

What action can
the Child Maintenance
and Enforcement
Division take if
parents don't pay?

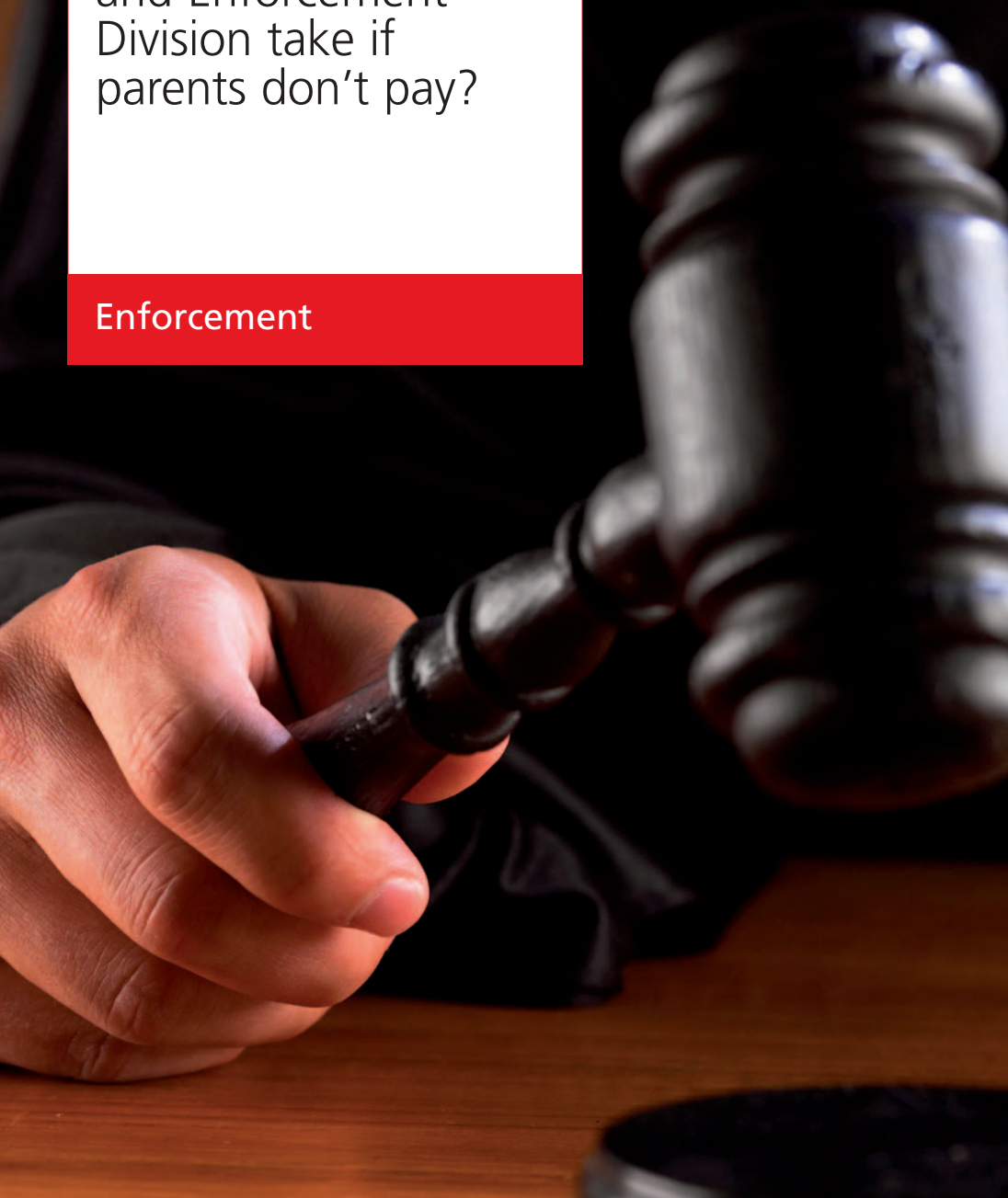
Enforcement



Department for

**Social
Development**

www.dsdni.gov.uk



What is this leaflet about?

