



# What happens if a paying parent doesn't pay child maintenance?

A guide for  
receiving parents

## About this leaflet

This leaflet explains the actions that we can take if a paying parent doesn't pay child maintenance. It is about child maintenance that you have arranged through us, the Child Maintenance Service.

It explains the powers that we have in England and Wales, and the different powers that we have in Scotland.

## Important information

This leaflet is only a guide and does not cover every circumstance. It only refers to the statutory child maintenance scheme provided by the Child Maintenance Service. It does not refer to any child maintenance schemes provided by the Child Support Agency.

We have done our best to make sure the leaflet is correct as of 25 November 2013, but it may not reflect changes to the law or to our procedures after this date. You may want to get independent advice before making financial decisions based on the content of this leaflet.

## About us

The Child Maintenance Service is the government's statutory child maintenance service. We work out, collect and pay out child maintenance payments on behalf of some separated parents in England, Wales and Scotland.

Our role is to make sure that parents who live apart from their children contribute towards their children's upkeep by paying child maintenance.

## What is child maintenance?

Child maintenance is regular, reliable financial support that helps towards a child's everyday living costs.

In most cases, the parent who does not have the main day-to-day care of the child pays child maintenance to the parent who does have the main day-to-day care. In child support law the parent who receives

child maintenance is known as the 'parent with care' - we call them the 'receiving parent' - and the parent who pays child maintenance is known as the 'non-resident parent' - we call them the 'paying parent'. In some cases, the receiving person can be a grandparent or guardian.

If they live in Scotland, a child aged 12 to 19 and in full-time, non-advanced education or training can apply for child maintenance.

## Get in touch

If you can't find the information you need in this leaflet, you can contact us or find out more in the following ways:



### On the web:

[www.gov.uk/child-maintenance](http://www.gov.uk/child-maintenance)



### By phone:

Call us on **0845 266 8792\***. Our TextBox and textphone number is **0845 266 8795\***.

Our opening hours are:

**8am to 8pm** - Monday to Friday

**9am to 5pm** - Saturday



### By letter:

Write to us at:

Child Maintenance Service

PO Box 249

MITCHELDEAN

GL17 1AJ

\*Please see the information about call charges at the back of this leaflet.

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It explains the powers that we have in England and Wales, and the different powers that we have in Scotland.

If you've made your own arrangement with the paying parent (without involving us), different rules will apply:

- If the paying parent doesn't keep to your family-based arrangement, you can apply to us to put a full statutory child maintenance arrangement in place.
- Once that arrangement is in place, we will be able to take action to get any payments that the paying parent misses.
- We won't be able to enforce any payments that were missed before that time.

## What happens if the paying parent doesn't pay?

We'll always take action if a paying parent doesn't pay the right amount of child maintenance at the right time. We'll contact you to let you know what's happened. We'll also contact the paying parent to find out why they haven't paid, and to arrange for them to make a payment.

If we can't agree with the paying parent about how and when they will pay, we will take collection action. We'll take the action ourselves – we don't have to apply to a court first. We can do one or all of the following:

- take money direct from their earnings
- take money direct from their bank, building society or Post Office account.

If the paying parent still hasn't paid, or if we think it is a better course of action, we will use our enforcement powers **through the courts to try to get the child maintenance you are owed**. We may also ask the courts to award us costs, which the paying parent may also have to pay.

Under child support law, we may charge paying parents for taking some enforcement action against them.

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### Taking enforcement action through the courts

First, we will apply for a court order called a 'liability order'. This means asking a court to recognise that the paying parent has built up an amount of child maintenance debt over a certain period of time. The order gives us the power to take legal actions (shown below) that help us to collect the child maintenance you are owed.

We will then use the liability order to take action such as:

- asking bailiffs or sheriff officers to go to the paying parent's home and seize belongings, and then sell them to cover the child maintenance owed
- putting a 'charge' against a property or some other asset so that it can't be sold or remortgaged without the child maintenance being paid off first. This makes things difficult for the paying parent and can encourage them to pay
- forcing the sale of a property or other asset and collecting the money from it to pay the child maintenance owed
- taking away the paying parent's driving licence
- sending the paying parent to prison.

### What will happen if we take collection action against the paying parent?

Wherever it's appropriate, we will tell you which action we are taking and keep you up to date with our progress.

We will also usually warn the paying parent that we are about to take action against them, although we might not say which action it will be. We'll also give the paying parent a chance to stop our action by paying what they owe.

We can take one action at a time or, if it is appropriate, we can take two or more at the same time.

If the paying parent is employed by a company, or has an occupational pension, we can take money straight from their earnings. We send a 'deduction from earnings order' to the employer, telling them to take money from a paying parent's earnings to cover the payments that are due. If the employer doesn't take the deductions and they don't have a good reason, we can take them to court and the court can fine them.

We can also look at taking payments directly from the paying parent's bank, building society or Post Office account to cover the child maintenance he or she owes. We can take this as one payment or as regular payments.

Finally, we can apply to the magistrates' or sheriff courts for a 'liability order'. If the court grants the order, we can work with the courts to take further legal action.

## What will happen if we take legal action against the paying parent?

We can take a range of legal actions once we have a liability order. We can take one action at a time or, if it is appropriate, we can take two or more at the same time. What we do will depend on each individual case, and on whether the paying parent lives in England or Wales, or in Scotland.

### If the paying parent lives in England or Wales

#### **Bailiff action**

We can tell bailiffs to go to the paying parent's property, seize their belongings, and sell them to get the child maintenance that you are owed. The bailiffs can also add their charges to the debt.

