

Withdrawn

This publication is withdrawn.
The publication is no longer current.



Child Maintenance
Service

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

Parentage
disputes

About this leaflet

This leaflet explains what happens when someone named as the parent of a child in a child maintenance case denies that they are the parent. It explains how disputes like this can affect child maintenance, how we sort them out and what happens after we have sorted them out.

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 28 October 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



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.

4 What happens when someone denies they are the parent of a child?

Contents

- 5 What happens if someone denies they are the parent of a child?
- 7 How does the Child Maintenance Service sort out disputes about parentage?
- 7 Presumed parentage
- 9 DNA testing
- 14 What happens after a parentage dispute is sorted out?
- 15 Useful information

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

- We have to have 'reasonable grounds' for believing a person is a parent.
- Once someone is named as a parent, they are responsible for paying child maintenance (as the paying parent) until they prove they are not the parent.
- Only 1 in 5 of the people who claim not to be the parent eventually prove they are not the parent.

Have you been named as a parent?

When someone is named as the parent of a child in a child maintenance case we have been asked to arrange, they sometimes deny they are the parent.

If you have been named in a child maintenance case and believe you are not the parent, you must speak to us straight away. **If you ignore us then debts will start to build up. This can mean that we take legal action against you.**

Denying parentage is not a way to avoid your responsibilities, and we may take you to court if you deliberately try to deceive us. Remember, more than 80 per cent of people who deny they are the parent turn out to be the parent.

When can someone deny they are the parent of a child?

When a parent applies to us, we ask them to name the other parent of their child. The person they name may deny they are the parent. They may do this before or after we work out child maintenance.

6 What happens when someone denies they are the parent of a child?

Denying parentage won't delay us in working out child maintenance. We'll go ahead and work out how much child maintenance is due, and if we eventually decide they are the parent, they must pay child maintenance from this date.

What do we do if someone denies they are the parent of a child?

Before child maintenance is worked out

We use evidence from both parties to decide whether the person named is the parent of the child. We then try to sort out the dispute so that we can set up the correct arrangements for paying child maintenance.

After child maintenance is worked out

When we have worked out how much child maintenance must be paid, the person named as the parent will have to pay it until they can prove that they are not the parent.

We ask both parties to send us evidence and we use this to make a decision. We only accept 'conclusive' evidence, which could be:

- DNA test results from an approved company (we explain DNA testing and how it must be done later on in this leaflet), or
- a court declaration that the person is not the child's parent.

If we get conclusive evidence to prove that a person is not the parent, any refunds of maintenance they may get will be based on the circumstances of each case. For example, if a case has been going on for a long time before someone tells us that they are not the parent of the child, we may only consider a refund from the date they denied parentage.

If we don't get conclusive evidence, we will continue to believe the person is the parent.

How does the Child Maintenance Service sort out disputes about parentage?

We have three ways of sorting out disputes about parentage. These are:

Presumed parentage

Sometimes we can legally assume someone is the parent, and it's up to them to prove they are not the parent. See below and pages 8 and 9 for more information.

DNA testing

DNA testing is a scientific process that proves whether someone is the parent of a child. See pages 9 to 13 for more information.

Referring the dispute to a court to make a decision

If any of the people involved refuse to take a DNA test, it may be up to the courts to decide. See page 13 for more information.

Presumed parentage

What is presumed parentage?

By law, we can believe that the person named as the parent of a child is the parent if we have no reason to doubt it. This is called 'presumed parentage'.

There are several different ways we can presume parentage.

When can the Child Maintenance Service presume parentage?

We will presume that a person named as the parent of a child is the **father** if they:

8 What happens when someone denies they are the parent of a child?

- were married to the child's mother at any time between the date the child was conceived and the date the child was born (if the child has not since been adopted), or
- are named as the father of the child on the child's birth certificate and the child has not been adopted since the birth certificate was issued.

