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[1991/48](#) Schedule 1, Para 5A of the Child Support Act 1991

[2012/2677](#) Regulation 48 of the Child Support Maintenance Calculation Regulations 2012

One of the CMG's key objectives is to maximise the number of effective arrangements between parents who live apart for the financial support of their children. Linked to this objective is the principle that parents should be encouraged, wherever possible, to make these arrangements between themselves, without relying on the statutory maintenance scheme.

It is therefore likely that cases will arise where a non-resident parent, who is the subject of an application for statutory maintenance, is also supporting a different child outside the statutory scheme (either a family based arrangement or a court order). The CMG will recognise such arrangements when calculating the non-resident parent's liability, if it is based on the basic, basic plus or reduced rate, to ensure that their financial responsibility to all their children is accurately reflected.

If a non-resident parent's liability is based on the Basic, Basic Plus or Reduced Rate, their liability will be reduced if they have another child or children that they are supporting under a family based arrangement/court order. See Sufficient Evidence of a family based arrangement (below) and [Child of the Family or Child Abroad](#).

### **What is a Family Based Arrangement?**

A family based arrangement is one that provides for periodic payments of maintenance for a child who is habitually resident in the UK.

For these purposes, a family based arrangement:

- need not be a formal arrangement;
- is not restricted to payments made to the child's carer. For example: payments made to a third party (e.g. payments made to a mortgage lender) can qualify;
- must normally relate to a child who is the non-resident parent's own child. However, a 'Child of the Family Order' (where a court decides that a person who is not a child's parent is responsible for supporting them) can also be treated as a family based arrangement.

NOTE: see the section on 'Non-resident parent liable to maintain a child of the family / child abroad for guidance for cases where:

- the non-resident parent is liable to support a child that is not their child (under a 'child of the family order'; or
- the non-resident parent is liable to support a child who is not habitually resident in the UK.

### **Evidence of a child supported under a family-based arrangement**

If a non-resident parent states they are supporting a child under a family-based arrangement (CIFBA), you will need to carry out the following checks before recording them on the system:

#### **Is there a record of the child on CIS**

The majority of people who live in the United Kingdom will be recorded on the CIS database and will have a National Insurance Number assigned to them.

If the child is not recognised on CIS then you should advise the non-resident parent that we cannot consider them as a child supported under a family-based arrangement unless further evidence is received proving child meets definition of child, child's address (to satisfy does not reside with the non-resident parent) and finally that child is habitually resident in the UK. If there is no record of child on CIS please refer case to Advice and Guidance.

If the child is recognised on CIS then you should proceed to check whether Child Benefit is in payment for them/an election not to receive child benefit has been made.

#### **Is Child Benefit in payment**

If Child Benefit is in payment for the child, or equally, an application for child benefit has been made but parents have elected not to receive child benefit payments, you should ask the non-resident parent for evidence of the family-based arrangement.

NOTE: a Child Benefit check will not tell you who the Child Benefit is being paid to, however, providing the child is recognised on CIS and Child Benefit is in payment for them, you should proceed and gather the relevant evidence from the non-resident parent.

If there is a record of the child on CIS and Child Benefit is in payment/election made not to receive child benefit, you will need to obtain full details of the Family Based Arrangement, including the amounts paid and the frequency of payments. The following sections provide further advice.

If there is a record of child on CIS but child benefit is not in payment for them, decline the request for change unless the party making the application is able to provide evidence that the child named meets our definition of a child. Acceptable evidence may be proof from school/college that a child is in full time non-advanced education.

Note: You are not legally entitled to contact a child's employer or school/college for information. If the Non-resident parent asks you to do that, you should explain that you do not have the legal authority to request that information

### **Information the CMG does not need to consider**

When you are deciding whether a Family Based Arrangement can be taken into account, you do not need to consider the following:

- the amounts payable under the terms of the arrangement;
- whether the non-resident parent is fully complying with the terms of the arrangement, (although a complete default on payments may result in the arrangement not being recognised); and
- whether there is any shared care of the child in question.

### **Sufficient Evidence of a family based arrangement**

The following types of evidence will be sufficient to confirm that the non-resident parent is supporting a child under a family-based arrangement:

- a court order (Whether for a British or foreign court);
- a written maintenance agreement (drawn up by a solicitor);
- an informal written agreement signed by both parents (e.g. using the Options template); or
- an informal verbal agreement.

