

## Current Income (Employment): Decision Making Guidance

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### [Income Overview](#)

[2012/2677](#) *Regulations 34 – 42 of the Child Support Maintenance Calculation Regulations 2012*

[2012/427](#) *Regulations 33-41 of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012*

The statutory maintenance calculation will normally be based on a non-resident parent's gross weekly income.

Gross weekly income is weekly income:

- before Income Tax / National Insurance deductions are made; but

- after occupational / personal pension scheme contributions are deducted.

Gross weekly income can consist of:

- employment income;
- trading income;
- income from occupational or personal pensions;
- taxable social security benefits (which are: Income Support, Jobseeker's Allowance, Incapacity Benefit and contributory Employment and Support Allowance).

NOTE: Tax Credits do NOT count as gross weekly income, because they are not taxable.

Gross weekly income for child support purposes will be based on either:

- historic Income information; or
- current Income information.

Adjusting income figures

In many cases an income figure given to CMG by:

- HMRC;
- the non-resident parent;
- the non-resident parent's employer; or
- a third party eg client representative;

can be used to make the maintenance calculation straightaway. However, there are a range of factors which may result in the income figure being adjusted before it is used to calculate the non-resident parent's maintenance liability.

Income adjustments may be required if:

- the non-resident parent has a relevant other child;
- the non-resident parent is making contributions to a pension scheme;
- the non-resident parent has costs associated with converting income paid in another currency into sterling;
- a successful application for a variation has been made;
- income evidence includes payments which are not taxable.

NOTE: the income figure would not need to be adjusted to reflect Shared Care. In these circumstances, the maintenance liability is adjusted, rather than the non-resident parent's income.

## Salary Sacrifice

A Salary Sacrifice happens when an employee takes a reduction in their contracted pay in return for a non-cash benefit from their employer, such as child care vouchers, the purchase of a bicycle etc. For example, a person who is contracted to be paid £2000 per month opts for a salary sacrifice of £300 per month. Their contract of employment is amended to reflect that they are only due to receive £1700 per month.

In many cases salary sacrifices don't show on an NRP's payslip because the employer has already made the adjustment to their initial gross salary. On some payslips however this will be shown as a deduction from their gross salary, making it appear to be a deduction from their gross earnings. When calculating the non-resident parent's gross income from payslips, where an NRP declares a salary sacrifice that is not shown on his payslip we would assume that the sacrifice had already been taken into account by the employer when calculating the initial gross income figure, unless the NRP can provide evidence to the contrary. If the salary sacrifice is shown as a deduction on a payslip, we should be using reduced gross income figure.

## Historic or Current Income?

*2012/2677 Regulation 34(2) of the Child Support (Maintenance Calculation) Regulations 2012*

The maintenance calculation will be based on either historic or current income, never both. As a general rule, CMG will aim to use historic income data obtained directly from HMRC, as this provides a reliable and efficient source of income information.

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## Historic Income: Overview

*2012/2677 Regulations 4, 35 and 36 of the Child Support Maintenance Calculation Regulations 2012*

*2012/427 Regulations 3, 34 and 35 of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012*

Historic income figures will be obtained from HMRC and will have come from information from the following:

- Self assessment returns completed by individual tax payers; or
- Pay As You Earn (PAYE) returns completed by employers; or
- Jobcentre Plus (in relation to taxable benefits, which are Jobseeker's Allowance, Incapacity Benefit and contributory Employment and Support Allowance).

In many cases, the non-resident parent's income will not change significantly during the financial year. Historic income will therefore often be close enough to the income the non-resident parent is actually receiving.

What is Historic Income?

Historic Income is based on information supplied by HMRC. HMRC will provide details about the non-resident parent's taxable income for the "latest available tax year". This is the most recent complete tax year that HMRC consider they have full information for. We refer to this income as "historic", because it will only be collated and supplied by HMRC after the end of the tax year that it refers to. REMEMBER: tax years run from 6 April – 5 April.

IMPORTANT NOTE: if clients ask how we calculate historic income, you should explain that we obtain income figures based on information that a client, their employer or another third party (such as an accountant) has given to HMRC. However, we should not give any impression that historic income has been fully checked or approved by HMRC.