We will presume that the person named as the parent of a child is the **parent** if they:

- refuse to take a DNA test
- have taken a DNA test that shows there is no reason to doubt that they are the parent
- have adopted the child
- are named in a court order as the parent if the child was born to a surrogate mother (a woman who has carried the child for another person)
- are, by law, presumed to be the parent of a child born as a result of fertility treatment (under Section 27 or 28 of the Human Fertilisation and Embryology Act 1990)
- have been declared the parent in a 'declaration of parentage' (or a 'declarator of parentage' in Scotland), and the child has not since been adopted, or
- have been found or judged to be the parent by a court, even if parentage was not the central issue of the case.

When we presume that a person is the parent of a child, the law says they must cooperate with us.

We will work out how much child maintenance must be paid and will write to the person named as the parent telling them that they must pay this amount. We will expect them to make the payments but they can still dispute parentage and give us evidence.

Even if they deny that they are the parent, they must continue to pay child maintenance until they receive confirmation that they are not the parent and they do not have to pay child maintenance.

Can I challenge a decision if the Child Maintenance Service has presumed I am the parent?

If you still want to challenge our decision after we have presumed you are the parent you will need to take a DNA test to prove that you are not the parent. You cannot appeal against a child maintenance decision to a tribunal on the grounds that you are not the child's parent.

You will find more information about appeals in our leaflet *What to do if you're unhappy with the Child Maintenance Service*.

DNA testing

What is DNA testing?

DNA testing is a standard scientific process that can be used to see if people are related and to prove whether someone is the parent of a child. The Child Maintenance Service uses a testing company accredited by the Ministry of Justice.

A DNA test can either:

- prove 100% that a person is not a child's parent, or
- show a 99.99% probability that a person is a child's parent.

We usually use DNA testing if we cannot presume the parentage of a child. We will also use DNA testing to sort out a dispute over parentage. All the information given to the testing company, and all the results, will be confidential.

We can only use DNA tests if all the following people agree to take the test:

- 1 the receiving parent
- 2 the person named as the parent of the child
- 3 the child (if they are over 16 years old).

10 What happens when someone denies they are the parent of a child?

If the child is under 16, the receiving parent must agree that the child can take the test. In exceptional circumstances the DNA test can just be taken from the child and the person named as the parent, for example if the other parent has passed away.

What does the DNA test involve?

The most common type of test is on a cheek-cell sample.

A DNA testing company will send a test kit to the doctor of both parties. Or you can each choose other doctors from the list we provide.

The doctor will take some cheek cells from inside each person's mouth using a small sponge. This is quick, simple and painless. They will send the samples in tamper-proof packaging to the DNA testing company.

A DNA test can also be done on a blood sample – if you'd prefer a blood test, please tell us or the testing company.

We will also need two passport-sized photographs of each person who is giving a sample. These are for security reasons and may be used to identify who gave the sample.

How is DNA testing arranged?

DNA tests can be arranged either:

- through the DNA testing company that carries out tests for us, or
- through a private DNA testing company.

Most people prefer us to arrange the test. We'll refer you to a specialist testing company called Cellmark who do all our DNA tests.

Cellmark's fees are generally cheaper than other private companies. They will send an information pack to both the receiving parent and the person named as the other parent.

This pack will contain:

- a list of local doctors who have agreed to take samples
- an appointment form that each person must send back to Cellmark after arranging an appointment with the doctor who is taking their sample
- a letter to the doctor in case their chosen doctor is not on the list.

If you want more information about Cellmark, you can go to their website at www.cellmark.co.uk

Does DNA testing cost anything?

Yes, but none of the money goes to the Child Maintenance Service.

The cost of the test depends on how many children are being tested – the more children that are being tested, the higher the cost. If the person named as the parent agrees to use Cellmark for the tests, they can pay when they send their appointment form back.

To check the costs, you can go to www.gov.uk/child-maintenance or phone us on **0845 266 8792***.

