



Citizens Advice Bureau

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dealing with | debt

in Northern Ireland



Child Maintenance

Child Maintenance:

Child maintenance is regular, reliable financial support that helps towards the child's everyday living costs. The parent who is not the child's main day-to-day carer pays child maintenance to the parent who is the main carer.

You should do everything you can to make sure your child is covered by an effective child maintenance arrangement.

It may be one you agree yourselves (private agreement), or one arranged by the **Child Maintenance and Enforcement Division** using the statutory child support maintenance scheme.



Department of

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Child Maintenance

As a parent looking to provide child maintenance for your child, you have **three choices**. **Private agreement, Consent Order, Child support arrangement using the Child Maintenance and Enforcement Division's statutory service.**

A private agreement

A private agreement is where both parents can decide and agree on how to provide child maintenance for your child or children without getting the courts or the statutory child maintenance service involved. If you feel able to work with the other parent, then this could be an option for you. Whether this is the best option for you will depend on your circumstances.



What are the advantages of a private agreement?

Doing things yourself can be quicker and easier than through the statutory child maintenance service (as long as you and the other parent are able to work together). There is no bureaucracy to deal with or set rules to follow. You can be more **flexible** about how, what and when payments should be made.

If you can keep solicitors and the statutory child maintenance service out of it, it's a lot easier to keep things friendly. It can be a good way to rebuild trust for the future.

A private agreement is totally private. No one else needs to get involved in your affairs.

People tend to **respect** their own promises more. When both parents agree things together, payments are more likely to be made in full and on time.

It's far more flexible, because you can make special arrangements or changes at any time, quickly and easily.

What are the disadvantages

If the other parent isn't willing to co-operate, or refuses to take responsibility, then a private agreement won't work. It takes **both** of you to make it work.

A private agreement is not generally legally binding and overdue child maintenance payments **cannot be enforced** or collected if your private agreement breaks down.

If you've failed to make a private agreement work before, it's less likely to succeed the second time.

If the other parent won't give you accurate information about their income, you won't be able to work out a figure based on their income.

If you don't know where the other parent lives, or don't want to have any contact with them, it's hard to make a private agreement work.

Child Maintenance

A Consent Order

A Consent Order is an official ruling made by a court. To put in place a Consent Order, both parents need to agree how much child maintenance is going to be paid and how often. You can do this either privately between yourselves (see private agreement) or through a solicitor. You can then ask the court to turn this agreement into a Consent Order. This usually happens when people are going to court for other reasons, such as divorce or dividing of assets.

Working out the right amount

Both parents have to agree on a figure before going to court. That might mean agreeing between yourselves or getting people to negotiate on your behalf, such as solicitors or mediators. If you need help reaching a figure, call the Information and Support Service on 0800 028 7439 and they may be able to provide an estimate. Once you've agreed an amount, the court Judge/Magistrate will decide if it seems reasonable.

Costs

Putting in place a Consent Order will involve legal costs, like solicitors, mediators and court fees. If you can't manage the costs you might qualify for help with legal costs through Legal Aid.

To find out if you qualify for Legal Aid, contact a solicitor. A list of solicitor firms in Northern Ireland can be obtained from the Law Society of Northern Ireland or the Northern Ireland Legal Services Commission websites - www.lawsoc-ni.org or www.nilsc.org.uk - General information on legal aid is also available from, your local **Citizen's Advice Bureau** check the local telephone directory for number, or check online at www.citizensadvice.co.uk

If the parent who should be paying child maintenance fails to pay, the other parent can ask the court to **enforce** the Consent Order. The court can order money to be taken directly from the wages or property of the parent who should be paying child maintenance, and can also force them to sell their possessions.

During the first 12 months of a Consent Order, you cannot ask the statutory child maintenance service to put a child support arrangement in place; this includes calculating, collecting or enforcing payments. After 12 months of the Consent Order, either parent is free to ask the statutory child maintenance service for a child support arrangement, this has the effect of canceling the Consent Order.



Child Maintenance and Enforcement Division

In many circumstances it just isn't possible for both parents to come to a private agreement. There may still be bad feelings between you, or there may be a good reason for one of you not to trust the other. Or it may be that you simply prefer to have the security of a child support arrangement set up by the **Child Maintenance and Enforcement Division** (formerly **The Child Support Agency** until April 1st 2008), which administers the Government's statutory child maintenance service.

To consider applying to the statutory service to put a child support arrangement in place, here are some key things you need to think about.

Who can apply?

Either parent or guardian of a child can ask for the statutory service to put a child support arrangement in place.

As long as:

- the child is under 16 (or under 19, in some cases)
- the person asking to receive the child maintenance payments is the parent with the main day-to-day care of the child, and they live in the UK
- there's no court order (an official ruling made by a court) in place from before 2003
- no court order (such as a Consent order) or written agreement has been made on or after 3 March 2003 and has been put in place for less than 12 months.

How much does the statutory service cost?