The above types of evidence must provide for the non-resident parent to make regular payments for the benefit of that child. This can include:

- maintenance for the child's general day to day needs;
- regular payments for specific costs (e.g. mortgage payments, school fees, holidays);
- payments in kind (e.g. the non-resident parent regularly buys clothing for the child) .

If the non-resident parent does not have the required evidence, you may contact the other parent. However, if that parent is not a client of the CMG, they are not under

any obligation to reply. If they fail to do so, you must decide whether there is sufficient evidence of an arrangement based on the available information.

NOTE: the child must be habitually resident in the UK. The non-resident parent should be asked to confirm this. If the CIS or CHB check confirms the existence of the child, this should generally be assumed to be sufficient evidence that the child is habitually resident. Refer to the section on 'Non-resident parent liable to support a child abroad' for advice on cases where the child is not habitually resident.

### **Contacting the Other Parent / Party to the Arrangement**

There will be cases where the non-resident parent has no written evidence of the family-based arrangement. This may be because the arrangement is a verbal one, or there may be no arrangement at all, but they are making regular payments for the child's benefit and have supplied evidence such as bank statements.

In these circumstances you should contact the child's other parent for confirmation of the arrangement.

You should also contact the other parent if:

- the non-resident parent has submitted written evidence of an informal arrangement, but you are not satisfied that it is genuine; or
- the parent with care challenges the arrangement. Refer to the Revisions Decision Makers Guidance for further advice.

### **Other parent confirms arrangement**

If the other parent confirms the arrangement then you should proceed and record the child on the system.

### **Other parent does not confirm arrangement**

If the other parent does not confirm the arrangement then you should explain this to the non-resident parent and advise that the child will not be considered when calculating their maintenance liability.

### **Other parent provides contradicting information**

If the other parent contradicts the information given by the non-resident parent you must weigh up the information / evidence before making a decision. In these circumstances you should consider the following:

- does the parent confirm that there is an arrangement but dispute the amounts or frequency of amounts paid?

In these circumstances, we are only interested in whether an arrangement is in place. It is the parents' responsibility to agree on amounts paid and the frequency of those payments.

If it is clear that the non-resident parent is supporting another child in some way or another, they should be included in the calculation of maintenance.

- does the parent dispute that there is an arrangement in place?

If the other parent is clear that there is no family-based arrangement in place and the non-resident parent has no evidence to suggest otherwise then the child should not be included in the calculation of maintenance.

How does a Family Based Arrangement affect the calculation?

### **Effect of a child supported under a Family Based Arrangement**

A child supported under a family-based arrangement will be treated as if they were an additional qualifying child. For example, a non-resident parent with one qualifying child and one child supported under a family-based arrangement will be treated as having two qualifying children.

Any resulting calculation will be apportioned between an amount for the qualifying child, who the non-resident parent is liable to support under the statutory scheme and a notional amount for the child supported under the family-based arrangement.

### **Child supported under a Family-Based Arrangement: Example**

Non-resident parent has a gross weekly income of £500.

Non-resident parent has a qualifying child PWC1 and a child supported under a family-based arrangement with PWC2:

- apply the calculation for two qualifying children =  $£500 \times 16\% = £80$
- apply the apportionment = £40 to PWC1

The other £40 is a notional amount which will not be enforced by the CMG. The parents are completely free to decide whether to continue with the payments made under their agreement or to replace it with the share worked out under the maintenance calculation.

### **Resulting liability is less than £7**

If, as a result of a child supported under a family-based arrangement the non-resident parent's maintenance liability for the qualifying child (supported under the statutory scheme) is less than £7 per week, the amount payable will be increased to £7.

**NOTE:** once a family-based arrangement has been recognised, the CMG is not required to carry out regular reviews of whether the arrangement continues to apply. It is the responsibility of the parents to notify the CMG if the arrangement ceases. The child will continue to be treated as a child until:

- Child Benefit ceases; or
- a parent reports a change which means they are no longer a child; or
- a parent reports that the arrangement has ceased.

The effective date will be the date of the change.

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