



Shared Care Dispute At Application

A shared care dispute is where the paying parent and the receiving parent disagree with the information they have both provided regarding the qualifying child/ren (QC) overnight stays.

Shared care disputes are dealt with by the owning caseworker, or an application caseworkers if the application is made by a paying parent.

Shared care information is supplied when a new application is made or when a change of circumstances is reported during the lifecycle of the case. A new application can be made by the paying parent, receiving parent or a child in Scotland (CiS).

The caseworker contacts either the paying parent or the receiving parent depending on who has made the application to establish if they agree with the shared care originally reported.

If the number of nights provided by both clients is different but this difference would not affect the shared care reduction, a shared care dispute would not arise.

Shared care is split into bands:

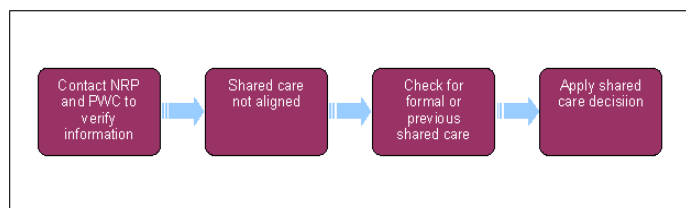
- Band A: The QC spends one night a week with the paying parent = 1/7 reduction
- Band B: The QC spends two nights a week with the paying parent = 2/7 reduction
- Band C: The QC spends three nights a week with the paying parent = 3/7 reduction
- Band Equal: The QC spends three nights and 26 occasional days with the paying parent = 1/2 plus £7 for each QC this level of care applies to

When shared care has not been agreed, any formal contact arrangements provided by either the paying parent or the receiving parent need to be validated by the courts. If a previous shared care decision exists, this is applied. If a formal or previous decision cannot be applied an assumed shared care figure of one night per week will be implemented. For more information on assumed shared care, refer to Policy, Law

and Decision Making Guidance 

The purpose of this process is to show how to make a decision on shared care when a disagreement arises during the initial application stage.

For more information regarding shared care refer to the Policy, Law and Decision Making Guidance: 



When speaking to clients always use the new terminology. For more information refer to [Terminology Changes](#).






This procedure uses the terms receiving parent and paying parent.



The receiving parent is the parent who receives or who is expected to receive child maintenance, known as the parent with care (PWC) or person with care (PeWC) on the system and in legislation. The paying parent is the parent who pays or who is expected to pay child maintenance, known as the non resident parent (NRP) on the system and in legislation.


Contact paying parent and receiving parent to verify information



This procedure follows on from [Calculation - Initial](#) and [Application - Paying Parent](#) once you have selected the **Evaluate Shared Care** button and the shared care doesn't align. For more information refer to these procedures.


1. Once the **Evaluate Shared Care** button has been selected the system will check the shared care details provided by the paying parent and receiving parent and, if they aren't aligned, change the **Sub Status** of the case to **Shared Care**.
2.  Call both the paying parent and the receiving parent to see if a shared care agreement can be reached, and/or to obtain any written evidence of shared care. Explain to both parents the decisions that can be applied when shared care is not agreed, for more information refer to the Policy, Law and Decision Making Guidance . If an agreement is reached go to **step 15**. In certain circumstances the qualifying child (QC) may spend at least 52 nights per year in the care of a Local Authority (LA). If this is the case,

the effect on the paying parent's shared care reduction will be the same. For more information refer to the Policy, Law and Decision Making Guidance: 

 The paying parent may state that they provide equal/greater day to day care for the qualifying child/ren. Discuss the definitions of a paying parent/receiving parent with the client. For more information refer to the Policy, Law and Decision Making Guidance 

 It is important when attempting to reach a shared care agreement, that your tone is clear, helpful, firm but friendly and sensitive. It is also important to be non judgemental and to remain impartial. Acknowledge any concerns and difficulties that the clients are facing with shared care and address them where possible and if you can't, explain why.

3.  If telephone contact is not possible, at case level, issue CMSL0074 and set a **Wait** period of seven days for a response to be received. After seven days if there is no response issue CMSL0077 and set a Wait of a further seven days. For more information on the types of shared care evidence that can be accepted refer to the Policy, Law and Decision Making Guidance: 


 The optional paragraphs associated to the CMSL0074 are currently not loading correctly. A workaround is contained in the Customer Materials tab to resolve this.