Why do we use Historic Income?

Using figures that have already been supplied to HMRC supports the objective of more transparent calculations. The figures will be more meaningful to non-resident parents and the process of obtaining income information will be streamlined. It also reduces the opportunities for non-resident parents to supply inaccurate information or no information at all.

Requesting Historic Income Details from HMRC

When a new application for child maintenance is received, a request will automatically be made for the non-resident parent's historic income details from HMRC. Further requests will also be made:

- at each Annual Review; and
- when an application is made for an Additional Income Variation.

Following a request for income details, HMRC will provide a response electronically.

HMRC Information

If HMRC hold income information for any of the last six years, they will provide CMG with:

- a single historic income figure, including a nil figure (if applicable), for the latest available tax year;
- confirmation of the tax year that the figure relates to; and
- confirmation of whether the figure came from a PAYE or self assessment return.

REMEMBER: the information provided by HMRC is sensitive data. Details of the information provided by HMRC should not be given to any party other than the non-resident parent. Persons with care can be informed of the historic income figure that the maintenance calculation is based on, but cannot receive any additional information, such as a breakdown of the income figure or details of the employment that it relates to.

What is the latest available tax year?

The latest available tax year is the most recent complete tax year that HMRC consider they hold full income details for. This may not be the actual most recent tax year, as HMRC may not have all of the information for this year. In these circumstances HMRC will look back through their records and provide a figure (which may be a nil figure) for the most recent tax year that they have full details for. As HMRC retain income details for six years, the latest available tax year may be up to six years ago.

If HMRC has no details for any of the last six tax years, they will report that there are “no income details held”.

What types of income are included in the Historic Income figure?

The historic income figure provided by HMRC will include any income from the following types that is subject to income tax:

- employment income: this will include any additional amounts for taxable benefits in kind, such as the private use of a company car;
- trading (Taxable) income from self-employment (also known as the annual profits figure);
- income from occupation or personal pension schemes;
- the following Social Security benefits, to the extent that they are taxable: Incapacity Benefit; Contributory Employment and Support Allowance; Jobseeker’s Allowance.

The above types of income can be broadly classified as “Earned” income. “Unearned” income (for example: income from property and savings or dividend income) although taxable, is not included in the main calculation and will not be included in the historic income figure. These types of income can be considered under a Variation, if requested by the person with care or non-resident parent. Refer to the section on Variations for further information.

NOTE: the terms “Earned” and “Unearned” income are not used by HMRC, who use terms such as “employment income”, “trading income” etc.

Where a non-resident parent has income from gambling activities (e.g. a professional poker player), that income cannot be taken into account for the purposes of Child Support either in the main calculation or under variations. This is because this source of income is not declared to HMRC.

#### Historic Income and Pension Contributions

As a general rule, contributions made by a non-resident parent to a registered occupational or personal pension scheme should be deducted from the historic income figure before it is used in the maintenance calculation. This is because either the contributions themselves or the earnings from which they are paid qualify for income tax relief.

Where the non-resident parent makes payments to an employee pension scheme, this adjustment will already have been made (by the employer in their return to HMRC) in the historic income figure provided. Where this applies no further adjustment should be made to the historic income figure for these contributions.

However, contributions to a private pension scheme can be deducted from the historic income figure if made for the same tax year. Refer to the Decision Making Guidance for advice on cases where a non-resident parent states their pension contributions have not been deducted from the historic income figure.

#### Historic Income Figure Disputes

If a non-resident parent queries a historic income figure, then you should explain that the figure supplied by HMRC will have come from a self assessment or PAYE return. For the latter, the employer should have given the non-resident parent a P45 or P60 showing the same taxable income figure as on the PAYE system.

CMG can request a breakdown of the income figure provided by HMRC if a non-resident parent challenges it. HMRC will then break down the figure into the following categories:

- employment income figure;
- trading income figure;

- taxable pension income figure;
- taxable state benefits income figure.

HMRC will not provide any further breakdown within each income category. For example: if the non resident parent worked for two different employers in the same tax year, HMRC would not provide separate employment income figures for each job.