This leaflet explains what action we take if non-resident parents don't pay child maintenance that is arranged through the Child Maintenance and Enforcement Division. It explains the powers we have in Northern Ireland.

In this leaflet, we use some standard terms to talk about our services and the way we work. The glossary at the end explains them.

Important information about this leaflet

This leaflet is only a guide and does not cover every circumstance. We have done our best to make sure the leaflet is correct as of 3 May 2010, but it may not reflect changes to the law or our procedures after this date. You may wish to get independent advice before making financial decisions based on the leaflet.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

About us

The Child Maintenance and Enforcement Division is part of the Department for Social Development (DSD).

Our role is to make sure that parents who live apart from their children contribute towards their children's upkeep by paying child maintenance.

We use a standard process to work out how much child maintenance should be paid in each case, and to manage the payments. We can take legal action if the right amount of money is not paid at the right time.

To get help or more information, visit our website at **www.dsdni.gov.uk** or call us on **0845 608 0022** or **0845 713 9704** (textphone). For details of call charges and opening times, see pages 22 and 23.

If you want to make child maintenance arrangements privately, rather than through the Child Maintenance and Enforcement Division, contact the Information and Support Service for impartial information and support. Visit their website at **www.dsdni.gov.uk** or call them on **0800 028 7439**.

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What action can the Child Maintenance and Enforcement Division take if parents don't pay?

What action can the Child Maintenance and Enforcement Division take if the non-resident parent doesn't pay child maintenance?

If a non-resident parent who has to pay child maintenance through us doesn't pay the right amount at the right time, we'll take action to get any money owed to the parent with care. This includes if you have arranged child maintenance through us and the non-resident parent is required to pay the parent with care directly.

We can:

- take money direct from a non-resident parent's earnings, if the non-resident parent is employed and is not already paying this way,
- take money direct from a non-resident parent's bank or building society account, or
- take action through the courts.

We can use more than one action at a time. The action we take will depend on the circumstances.

Taking action through the courts can be expensive and can result in the non-resident parent:

- paying their own legal costs and our legal costs, as well as the child maintenance they owe
- being forced to sell their home or other assets
- losing their driving licence for up to 2 years
- going to prison.

If you are a non-resident parent and you know you are going to be late making a payment, you must tell us straight away.

If you miss a child maintenance payment, you can pay it by phone using a debit or credit card. If you do, we won't take action against you.

We can take action as soon as we know the non-resident parent has failed to keep to the agreed payment arrangements, and has not responded to warnings we have given. We can also take court action if a non-resident parent avoids paying child maintenance by:

- failing to give us information when we ask for it, or
- giving us information they know is false.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

What happens if the non-resident parent does not pay child maintenance on time in a private agreement?

We cannot take action over non-payment in a private agreement. But the parent with care can contact us and ask to arrange their child maintenance through us instead of continuing with the private agreement. We'll then follow our standard process for working out how much child maintenance should be and when payments should be made. If the non-resident parent does not pay on time and in full, we can then take action.

What changes to my circumstances must I tell the Child Maintenance and Enforcement Division about?

If either parent's circumstances change, it can mean that we need to change the amount of maintenance that must be paid. So you should tell us if there is a change to any of the information you gave us to work out child maintenance, such as the amount of income the non-resident parent gets.

In particular, if you are a non-resident parent, you **must** tell us if:

- your address changes (you **must** tell us about this within 7 days from the date that your address changes)
- you pay child maintenance through a Deduction from Earnings Order and you leave your job. You **must** tell us:
 - the name and address of your new employer (if any)
 - how much you expect to earn, and
 - your payroll number (if any).

If you are a parent with care, you **must** tell us if there is a change to:

- the number of children living with you that the non-resident parent must pay child maintenance for, or
- the number of nights a child regularly stays overnight with the non-resident parent.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

If you fail to give us the information we need, or you give us information that you know is false, we can take you to court and you could be fined up to £1,000. This applies to any person or organisation who, by law, must give us information - such as employers and accountants as well as parents.