4. Update the system with details of what evidence is expected and when it is due. Create a new entry in the case **Notes** field and record the following details:
- **Requested Evidence** - e.g. a court order/maintenance order or some other formal written agreement regarding shared care
 - **Requested Date** - today's date
 - **Due Date** - set at your discretion

Set a **Wait** period of seven days to allow a response to be received.


For more information regarding acceptable evidence refer to the Policy, Law and Decision Making Guidance: 

5. If shared care can be agreed, go to **step 15**. The shared care band declared by the receiving parent and the paying parent can be viewed by selecting the QC row on the screen **Case>Contact** View.

 During contact with either client it is worth stressing that it is in their own best interest to agree on the amount of shared care as this will allow their case to be assessed fairly and accurately.

Shared care not aligned

6. If only one of the parents provides sufficient evidence of a shared care figure, and the other party disputes this based on unreasonable grounds a presumed shared care figure can be applied in favour of the parent who has supplied the information.


 If the receiving parent states two nights shared care and provides evidence, the paying parent however does not provide information when it is requested. A presumed shared care figure of two nights can be applied.

Assumed shared of 1 night must not be applied simply on the basis parents are in dispute on level of shared care band. In ALL circumstances it is up to you to make a determination based on the level of evidence.

- If parents agree in principle that there is to be shared care but have not yet agreed the number of nights the child will spend with each parent, (for example, where they have split up recently) shared care of one night per week may be assumed.

For more information on assumed shared care refer to the Policy, Law and Decision Making Guidance: 

- If no evidence is received from either parent or the information provided cannot be validated, consider setting the QC/s to Shared Care Decision Assume to allow one night a week of shared care. Go to the Case and select Contacts. Select each QC in turn and scroll across to the Shared Care Band and Shared Care Decision columns. In the Shared Care Decision column select the option Assumed, this will auto populate the shared care band to A. This can only be used when both parties agree there is shared care in principle.


For more information on assumed shared care refer to the Policy, Law and Decision Making Guidance: 

- Check if a formal agreement is in place go to **step 7**.

For more information on formal shared care refer to the Policy, Law and Decision Making Guidance: 



- If the receiving parent states there is no shared care and the paying parent provides no supporting evidence, go to **step 16** for steps on how to progress this.



For more information refer to the Policy, Law and Decision Making Guidance 

 Assumption of shared care should only be considered if no decision other than the fact that shared care is present between the two parties can be reached.

For more information on the policy rationale refer to Policy, Law and Decision Making Guidance. 

Check for terms of agreements and/or court orders on shared care



7. If either the paying parent or the receiving parent state that a formal contact arrangement issued by the courts exists, call them to obtain further details e.g. the name of the court that issued the contact order. If either client mentions that the contact order is not being adhered to, refer them back to the court that the order originated from to request further guidance.
8. If contact order details are not provided, consider asking the parents to supply other forms of acceptable evidence. For more information refer to Policy, Law and Decision Making Guidance. 
9. If contact order details are provided, go to **step 11**.
10.  If telephone contact is not available, issue letter CMSL0077 to request a copy of the evidence and set a Wait period of 14 days for a response to be received.
11. Where formal contact arrangement details have been received by phone or by post, select the **Evidence** field and create a new evidence item **Formal Contact Agreement** and use **Notes** fields to record the date the agreement is valid until.

 Where the level of shared care is based on evidence provided by the paying parent, you must update the **Shared Care Band** field and the **Shared Care Decision** field manually in the **Contacts View** tab.
12. If a formal contact arrangement is not in place:
 - check if the case is transitional and/or if there is an established pattern of past shared care agreement over an appropriate period that may be reflective of current arrangements. For more information about evidence in shared care refer to the Policy, Law and Decision Making Guidance: 
 - If there is no previous agreement in existence, there is no pattern of care, or the past pattern of shared care is disputed so that shared care does not align, and there is insufficient evidence to reach a conclusion on actual nights of shared care, apply assumed shared care of one night a week. Go to step 13.

Receiving parent and paying parent agree on minimum level care


13. If the receiving parent and paying parent are in dispute over the total number of nights but their statement has degrees of similarity, take all reasonable steps to assess the paying parent and receiving parents statement. If necessary, cross reference to confirm understanding of and reliability.


If there is a clear agreement on a certain level of shared care, we can presume this until either party provide sufficient evidence to suggest otherwise.