It doesn't cost any money. The statutory service is free.

Powers

The Child Maintenance and Enforcement Division have certain powers to take action if a non resident parent does not pay child maintenance that is arranged through the Child Maintenance and Enforcement Division. They can:

- take money direct from bank account
- take money from non resident parent earnings
- take action through the courts

Working out a right amount

The statutory service will work out for you how much child maintenance should be paid. The statutory service will look at the income of the parent who should be paying child maintenance, including their salary, benefits and tax credits. The statutory service then uses a formula to work out child maintenance payments. For more information visit www.dsdni.gov.uk or telephone 0845 608 0022.

What are the rates?

Basic rate

If the parent who should be paying has a weekly income (net) of £200 or more after certain deductions, the statutory service will use the basic rate to work out how much child maintenance must be paid.

Reduced rate

If the parent who should be paying, has a weekly income (net) of more than £100 a week but less than £200, the statutory service will use the reduced rate to work out how much child maintenance must be paid.

Flat rate

If any of the following applies to the parent who should be paying, then they will pay a flat rate of £5 per week for child maintenance:

- their weekly income (net) is between £5 and £100.
- they are getting certain benefits, **or**
- the partner they live with gets Income Support, Income-based Jobseeker's Allowance or Pension Credit.

The flat rate is £5 no matter how many children are involved

Nil rate

In some circumstances the parent who should pay qualifies for nil rate. This is where the parent does not have to pay any child maintenance because:

- he/she is a student in full-time education, **or**
- is under 16 years old, **or**
- in prison, **or**
- living in a residential care home, nursing home or independent hospital and is getting help with the fees

On top of the four rates, the statutory service also takes into account:

- how many relevant other children live with the parent paying child maintenance
- whether the parent paying child maintenance has to pay maintenance for other qualifying children
- whether the qualifying child stays with the parent paying child maintenance at least 52 nights a year
- whether the parent paying child maintenance is caring for a disabled child or has exceptionally high travel costs by having contact with the child, **or**
- where the parent paying maintenance has substantial assets.



Advantages & Disadvantages of Statutory Service

Advantages	Disadvantages
This may be a better option if you have a strained relationship with the other parent, for whatever reason. You may find it helpful for the statutory service to collect and enforce the right level of maintenance to pay.	When people can reach agreement privately, this can get money to the receiving parent more quickly. Also it can be easier to resolve breakdowns in payment when a third party is not involved
If you don't know where the other parent is, or they don't want to accept responsibility, the statutory service can try and trace them, assess payments, collect payments and enforce when they don't pay.	Due to the formal process and the paperwork involved with statutory service arrangements, it can take time to update these arrangements, for example when your circumstances change.
You don't have to be in any kind of contact with the other parent if you don't want to, for example if there's a history of abuse.	Once you ask the statutory service to decide on for example how much maintenance to pay, you have to abide by their decision. It is not possible to ask the statutory service to collect a different amount of maintenance other than what has been determined by their formula.
It's a free service.	There is less flexibility about how and when you make and receive payments. Making special arrangements for things like summer holidays is more difficult with a statutory service arrangement than with a private agreement. The statutory service uses a set formula to work out payments.
You can go back to a private agreement in the future, if you can both make it work. You're not bound for life.	You have to share your details with the statutory service. With a private agreement, you only have to share your details with the other parent.
If a parent won't share their details, the statutory service has the power to get those details from other Government bodies, or the parents employer.	The more 'legal' things become, the harder it can be sometimes on your child and your relationship with the other parent

How will it affect benefits?

After October 2008:

- your child maintenance payments will no longer affect a claim for housing benefit
- your tax credit awards won't be affected by your child maintenance.

After April 2010:

From 12th April 2010 Child Maintenance will not be counted as income for the purposes of calculating entitlement to Employment Support Allowance, Income Based Jobseekers Allowance and Income Support.

Remember: if you're on Income Support or Income-based Jobseeker's Allowance, you **must** let **The Jobs and Benefit office/Social Security office** know about any changes to your child maintenance payments (for example, how much you're receiving, or how often).

If you are not sure what to do, phone the Information Service **0800 028 7439** for guidance or contact your local **Citizens Advice Bureau**.

Income

It's important to come to a child maintenance arrangement that's affordable and realistic, so the parent who's paying is more likely to keep paying. That's why child maintenance payments should be calculated based on the income of the parent paying child maintenance. If you would like an estimate of how much maintenance should be, call The Information Service on their freephone number 0800 028 7439.

It's also important to let the other parent know right away if your financial situation **changes** in a way that could affect any payments – a new job, changes to your benefits or credits, anything like that. Give them enough warning, so they have time to budget.

What if the parent who's paying only works part-time or only part of the year?

That shouldn't get in the way of working out an agreement. If you have chosen a private agreement, you could both agree one rate for when the parent paying is out of work, and adjust it as and when they're earning. Remember to record payments made. If you change anything, be sure to keep a clear written record.