Not all changes of circumstance will mean we need to change the amount of child maintenance that must be paid. We may not change the amount of child maintenance if the non-resident parent's regular net weekly income changes by less than 5%.

How does the Child Maintenance and Enforcement Division take money direct from the non-resident parent's earnings?

If the non-resident parent works for an employer or receives an occupational pension, we can take child maintenance direct from their earnings or pension using a '**Deduction from Earnings Order**'. This is one of the main methods of payment that employed non-resident parents can choose. If they have not chosen to pay this way, it is normally the first step we take if a non-resident parent who is employed has missed payments and cannot give us a good reason why, or if they fail to agree a method of payment with us.

We'll tell the non-resident parent's employer how much to take from their earnings or pension. Their employer must take this amount and pass it to us on behalf of the non-resident parent.

If the employer fails to do this without a good reason, we can take them to court and they can be fined.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

If the non-resident parent gets benefits, State Pension or a War Pension, we'll usually take the amount owed direct from their benefits or pension.

You can find out more about Deduction from Earnings Orders and how they work in our leaflet *How do I pay child maintenance?* (CSL305(NI)). See the back page for details.

How does the Child Maintenance and Enforcement Division take money from a non-resident parent's bank or building society account?

We can take child maintenance direct from a non-resident parent's bank or building society account. We do not have to get the non-resident parent's agreement to do this and do not have to ask a court for permission.

We tell the non-resident parent's bank or building society to take money by sending them a **deduction order**. We can set up a deduction order to take regular payments or to take a one-off payment. The bank or building society can charge an administration fee for each deduction they make.

If we use a deduction order, we can also take further action if necessary.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

How can the Child Maintenance and Enforcement Division take action through the courts?

If child maintenance is arranged through us, we can take court action to claim any money a non-resident parent owes because they have not paid child maintenance or have underpaid.

Taking court action is expensive and a non-resident parent could end up:

- paying their legal costs and our legal costs, as well as the child maintenance they owe
- losing their driving licence for up to 2 years
- going to prison.

First, we apply for a **liability order** for the unpaid child maintenance. This shows that the law recognises the debt, and gives us the authority of the court to take action to get the money.

To get a liability order we apply to the Magistrates' Court.

If a court does not grant a liability order, and we have good reasons, we can appeal against the decision.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

What happens after the courts grant the Child Maintenance and Enforcement Division a liability order?

We have several options, including taking further court action. The action we can take is set out on the following pages in no particular order. We can often take more than one action at a time.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

What action can the Child Maintenance and Enforcement Division take?

The legal powers of the Child Maintenance and Enforcement Division are extensive. We can use the Enforcement of Judgments Office whose duty it is to enforce outstanding money and non-money judgments.

Attachment of Earnings Order

We can issue an Attachment of Earnings Order to an employer that says that the money the non-resident parent owes must be taken from their wages.

Register of Judgments

We can enter a liability order on the Register of Judgments. Credit reference agencies can use this register to set someone's credit rating, which affects their ability to get finance, such as loans, mortgages and credit cards. It can also affect someone's membership if they want to join a professional organisation.

If a non-resident parent has their own business and their suppliers know the parent is on the register, the suppliers may change the way they ask the parent to pay for business supplies.

Order Charging Land

We can make an Order Charging Land for registration in the Land Registry or Registry of Deeds against any of the non-resident parent's land or property. This makes sure that the

non-resident parent cannot sell their land or property unless they pay their debt out of the money they make from the sale. This action can lead to the forced sale of the property.

Instalment Order

We can make an Instalment Order so that the non-resident parent can pay the debt voluntarily over a period of time without suffering unnecessary hardship (if the non-resident parent does not keep to this arrangement, the creditor may apply to the court for committal proceedings).