 Where you have applied assumed shared care, call the paying parent and receiving parent to advise them that this decision has been applied.
14. Where the receiving parent and paying parent do not share a common ground and there is insufficient evidence to make a decision on shared care you will need to consider assumed shared care. For more information on assumed shared care refer to the Policy, Law and Decision Making Guidance: 


Apply shared care decision

15. Select the **Relationships** tab, Then **Qualifying child**. Input the appropriate shared care figures in the **Regular Nights With NRP/PWC** field and record the reason for the shared care decision in the **Comments** field. If the QC spends at least 52 nights per year in LA care, enter the number of nights in the **Nights With LA Care** field. the shared care bands are:
 - One night a week - the system will populate **Band A**
 - Two nights a week - the system will populate **Band B**
 - Three nights a week - the system will populate **Band C**
 - Three nights a week plus 26 occasional nights - the system will populate **Band Equal**

The shared care figure will need to be entered for both paying and parent and receiving parent. When the shared care is assumed will the system will populate shared care band A. For more information refer to the Policy, Law Decision making Guidance: 

 Under no circumstances when recording shared care should the field **Exceptional Weeks Without NRP** be used. A subsequent system release will remove this field.

16. Where the decision is made that there is no shared care because the receiving parent has provided suitable evidence and the paying parent has not record each clients declaration in the **Qualifying Child** applet under there respective **Contact** tabs, then navigate to the case and select the **Contact List** applet. Enter the **Shared Care Band** as **0** and set the **Shared Care Decision** as **Previous Shared Care Decision** and save the record.

 When entering Shared Care, you will need to input the figure 0 even if the field appears to be populated as such

17. Select the **Evaluate Shared Care** button:

- In a paying parent application, the system will change the case **Status** to **Case Maintenance** and **Sub Status** to **Establish Maintenance Region**.
- In a receiving parent application, the system will change the case **Sub Status** to **Perform Calculation** which will allow you to proceed with the initial calculation

[Application form](#)

Text to be inserted

CMSL0074 Your child maintenance application

Letter sent to request clarification on shared care arrangements where the information is inconsistent. Suitable for all clients.

Under the sub heading 'Your child maintenance application'

- If the incorrect information has come from the person receiving the letter use the paragraph headed 'Thank you for the information you gave us about the child maintenance application for..'
- If the incorrect information has come from another party use the paragraph headed 'XXXX has given us some information as part of the child maintenance application for..'

Under the sub heading 'What this means for you'

- If the letter is to the paying parent use the paragraph 'use where letter is to NRP'
- If the letter is to the receiving parent use the paragraph 'use where letter is to PWC/PeWC'

Under the sub heading 'Important – we may make our own decision about shared care'

- Use the paragraph which applies to the client the letter is to

Under the sub heading 'What else you need to know' choose the appropriate paragraph

- If the change affects more than one QC and more changes are to follow, use the paragraph 'if the change affects more than one QC and more changes are to follow'
- If the change affects more than one QC and no more changes are to follow, use the paragraph 'if change affects more than one QC and no more changes are to follow'

Once completed review the letter to ensure the correct information is provided.



There is currently a fault on the CMSL0074 which prevents caseworkers from generating the optional paragraphs. To generate these follow the steps below:

1. Create the letter as you would normally on the 2012 scheme system.
2. Once the letter is fully loaded, select the arrow next to **LM_00092_E** in the **Selected Content (Body)** tab.
3. In the **Optional Content (Body)** tab, the optional paragraphs should be displayed.
4. Select the optional paragraph and select the green arrow to add the optional paragraph to the letter.

CMSL0077 Your child maintenance application

First request for missing information. Suitable for all applicants.

- Under the sub heading 'Your child maintenance application'. Complete the free text area to inform the client what further information we require to complete the application.
- All other required information on this letter is automatically completed by the system

Once completed review the letter to ensure the correct information is provided.

[Application - Child in Scotland](#)

[Application - Paying Parent](#)

[Application - Receiving Parent](#)

[Gather Paying Parent Information](#)

[Terminology Changes](#)

[What happens if a court order/maintenance order is in place but not being adhered to?](#)

If either parent mentions that the contact order is not being adhered to, refer them back to the court that the order originated from to r guidance. If contact order details are not provided, apply an assumed share care decision of one night a week, which will remain in place ur are supplied.

If a QC is in local authority care for 52 nights per year, will this affect the paying parent's shared care reduction?

No the effect on the paying parents shared care reduction will be the same.

What happens if a shared care agreement cannot be reached between both parties regarding the number of nights the QC stays with the payi

Where both parties disagree on the number of nights shared care, full consideration should be made before applying the shared care assu night, eg, where the receiving parent says the number of nights shared care is two, but the paying parent says three, you could apply a d nights reflecting that both parties agree in principle to two nights.