HMRC's breakdown can be given to the non-resident parent, but cannot be given to the person with care. If a person with care challenges the HMRC figure, they should be asked to provide full details of why they think the figure is wrong. You should then only provide them with sufficient information to answer their dispute:

#### Example

A person with care may believe that the figure does not include the non-resident parent's self employed income. You can then confirm whether the breakdown includes self employed income, but should not provide any additional details regarding the amount or type of self employed income that has been included.

#### Post Maintenance Calculation Changes to Historic Income

##### *2012/2677 Regulation 14(f) of the Child Support Maintenance Calculation Regulations 2012*

In a minority of cases, the historic income figure may be adjusted by HMRC after it has been sent to CMG. This will usually arise because HMRC has spotted an error, or a taxpayer has supplied additional information.

Because most changes will be relatively small, HMRC will not routinely inform CMG of the revised amount. Changes will therefore usually only come to light if the non-resident parent queries the HMRC figure and a breakdown is requested. If the historic income figure has changed, the breakdown will reflect the new figure.

Where a caseworker becomes aware that the HMRC figure has been amended in these circumstances, any calculation using the previously supplied figure for the tax year in question should be revised.

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#### [Current Income Employed: Overview](#)

##### *2012/2677 Regulation 34(2) of the Child Support Maintenance Calculation Regulations 2012*

*2012/427 Regulation 33(2) of the Maintenance Calculation (Northern Ireland) Regulations 2012*

*2013/1517 Regulation 8 (2) of the Child Support (Miscellaneous Amendments) Regulations 2013*

Current Income will only be considered if:

- CMG for whatever reason is unable to request HMRC information;
- HMRC are unable to provide Historic Income details; or
- a party to the calculation reports that the income the non-resident parent is receiving now is at least 25% different to the Historic Income figure.

When will current income from employment be considered?

**Pre-Calculation:**

- a non-resident parent asks for current income to be considered because they state their actual income is at least 25% different to the historic income figure provided in their provisional calculation;

or

- CMG initiates consideration of current income because HMRC have no historic income details.

**Post Calculation:**

- the non-resident parent or person with care asks for current income to be considered because they believe the non-resident parent's actual income is at least 25% different to the historic or current income figure being used in the maintenance calculation.

**REMEMBER:**

- if a non-resident parent is receiving earned income from a number of different sources, they must show their overall current (earned) income;
- there must also be some indication that the non-resident parent's income is likely to remain at the current income amount for at least the next twelve weeks. Refer to the Policy Note below.

**Policy Note: Current Income and Short Term Changes**

*2012/2677 Regulation 38(2) of the Child Support (Maintenance Calculation) Regulations 2012*



*2012/427 Regulation 37(2) Child Support (Maintenance Calculation) Regulations (Northern Ireland) 2012*

CMG will not consider using current income to reflect short term changes in the non-resident's income. This is because we need to:

- ensure a regular and more stable flow of maintenance to children;
- avoid the administrative burden that actioning these types of changes would create; and
- persuade more parents to wait for the annual review of income.

Examples of short term changes include:

- temporary promotions;
- temporary sickness; and
- non-permanent changes to working patterns (such as short time working or moving from daytime to night-time working) or seasonal work.

The Policy position is a change should be regarded as short term if it is not expected to last for more than 12 weeks.

Note: a change will not be considered unless it breaches the 25% tolerance.

What is 'Current Income'?

Current Income is based on income that a non-resident parent is actually receiving at the time the relevant maintenance calculation is completed.

**REMEMBER:**

Current income means either:

- the income that a non-resident parent is receiving now and for the foreseeable future if there is a settled pattern. In this situation what is relevant is whether the income the non-resident parent is receiving now, and for the foreseeable future, is at least 25% different to the historic income figure; or
- if there is no settled pattern (for example because wages fluctuate greatly from one period to the next), the wages/payments made over a period preceding the effective date that allows a reasonable average weekly figure to be applied.

The income types that are taken into account as current income are broadly the same as for historic income, so include:

- employment income;

- trading income; and
- any taxable pension income.