Seizure Orders

We can issue an Order of Seizure against the non-resident parent's goods.

Other Orders

We can issue other orders against specific cases involving court awards, criminal injury awards and cases where debtors are directors of limited companies.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

Stubbs Gazette

We can register the non-resident parent's name in the Stubbs' Gazette, which may affect a non-resident parent's credit rating or membership of a professional body.

If there is more than one judgement, they will deal with each case in the order that it was lodged.

When could a non-resident parent lose their driving licence or be sent to prison?

If the non-resident parent has refused to pay the child maintenance they owe, we can apply to the courts for:

- an **order of disqualification** – taking away their driving licence or preventing them getting a driving licence for up to 2 years,
- a **warrant of commitment** – sending them to prison for **up to 6 weeks**.

Even if the non-resident parent is disqualified from driving or goes to prison, they will still have to pay all the money they owe.

We only use these powers as a last resort.

What happens if a non-resident parent is disqualified from driving and then pays what they owe?

If the non-resident parent pays the full amount they owe, they or we can apply to the court for the order of disqualification to be cancelled. If this happens, the non-resident parent can apply to the Driver and Vehicle Agency (DVA) to have their driving licence returned.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

If the non-resident parent pays only part of the amount they owe, they or we can apply to the court for an order of disqualification to apply for a shorter period or for the order of disqualification to be cancelled.

If they still have not paid anything at the end of the order of disqualification, we can apply for another period of disqualification or for a prison sentence.

What happens if a non-resident parent is sent to prison and then pays what they owe?

If they pay the full amount they owe, they will be released straight away.

If they pay only part of the amount they owe, the prison sentence can be reduced.

However, we can continue to take other action to recover this debt.

If the non-resident parent builds up new debt (by not paying maintenance again), we can go back to the court and they can be disqualified from driving or sent to prison for each new debt.

What happens if a non-resident parent dies when they owe child maintenance?

If a non-resident parent dies and still owes child maintenance, we may be able to claim the amount owed from their estate.

We will always ask the parent with care before we do this.

Can a non-resident parent get legal help and advice?

Yes, you can get help and advice from a solicitor.

General advice may be free or, if you qualify, you may be able to get specific advice under the Legal Advice and Assistance Scheme. A solicitor will be able to explain whether this applies to you. If you are not entitled to financial help, you may have to pay all the solicitor's costs.

An advice centre like the Citizens Advice Bureau or a local law centre can give you free advice. You can find a list of their addresses in the phone book, in the Thomson local directory, in Yellow Pages, or at the library.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

Where can I get more help and information?

If you want to know more about child maintenance and how we work it out, visit our website at **www.dsdni.gov.uk**. You can download all our leaflets from there.

If you would like to talk to someone about your case, you should call the number on the top right-hand corner of your most recent letter from us. That number will be for the office handling your case.

If you do not yet have a case with us or cannot find a recent letter, you can contact our national helpline. The person taking your call will not have your personal information so won't be able to answer questions on your case. However, they can help you with anything general to do with child maintenance. They will also be able to give you the phone number of the office handling your case if you want to speak to someone who can answer specific questions.

You can call the national helpline on **0845 608 0022** from 8am to 8pm Monday to Friday and 9am to 5pm on Saturdays.

Please have your National Insurance number with you when you call.

We may record our phone calls to check our service and to train our employees.

Textphone services

If you have speech or hearing difficulties, a textphone service is available on **0845 713 9704**.

Textphones are for people who find it hard to speak or hear clearly. If you do not have a textphone, some libraries or Citizens Advice Bureaux may have one. Textphones do **not** receive text messages from mobile phones.

Other languages

If English is not your first language, you can use your own interpreter or one that we provide.

Call charges

Calls to **0845** numbers from BT landlines should cost no more than 4p a minute. 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.

Information in other formats

This leaflet is available in other languages, in large print, in Braille and on audio cassette. You can order information in these formats by contacting our national helpline.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

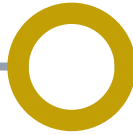
How a child maintenance case can progress

This diagram shows you how a child maintenance case can progress. This leaflet covers part of the process at the highlighted stage.



