



CHILD SUPPORT MAINTENANCE

The Child Maintenance and Enforcement Commission (CMEC) is the current body with responsibility for dealing with matters of child support maintenance.

What are my options regarding child support maintenance?

- a) It is now possible to reach a private agreement directly with the other parent, as to an appropriate amount of child support maintenance to pay each week. In the event that financial circumstances change, it may then be possible for you to both to agree a variation of the original terms between you.
- b) If a private agreement does not prove possible, or breaks down because of non-payment, or late payment, then you can ask the CSA to set up a new child maintenance arrangement. The CSA will assess an appropriate maintenance figure, and will then attempt to collect the money and pay the parent who is the main day to day carer of the child.
- c) There is still the possibility of applying to Court and asking a Judge to consider the issue of child support maintenance, albeit only now in some very limited circumstances, (e.g if the paying parent lives abroad, and works for an employer who is based outside of the UK).
- d) In the event that you are going through a divorce and are able to agree financial issues with the other parent (to include matters of child support) then a "Consent Order" reflecting that agreement can be filed at Court, within the divorce proceedings. In those circumstances both parties will be held to the child support agreement for a period of at least 12 months, before either party could then approach the CSA and ask them to undertake a maintenance assessment to replace the terms of the Court ordered child maintenance.

What happens if the parent caring for the child is claiming benefits?

Whilst it was previously the case that a parent caring for the child on a day to day basis would only be able to keep a small further amount of maintenance, without it affecting their benefits, the rules regarding this changed in April 2010, and the main day to day carer of the child can now keep all the child maintenance that they receive, without this affecting their benefit income.



How long will I have to pay child maintenance for?

If you choose to make a private agreement, then you can make whatever arrangements you wish as to when your child support maintenance to the children is going to cease.

Where an arrangement is set up using the CSA, child maintenance is payable until such time as that child reaches the age of 16 years old, or until they reach the age of 19 years old, if they are still in full time education (up to A Level standard or equivalent).

How is child maintenance calculated by the CSA?

The CSA will take all of the payer's income into account and will make various deductions from that income, allowing for things such as income tax, National Insurance, and some payments into pension schemes to be deducted.

The CSA will then normally apply a standard rate to that net income in order to calculate appropriate child support maintenance.

In most cases this currently would comprise 15% of net income in the event there is one relevant child, or 20% for two children, and 25% of net income for three or more children.

The CSA will apply different rates in the event that a paying party earns less than £200 a week, and it may be possible to approach the Court for extra maintenance if the payer's net weekly income is more than £2,000 per week.

The CSA will then adjust the amount of child support maintenance payable, based upon whether or not the children stay with the paying parent for at least one night a week, and also based upon the number of any other children for whom the paying parent already pays child support maintenance. The CSA will also take account of any children from a new relationship who are living with that parent, and for whom they receive child benefit.

What can I do if the paying parent fails to cooperate?

If the other parent does not give the CSA all the information it needs to work out child support maintenance, the CSA can still make an assessment in any event, based upon the number of children the resident parent is applying for.

If a paying party defaults with his payments, then the CSA can take various forms of action to enforce payment, such as obtaining an order to take the monies direct from a paying party's salary, or alternatively, the CSA can take the non-payer to Court to try to get them to pay the child maintenance that is owed.

Once a Court decides that money is due and payable, then bailiffs can be instructed to seize the non-payer's belongings, and sell them to obtain the maintenance money due, or an Order can be obtained requiring a bank/building society or other third party to hand over monies held by them on behalf of the non-payer.

The CSA can also register the maintenance debt against any home or property owned by the non-payer, and the CSA can also apply to the Courts to force the non-payer to sell their property, in order to recover the child maintenance arrears.

The CSA are also entitled, where a parent is refusing to pay child support maintenance, to apply to the Court to take a person's driving licence away from them, for a period of up to 2 years, or seek to imprison the non-payer for anything up to six weeks.

Forthcoming Changes

It is proposed that, at some later point in 2011 the formula for calculating child support maintenance is to change, with the CSA moving from a system where they calculate maintenance based on net income, to one where they will seek a slightly lower percentage of a person's gross income. Once the new system comes into force, then any future maintenance applications will be assessed under this new system, and it is proposed that all existing maintenance calculations will be transferred across to the new system of calculation, over the course of the next few years.

Phone **Thursfields LLP** today to make an appointment to discuss these matters as they affect you or your family:-

Kidderminster: 01562 820575
Stourport: 01299 827517
Worcester: 01905 730450

Or email: family@thursfields.co.uk

Website: www.thursfields.co.uk

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