Who has to pay for the DNA test?

The person named as the parent of the child must pay for the test, but if the test shows they're not the parent, we'll refund the money they paid for the test.

Payment is due before the test, and must be sent to the testing company.

If we accept that the person named as the parent cannot pay for the DNA test, we may be able to pay the fee for them. But if the test shows that they are the parent of the child, they will have to pay us the money back.

12 What happens when someone denies they are the parent of a child?

Arranging a private DNA test

You don't have to use Cellmark. Either party can arrange for a private DNA test, but we can only accept the results of a private test if we are satisfied about the following things:

- the test has been carried out by an approved company
- security arrangements meet acceptable standards
- everyone involved is satisfied that the test was carried out properly
- the test was based on samples from the receiving parent, the child and the person named as the parent.

For a list of our approved DNA testing companies, ask us for a copy of the separate factsheet, *Our approved DNA testing companies*.

What happens if anyone is unhappy with how the test is done?

If anyone being tested, including the child, is unhappy with any part of the test, they can complain direct to the customer service department of the DNA testing company.

If you have used Cellmark, you can also ask us to investigate the complaint for you.

Are DNA tests always appropriate?

In some cases a DNA test might not be appropriate: for example, if a child is born as a result of certain fertility treatments. If we presume parentage in these circumstances, we may apply to a court and ask it to decide who the parents are.

When will I get the test results?

Once the DNA testing company has received all the samples, it will tell the person named as the parent of the child, the receiving parent and us that it is ready to start the test.

The test usually takes 10 days.

The DNA testing company will send the results by first-class post to the person named as the parent of the child, the receiving parent and the Child Maintenance Service. The results are confidential and will not be given over the phone.

If necessary, the results may also be given to a court as evidence.

What happens if someone refuses to take a DNA test?

If a person named as the parent of a child disputes parentage, but then refuses to take a DNA test, we will presume they are the child's parent. This means they will have to pay child maintenance.

If the receiving parent refuses to take the test, we can close the case. This means the person named as the parent will not have to pay any more child maintenance through us for that child.

If the child is 16 or over and refuses to take the test, we usually have to ask a court to decide whether or not the person named is their parent.

Going to court

If the receiving parent does not agree to a DNA test, then the person we have presumed to be the parent may be able to apply to the courts to prove they are not the parent. They would apply for a 'declaration of non-parentage' (or a 'declarator of non-parentage' in Scotland).

The courts will usually ask the person named as the parent to take a DNA test. If they refuse to take the test, the court can assume they are the parent of the child.

Going to court to prove parentage is not the same as appealing against a child maintenance decision. But if the court makes a declaration of non-parentage, the person named as a parent will no longer have to pay child maintenance for that child.

14 What happens when someone denies they are the parent of a child?

What happens after a parentage dispute is sorted out?

If we can presume parentage, or a DNA test gives us no reason to doubt parentage, we work out how much child maintenance the paying parent has to pay.

This will include child maintenance from the date that payments should have started. It will also include the cost of the DNA test, if one was used and we paid for it.

If the DNA test shows that the person named as the parent of the child is not the parent, or the court issues a declaration of non-parentage, we will:

- contact them and refund the cost of the DNA test (if they paid for a DNA test that we arranged)
- in most cases, refund any child maintenance they have paid for the child from the date we received information from them denying they are the parent, and
- arrange an interview with the receiving parent to find out who else could be the parent.

What happens to the child maintenance during the dispute?

We advise the person who claims they are not the parent to keep paying child maintenance, or put aside the money, while the test is underway.

In over 80 per cent of parentage disputes, the person who claims they are not the parent turns out to be the parent, and we will chase up any arrears that build up during the dispute.

Useful information

Help and information

If you want to know more about child maintenance, go to **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

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

CMSB010GB v003 (October 2013) ISBN 978-1-78153-314-7

© Crown copyright October 2013

plain English
approved
by the word centre