Information and guidance

The Child Maintenance and Enforcement Division can provide information on how the process works, what parents will need to do and what might be an acceptable amount of maintenance in their case.



Application

A case officially begins when a parent applies to us to set up child maintenance payments.

If there is a change in either parent's life that could affect the amount of child maintenance that should be paid, we can review your case – so let us know.



Gathering information and calculation

To work out the amount of child maintenance that should be paid, we need to gather important information. We ask both parents to provide certain information. When we have this, we will work out child maintenance.



Payment

The non-resident parent pays the agreed amount on the agreed dates and in the agreed way. This can be either direct to the parent with care, or to us. We then pass the payments on.

Enforcement

If the payments aren't made on time, we can take action.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

Leaflets available from us

What is child maintenance and how does it affect me?

(Reference: CSL301(NI)) For all parents

How do I complain about the service I get from the Child Maintenance and Enforcement Division?

(Reference: CSL308(NI)) For all parents

How is child maintenance worked out?

(Reference: CSL303(NI)) For all parents

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

(Reference: CSL304(NI)) For all parents

How can I appeal against a child maintenance decision?

(Reference: CSL307(NI)) For all parents

My case is moving to the child maintenance scheme introduced in 2003 – what will change?

(Reference: CSL310(NI)) For any parent whose case is moving to the current scheme

How does the Child Maintenance and Enforcement Division use and store information?

(Reference: CSL311(NI)) For all parents

How do I pay child maintenance?

(Reference: CSL305(NI)) For non-resident parents

How will I receive child maintenance?

(Reference: CSL314(NI)) For parents with care

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

(Reference: CSL306(NI)) For all parents

Glossary

Child

For child maintenance purposes, a child is anyone under 16 or someone between 16 and 19 who:

- is not, nor has ever been, married or in a civil partnership, and
- is in full-time non-advanced education.

However, if child benefit is still being received, someone under 19 can still be regarded as a child for child maintenance purposes even if they are not in full-time non-advanced education.

Child maintenance

Money paid by the non-resident parent to the parent with care towards their child's everyday living costs.

Deduction from Earnings Order

One of the ways we normally set up payments if the non-resident parent is employed. Under a Deduction from Earnings Order, we ask the non-resident parent's employer to take child maintenance direct from the non-resident parent's earnings and send it to us.

We can also set up a Deduction from Earnings Order if the non-resident parent is employed and they have not kept to other payment methods or have failed to agree a payment method.

What action can the Child Maintenance and Enforcement Division take if parents don't pay?

Deduction order

This is how we take the child maintenance that the non-resident parent owes, direct from their bank or building society account. We can set up a deduction order to take regular payments or to take a one-off payment. We do not have to get the non-resident parent's agreement to do this and do not have to ask a court for permission. The bank or building society can charge an administration fee for each deduction they make.

Liability order

A liability order legally recognises that there is a debt to be paid. It allows us to take further action to get the money owed. We must get a liability order before we can take any further court action.

Non-resident parent

The parent who the child does not normally live with.

Parent with care

The parent or carer who the child normally lives with and who therefore pays for most of the child's everyday living costs. In some cases this can be a grandparent, guardian or other family member – who is known as the 'person with care', rather than the parent with care.

Information in Child Maintenance and Enforcement Division leaflets is also available in other languages, in large print, in Braille and on audio cassette.

You can get any of our leaflets:

- by phone on **0845 608 0022** (the line is open from 8am to 8pm Monday to Friday and 9am to 5pm on Saturdays)
- by textphone on **0845 713 9704**, or
- from our website at **www.dsdni.gov.uk**

Where textphone numbers are provided, these are for people who find it hard to speak or hear clearly. If you do not have a textphone, some libraries or Citizens Advice Bureaux may have one. Textphones do not receive text messages from mobile phones.