, regular deduction orders and deduction from earnings request/orders. Fees operate in the same way as in Great Britain and [current fees](#) are published by the Northern Ireland Child Maintenance Service.<sup>89</sup>

There is no £20 application fee for Northern Ireland residents. The Executive said this was to “ensure that the child maintenance statutory service remains accessible to those who need it”.<sup>90</sup>

## 6.5 Income from fees and enforcement charges

The 2018 review of the Northern Ireland Child Maintenance Reform Programme, commissioned by the DfC, found that from the introduction of enforcement charges in 2014 to December 2016, £7,200 had been received in enforcement charges. Collection Charges, under Collect and Pay, introduced in August 2014, saw £432,100 received from Paying Parents and £83,400 received from Receiving Parents.<sup>91</sup>

## 6.6 Enforcing cases across the UK

The enforcement of maintenance orders within different parts of the UK is governed by [Part 32 of the Family Procedure Rules](#). In the case of any disputes when one parent lives in Great Britain and the other in Northern Ireland, the authority with whom the maintenance arrangement was agreed should be contacted in the first instance. An [archived page from NI Direct](#) explains that if a Paying Parent lives in England and Wales, then the Parent with Care, living in Northern Ireland, will have their case referred to the CMS in Great Britain and should ask them to apply for a magistrate’s order to begin the enforcement process.

---

<sup>88</sup> [AOW 18957/11-15, 11 February 2013](#)

<sup>89</sup> NI Direct, [Collection fees and enforcement charges 2012 scheme](#), accessed 20 March 2020; [AOW 808/16-21 16 December 2016](#)

<sup>90</sup> [AOW 31387/11-15, 6 March 2014](#)

<sup>91</sup> DfC, [NI 30 Month Evaluation Report](#), May 2018, p57

## 7. Key contacts

### General

UK: Gingerbread Charity for Single-Parent Families: [Helpline](#): 0808 802 0925 and [Information Pages](#)

Scotland: One Parent Families Scotland Charity for Lone Parent: [Helpline](#) 0808 801 0323

Northern Ireland: Gingerbread NI: [Helpline](#) 0808 808 8090 and [advice@gingerbreadni.org](mailto:advice@gingerbreadni.org)

### Complaints & appeals

The complaints process for England, Scotland and Wales is [published](#) on Gov.UK.

Northern Ireland has separate processes for child maintenance decisions [before 11 July 2016](#) and [on or after 11 July 2016](#)

### About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publicly available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email [papers@parliament.uk](mailto:papers@parliament.uk). Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email [hcenquiries@parliament.uk](mailto:hcenquiries@parliament.uk).

### Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).