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

We can enter a liability (a debt) onto the Register of Judgments, Orders and Fines. When a credit reference agency checks this register, the paying parent's ability to get finance (loans, mortgages, credit cards and so on) can be affected. If the paying parent has their own business and suppliers know that they are on this register, the suppliers may change the way they ask the paying parent to pay for business supplies. It can also stop a paying parent from joining a professional organisation, or affect things if they are already a member.

### **Charging order**

We can tell Land Registry to put a 'charge' against a house, land or other assets that the paying parent owns (or jointly owns). If the paying parent then decides to sell it, we can claim the child maintenance you are owed from the money made from the sale.

### **Order for sale**

Once we have a charging order, we can apply to the court to force the sale of a property or asset. Once the sale goes through, we can collect the money raised from it to pay the child maintenance you are owed.

### **Freezing order, third party debt order and set aside disposition order**

We can ask the court to freeze the paying parent's money and other assets so that he or she can't sell or transfer them. We can also ask the courts to get back anything that's already been sold or transferred.

## **If the paying parent lives in Scotland**

### **Charge for payment**

We can ask sheriff officers to demand that the paying parent pays through a 'charge for payment'. This gives him or her 14 days to pay, or 28 days if they are living temporarily outside the UK. If the paying parent doesn't pay, we can use any of the following actions to help us to get the child maintenance that you are owed.



## **Arrestment**

We can ask the courts to freeze the paying parent's money or goods through an 'arrestment'. This means that he or she won't be able to use money in a bank, building society or Post Office account, or receive money into that account. If they are owed goods, we can tell the company that is holding the goods to cancel the transaction and transfer the money used to pay for them to us instead.

## **Attachment and auction and exceptional attachment**

We can instruct sheriff officers to make a list of items, and their values, that belong to the paying parent and are kept at their home or business address. This will stop the paying parent from selling or transferring the items on the list. If the inconvenience of this doesn't cause him or her to pay, the court can demand that the items are taken and sold at a public auction. We will then take the child maintenance you are owed from the money made from the sale.

## **Inhibition**

We can ask the courts to register the liability (the debt) against any 'heritable property' (like a house, garage, business premises or land) that the paying parent owns. This will stop them from selling or transferring it until they pay.

## **Order for interdicting and action for reduction**

We can ask the court to freeze the paying parent's money and other assets so that they can't sell or transfer them. If they break the order, we can ask the court to get back anything that's already been sold or transferred.

## **Wherever the paying parent lives in Great Britain**

### **Driving licence disqualification and commitment to prison**

We can apply to the courts for:

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- an order of disqualification – taking away a paying parent's driving licence or stopping them from getting or keeping a driving licence for up to 2 years
- a warrant of commitment – sending a paying parent to prison for up to 6 weeks.

We hope that the threat of this kind of serious action will cause the paying parent to pay. If it doesn't, and we go ahead with the disqualification or commitment, they will still have to pay all the child maintenance that you are owed.

### When we will use our powers

We only use enforcement and legal powers when we have to. We will always give the paying parent the chance to pay voluntarily, and we will always keep you informed about what we're doing (as long as it doesn't put our action at risk).

### Are there any other times when you can take legal action?

There are five other times when we can take legal action. These are:

- 1 If the paying parent avoids paying child maintenance by not giving us information when we ask for it.
- 2 If the paying parent gives us information that he or she knows is untrue.
- 3 If the paying parent knowingly causes or knowingly allows untrue information to be provided.
- 4 If the paying parent doesn't tell us that their circumstances have changed.
- 5 If we suspect the paying parent is disposing of, or has already disposed of, a valuable asset to stop us from selling it to get the child maintenance they owe.

## Can you take legal action against me?

Yes, we could. The law says you **must** tell us about some changes. If we ask you for any information about your case, you must tell us within the time period we give you.

Even if we don't ask you, you **must** tell us:

- if there is a change affecting a child or children living with you that would mean that the paying parent no longer has to pay child maintenance for them.

If you don't tell us about these things, or if you give us information that you know is untrue, you could be asked to pay back child maintenance that you have already received (because it has been worked out using incorrect information). We could also be forced to take you to court. If you are found guilty the court could fine you up to £1,000.

## Useful information

### Help and information

If you want to know more about child maintenance, go to **[www.gov.uk/child-maintenance](http://www.gov.uk/child-maintenance)** You can find information and leaflets here, and find out more about our services.

If you would like to talk to someone about your case, please call us on **0845 266 8792\***. Our TextBox and textphone number is **0845 266 8795\***.

Please have your customer reference number with you when you call. This is a 12-digit number starting with the number 12. It will be shown as 'your reference' at the top of any letter we've sent you.

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

If you don't have a case with us, you can call Child Maintenance Options on **0800 988 0988\*** between 8am and 8pm, Monday to Friday, and between 9am and 4pm on Saturdays. The person taking your call can help you with general questions about child maintenance.

## Other languages

If English is not your first language, you can use your own interpreter or one that we provide. Call us on **0845 266 8792\*** for more information.

## Information in other formats

This leaflet is available in other languages and in Braille.

Contact us on **0845 266 8792\*** for more information. Our TextBox and textphone number is **0845 266 8795\***.

## \*Call charges

Calls to 0845 numbers from BT land lines should cost no more than 4p a minute with a 15p call set-up charge. You may have to pay more if you use another phone company or a mobile phone, or if you are calling from abroad.

Calls from mobile phones can cost up to 40p a minute, so check the cost of calls with your service provider.

Charges were correct as of the date of this leaflet.

Calls to 0800 numbers are free from BT landlines but you may have to pay if you use another phone company, a mobile phone or if you are calling from abroad.

The Child Maintenance Service administers the statutory 2012 Child Maintenance Scheme (2012 Scheme) and is part of the Department for Work and Pensions.

**[www.gov.uk/child-maintenance](http://www.gov.uk/child-maintenance)**

We print on recycled paper. This keeps costs down and helps look after the environment.

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