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[Payments in respect of Certain Mortgages, Loans or Insurance Policies \(Certain Payments\): Decision Making Guidance](#)

What is a Certain Payments variation?

[2012/2677](#) Regulation 67 of the Child Support Maintenance Calculation Regulations 2012

Certain payments cover payments that a non-resident parent makes, even though they are not legally required to do so.

**The permitted expenses include:**

Payments towards mortgages, loans or insurance / endowment policies taken out by a person other than the non-resident parent to:

- purchase or make repairs / improvements to a property;
- that the non-resident parent once shared with the parent with care; and
- which the parent with care and qualifying child still live in.

The non-resident parent must not:

- have any legal obligation to make the payment for the period of the variation; and
- cannot have any legal or financial interest in the property or policy;
- this includes any interest in proceeds from sale of the property or maturity of the policy.

Cases where the non-resident parent has a legal obligation to make the payments and / or has a financial interest in the property may be admissible on prior debt grounds.

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### [Payments in respect of Certain Mortgages, Loans or Insurance Policies \(Certain Payments\): Decision Making Guidance: Application](#)

All applicants must state the ground they want to apply on or provide enough information for an appropriate ground to be identified.

#### **Certain Payments: is the ground identified?**

Some non-resident parents may be aware of the variations scheme, and specifically ask for a variation to be considered. In other cases, they may just say their assessment is too high and / or they cannot afford to pay it, because they make payments towards a mortgage, loan or insurance policy for the parent with care's property.

Example:

'I can't afford / it isn't fair that I have to pay this amount. I'm paying £200 a month towards his / her mortgage'

In these circumstances, you should try to establish whether the non-resident parent's costs fall within the grounds for a certain payments variation. If so, you should advise the non-resident parent of the variations scheme and explain the process to them.

If the non-resident parent would then like to apply for a variation, you should try and obtain as much information as possible for the application to proceed.

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### [Payments in respect of Certain Mortgages, Loans or Insurance Policies \(Certain Payments\): Decision Making Guidance: Preliminary Consideration](#)

Note: in relation to Insurance Policies, Certain Payments can only be considered for Insurance Policies that relate to the property that the parent with care / qualifying child live in and does not include e.g. car insurance.

All applications should be given preliminary consideration and rejected immediately if certain criteria are not met / apply.

If an application is made on multiple grounds, then preliminary consideration is applied to each ground individually. Only the ground(s) that fail preliminary

consideration would be rejected on this basis. Any other ground(s) can be taken forward.

### **Fact based reasons for rejection**

An application should be rejected immediately if any of the following apply:

- a default maintenance decision (DMD) is in force;
- the non-resident parent is liable to pay the flat rate or nil rate because they or their partner are in receipt of certain benefits;
- the amounts claimed do not meet the threshold. REMEMBER: applications on multiple special expenses grounds will only be rejected if none of the Special Expenses thresholds are satisfied. Otherwise, you would only reject the ground(s) that failed to meet the threshold;
- the non-resident parent's maintenance liability is £7 or less;
- the non-resident parent's gross weekly income would still exceed the capped amount (£3000) after deducting the special expenses claimed.

### **Discretionary reasons for rejection: general**

Applications may also be rejected if you consider that the applicant has:

- not stated a ground or provided enough information for you to identify a ground;
- stated a ground, but has not provided any facts to support that ground or justify further enquiries;
- stated a ground and provided facts, but those facts do not fit that ground or any alternative ground

### **Certain Payments: is the ground identified?**

For the ground to be identified, the non-resident parent must confirm that:

- they make payments towards a mortgage, loan or insurance policy linked to the property that the parent with care / qualifying child live in;
- they do not have any financial interest in the property or policy;
- they do not have a legal obligation to make the payments.

Examples:

The following type of statement will be sufficient to pass preliminary consideration:

- 'I'm paying £200 a month towards the PWC's mortgage and it's not my house'.

The following type of statement will not be sufficient to pass preliminary consideration.

- 'I'm paying £200 a month towards the mortgage on the house until the property's sold and we can share the proceeds'.

In this situation, the facts stated do not fall within the permitted costs for this ground (the non-resident parent has a financial interest in the property). You should explain this to the non-resident parent and clarify what type of costs can be considered.

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### [Payments in respect of Certain Mortgages, Loans or Insurance Policies \(Certain Payments\): Decision Making Guidance: Gathering information and evidence](#)

If the case passes preliminary consideration, you need to obtain the necessary information and evidence from the applicant.

Certain payment applications relate to the non-resident parent's own expenditure and so they can be expected to provide any information / evidence needed to support their application. You must obtain details of the amount and type of expenses that the non-resident parent wants to claim for. This is basic factual information that a non-resident parent must provide for an application to be properly considered.

You will also need to obtain appropriate documentary evidence to confirm the expenses claimed. Non-resident parents should be encouraged to provide supporting evidence, as this will help you to make an accurate decision.

#### **Details of the amount / type of expenses not provided**

##### **Example**

The non-resident parent applies for a variation because they are making payments directly to the lender for the parent with care's mortgage. They state they will send in details of the amounts being paid.

The case passes preliminary consideration, because the facts alleged fall within the certain payments ground, and there are no known reasons for automatic rejection. However, you do not have enough information about the amount / type of costs that the non-resident parent wants to be considered.

If this information is not provided within 14 days, the application can be rejected on the basis that there is insufficient information for a decision to be made.

