BECKY TAYLOR FAMILY MEDIATION

FREE GUIDE · CHILD MAINTENANCE

Child Maintenance: CMS vs Private Agreement

Understanding how child maintenance works and choosing the right arrangement for your family.

INSIDE THIS GUIDE

- How child maintenance is calculated
- CMS vs private arrangements
- Making agreements legally binding
- What if payments stop
- Shared care and how it affects maintenance

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What is Child Maintenance?

Child maintenance is financial support paid by the non-resident parent (the parent the child does not live with most of the time) to help cover the costs of raising the child.

Child maintenance is separate from spousal maintenance and property division. It exists solely to support the child's needs: housing, food, clothing, activities, and education.

> "Child maintenance is not optional — it is a legal responsibility. Every parent has a duty to financially support their children."

Two ways to arrange child maintenance

- **Private arrangement:** You agree an amount between yourselves (family-based arrangement)
- **Child Maintenance Service (CMS):** The government calculates and collects payments

Both are valid

Both are legal. Both are valid. The best choice depends on your circumstances and how well you can cooperate.

How the CMS Calculates Maintenance

The Child Maintenance Service uses a fixed formula based on the paying parent's gross income and the number of children.

Basic CMS calculation

Children	Rate
1 child	12% of gross weekly income
2 children	16% of gross weekly income
3+ children	19% of gross weekly income

The calculation reduces if the paying parent has other children living with them, or if care is shared (the child stays with the paying parent at least 52 nights per year).

Shared care reductions

Nights per year	Reduction
52–103 nights	1/7th reduction
104–155 nights	2/7th reduction
156–174 nights	3/7th reduction
175+ nights	50% reduction (equal shared care)

CMS pros and cons

PROS

- ✓ Clear, predictable formula — no arguments over fairness
- ✓ CMS can collect payments directly from wages if needed
- ✓ Enforcement options if the paying parent stops paying

CONS

- ✗ Fees apply if using CMS collection service (20% charge to paying parent)
- ✗ Less flexible than private arrangements
- ✗ Can take time to set up and process changes

Private Child Maintenance Arrangements

A private arrangement means you both agree an amount without involving the CMS. You can agree any amount — higher or lower than the CMS calculation — as long as both parties consent.

When private arrangements work well

- You can **communicate effectively** and trust each other
- One parent has **irregular income** (self-employed, seasonal work)
- You want **flexibility** (e.g., paying for school trips or activities directly)
- The paying parent wants to pay **more than the CMS calculation**
- You want to **avoid CMS fees**

Making it work

- **Write it down:** Document the agreed amount, payment date, and method
- **Set up a standing order:** Regular, automatic payments prevent "forgetting"
- **Keep records:** Bank statements prove payments were made
- **Review annually:** Incomes and needs change — revisit the arrangement
- **Use a Consent Order:** Make it legally binding (see next page)

Private arrangement pros and cons

PROS

- ✓ No fees or CMS involvement
- ✓ Flexible and can be tailored to your family
- ✓ Faster to set up than CMS
- ✓ Can include "in kind" support (school fees, nursery costs)

CONS

- ✗ Relies on trust and cooperation
- ✗ Harder to enforce if payments stop
- ✗ No automatic collection or enforcement

Making Maintenance Agreements Binding

A private maintenance agreement is not automatically legally binding. If you want enforceability, you need a Consent Order.

What is a Consent Order for maintenance?

A Consent Order is a court-approved document that makes your agreement legally enforceable. If the paying parent stops paying, the receiving parent can return to court for enforcement.

> **Important limitation**
>
> Consent Orders for child maintenance are limited. Courts generally prefer the CMS to handle ongoing child maintenance. A Consent Order is more commonly used for one-off lump sum payments or school fees rather than regular monthly maintenance.

What if payments stop?

If you have a CMS arrangement

Contact CMS. They can use Direct Pay (you chase) or Collect & Pay (CMS deducts from wages). Enforcement options include deduction from earnings, taking money from bank accounts, or court action.

If you have a private arrangement without a Consent Order

You can apply to CMS at any time. Your private arrangement does not prevent you from using CMS later.

If you have a Consent Order

You can apply to court for enforcement, but this can be slow and expensive. Many people switch to CMS instead.

"Start with trust. If that breaks down, CMS is there as a backup. You are not locked into one option forever."

Need help agreeing maintenance?

Mediation can help you discuss child maintenance in a structured, calm way and reach an agreement that works for both of you. Contact us for a free consultation.

BOOK A FREE 30-MINUTE CALL

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