

## **Child Maintenance**

The topic of child maintenance is one which can often cause confusion, including around when the statutory scheme applies, the scheme rules themselves and different approaches taken by the court when it does have jurisdiction. Matters can also be made worse by the many acronyms used in the terminology.

### **The Statutory Scheme**

#### **The Basics**

There have been various child support schemes over the years. The latest scheme known as the '2012 scheme' has been in place since 25<sup>th</sup> November 2013. It is administered by the Department of Work and Pensions via the Child Maintenance Service ('CMS').

Under the 2012 scheme the child maintenance calculation is calculated according to the gross income of the non-resident parent. This information is taken directly by the CMS from HMRC, in an effort to save administrative time.

The CMS has jurisdiction to make an assessment of child maintenance when the child concerned, the parent with care and the non-resident parent are habitually resident in the UK.

If the non-resident parent is not habitually resident in the UK, the CMS will still have jurisdiction in certain circumstances. This includes a member of the armed forces, where they are an employee of the civil service, or where they are employed by a company that employs employees to work outside the UK but make payment arrangements in the UK.

Where an application is made to the CMS child maintenance will be calculated by reference to the CMS formula. The CMS formula is applied to the non-resident parent's gross income up to the maximum of £3,000 a week, making allowances for pension contributions. It then takes account of how many other children are in the non-resident parent household before making a reduction for the number of nights that the children spend with the non-resident parent. The calculator is available at: [www.gov.uk/calculate-child-maintenance](http://www.gov.uk/calculate-child-maintenance).

There is a charge of £20.00 for application for a CMS assessment unless the applicant is under 18 or a victim of domestic abuse.

Once the calculation has been done the CMS will assume the payments are being made and there will be no further charges.

If payments are not made the case can be referred to the Collect and Pay service. The CMS will then collect maintenance payments but there are charges for this service. The recipient will have 4% deducted from the maintenance calculation and the payer will pay 20% on top of their assessment.

#### **Paternity**

If a non-resident parent denies paternity, no calculation may be made unless the CMS are able to assume parentage. A number of scenarios where parentage can be assumed are set out in the legislation. These include marriage and registration as a child's father. Both parents can also be asked whether they consent to DNA testing. If a parent with care refuses to consent to testing for themselves or for the child, the case can be closed. If a non-resident parent refuses, they can be presumed to be the parent.

#### When Child Maintenance ends

For the purposes of this legislation a child is defined as a person under 16 or a person between the ages of 16 and 19 who is (a) a person for who child benefit is payable or (b) in full-time non advanced education. Non-advanced education means secondary education and therefore includes studying for A levels or equivalent post 16 courses or study, but not university education. Regulations set out more detail.

There are provisions dealing with matters such as arrangements for shared care, boarding school situations and variation applications.

For advice in relation to family law matters please contact Heather Weavill, Alison Fielden & Co Solicitors, telephone number: 01285 653261