## Requesting additional information from applicants

[2012/2677](#) Regulation 58 of the Child Support Maintenance Calculation Regulations 2012

If you need more information / evidence from an applicant in order to proceed with the application, you can ask them to provide this and allow fourteen days for their response. You may allow additional time if you are satisfied it is reasonable in the circumstances of the case.

### Documentary Evidence

It is very unlikely that a non-resident parent will be unable to provide any documentary evidence to support a claim for a variation on the grounds of certain payments. However, if this does happen, you should seek advice from your Team Leader / the Advice and Guidance Team.

### Documentary evidence will normally be required confirming:

- the amount of the payments being made by the non-resident parent;
- that the non-resident parent does not have any legal obligation to make these payments; and
- that the non-resident does not have any financial interest in the property / policy.

Non-resident parents will also be required to provide information regarding the purpose of the mortgage, loan or insurance policy.

NOTE: it may be difficult for non-resident parents to provide documentary evidence confirming they do not have a legal obligation to make payments or an interest in the property / policy. In these circumstances, a written statement from the non-resident parent confirming that this is the case would be acceptable evidence. If the parent with care states the non-resident parent does have a legal obligation / financial interest, they should be in a position to provide documentary evidence confirming this.

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[Payments in respect of Certain Mortgages, Loans or Insurance Policies \(Certain Payments\): Decision Making Guidance: Representations](#)

[2012/2677](#) Regulation 59(2)(a) of the Child Support Maintenance Calculation Regulations 2012

This part of the process gives the other parties notice of the application and the opportunity to comment on it. This step should be completed once any information / evidence to support the application has been obtained from the applicant / other available sources.

**Representations do not need to be invited if:**

*Regulation 59(2)(a) of the Child Support Maintenance Calculation Regulations 2012*

- it is clear from information provided by the applicant / other available sources that the variation will not be successful; or
- the non-resident parent has not provided details of the specific amount / type of their special expenses. In this situation you do not have enough basic information to make a decision on the application.

**When you are inviting representations, the other parties must be:**

- notified that an application has been made; and
- informed of the grounds that the application has been made on, including any relevant information / evidence that has been provided by the applicant or obtained from other sources, unless it falls within the excluded information category;
- the other party should be allowed fourteen days to respond. You may allow additional time if you are satisfied it is reasonable in the circumstances of the case. If the other party fails to respond in the time allowed, you should decide whether to proceed with the application on the basis of the information held.

**Notifying the applicant about representations**

If the other party / parties agree with the facts provided by the non-resident parent, and do not wish to make any further comments, you can proceed with the application and decide whether to allow the variation. It is not necessary to invite further comments from the non-resident parent in these circumstances.

If the other party / parties disagree with the facts provided and submits additional information / evidence that conflicts with the details provided by the non-resident parent, then you may need to go back to the non-resident parent for their comments. However, this will only be necessary if you are unable to make a decision on the basis of the information / evidence submitted.

**Excluded Information**

[2012/2677](#) *Regulation 59(5) of the Child Support Maintenance Calculation Regulations 2012*

1. Medical evidence / advice that has not been disclosed to the applicant or the other party and that you consider could be harmful to the health of the applicant or the other party if disclosed;

the address of the other party or qualifying child and any other information that could lead to that person / child being located.

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### [Payments in respect of Certain Mortgages, Loans or Insurance Policies \(Certain Payments\): Decision Making Guidance: Deciding whether to allow the variation](#)

When you are deciding whether to allow a certain payments variation, you need to consider all the following points:

- do the expenses claimed fall within the permitted expenses

#### **Are the expenses claimed linked to current / future expenditure?**

The costs that the application is based on must be:

- in place at the time of the application; or
- due to start at a known future date that is agreed by both parties.

#### **Example**

The parent with care is reducing their working hours over the summer and the non-resident parent has agreed to make payments for the parent with care's mortgage directly to the lender from 1 June 2012 to 31 August 2012. A variation can be considered from the date the payments are due to start.

A variation can also be considered where the relevant expenses were in place at the time of the application, but have ceased by the time a decision on the application is made.

In these circumstances, the variation can be considered for the period between the effective date of the variation and the date the expenses ceased.

#### **Example:**

The non-resident parent applied for a variation based on qualifying endowment policy payments in May 2012. The application is not decided until September 2012 and the payments ended in August. A variation can be considered from May 2012 until the repayments ceased.

#### **Does the non-resident parent receive any Financial Assistance?**

A non-resident parent may receive financial assistance towards their expenditure from a friend, relative or official source.

In these circumstances, the non-resident parent should not receive an allowance for costs that are effectively being paid by someone else. An amount equivalent to the financial assistance that the non-resident parent receives must be deducted from the expenses total, before the variation is calculated.

### **Is the Financial Threshold still satisfied?**

An application for certain payments will only be agreed if the expenses are equal to or exceed the threshold amount of £10.00 per week. When you are deciding whether to allow the variation, you will need to consider whether this threshold is still satisfied following any adjustment for reasonableness/ financial assistance

If the financial threshold is satisfied, the whole amount of the expenses claimed can be considered – you do not have to deduct an amount equivalent to the threshold.

REMEMBER: if the application is based on more than one ground, the threshold applies separately to each ground. For example: if a non-resident parent applies for certain payments and contact costs, both types of expenses must equal or exceed £10.00 per week individually.

- finally, taking all of the above into account, is it [Just and Equitable](#) to allow the Variation?

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[Payments in respect of Certain Mortgages, Loans or Insurance Policies \(Certain Payments\): Decision Making Guidance: Effect of a variation](#)

There is no ground specific guidance for the effect of a variation. Please refer to the [overview](#).