The figure used for a Current Income calculation will be the non-resident parent's taxable income figure from any / all these sources. It is essential to use taxable income details, as these are the details used for historic income purposes and we need to ensure that the same types of payments are included when deciding if current income is 25+% different.

The remainder of this guidance deals with identifying a non-resident parent's current income from employment.

You should refer to the separate Decision Making Guidance sections for further advice on:

Current Income from Self employment (trading)  
Current Income from a Taxable Pension

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## [Current Income from Employment: Evidence and Decision Making Overview](#)

When will current income from employment be considered?

### **Pre-Calculation:**

- a non-resident parent asks for current income to be considered because they state their actual income is at least 25% different to the historic income figure provided in their provisional calculation; or
- CMG initiates consideration of current income because HMRC have no historic income details.

### **Post Calculation:**

- the non-resident parent or person with care asks for current income to be considered and they can demonstrate the non-resident parent's actual income is at least 25% different to the historic or current income figure being used in the maintenance calculation.

You may need to consider current income from employment in a range of different scenarios. Although the way we identify and calculate current income is always the same, the process can vary slightly depending on:

- why current income is being considered;

- whether the non-resident parent provides acceptable evidence of their current income; and
- whether the evidence provided shows that the non-resident parent's current income is at least 25% different to any historic / current income figure already being used in the maintenance calculation.

Use the links below for an overview of the steps you will need to follow in each of the potential Current Income scenarios.

[Pre-calculation: non-resident parent requests current income](#)

[Pre / Post calculation: CMG initiates current income](#)

[Post Calculation: non-resident parent requests current income](#)

[Post Calculation: person with care requests current income](#)

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[Pre-Calculation: non-resident parent requests current income](#)

Non-resident parent requests current income (pre-calculation)

If at the initial application stage, HMRC have provided a Historic Income figure, the non-resident parent will be sent a Provisional Calculation before the full maintenance calculation is completed (with exception to a non-resident parent application).

This is an informal notification that gives the non-resident parent an indication of what their maintenance liability will be if it is based on historic income. The non-resident parent will also have the opportunity to tell us if their current income is at least 25% different to the historic income figure. NOTE: this can be either an increase or decrease in current income. If HMRC have provided a historic income figure, verbal evidence can be accepted of the 25 % increase in current income. See [Non-resident parent reports a 25% increase in income](#).

REMEMBER:

- current income means the income that a non-resident parent is receiving now and for the foreseeable future if there is a settled pattern. In this situation, we would not consider current income to reflect other previously unreported changes to income that have happened between the last historic income data period and "now". What is relevant is whether the income the non-resident parent is receiving now, and for the foreseeable future, at least 25% different to the historic income figure;

- if there is no settled pattern (for example because wages fluctuate greatly from one period to the next), the payments made over a period preceding the effective date can be considered to allow a reasonable average weekly figure to be applied.

If a non-resident parent asks for current income in these circumstances you should remind them that we will only consider using current income if the non-resident parent's income is now at least 25% different to the figure used in the maintenance calculation and if this is expected not to be a short term change.

If they continue with the request, you should:

Request evidence of current income

You should ask the non-resident parent for evidence of their current gross taxable income. This means the non-resident parent must supply evidence from their employer (such as wage slips or a statement) confirming their gross taxable income. Refer to the section on [Evidence of Current Income](#) for further advice. Non-resident parents should be allowed fourteen days to provide evidence of their current income. Additional time can be allowed if the non-resident parent provides valid reasons why this is required.

If the non-resident parent fails to provide sufficient evidence of their current income within fourteen days (or any additional time allowed) you should consider the following actions in the order they are provided:

#### **Contact the non-resident parent's employer(s) if know**

- if contact details for the non-resident parent's current employer(s) are held, then you should contact them directly to request details of the non-resident parent's current income.

#### **Refer to the guidance on [Evidence of Current Income](#) for further advice**

- if the non-resident parent's employer details are not known, you should consider whether it is possible to estimate the non-resident parent's current income.

If the relevant evidence is provided, you should record the current income figure on SIEBEL for a system check of whether the current income figure is at least 25% different to the historic income figure (refer to the drop down below). If the relevant evidence not provided within fourteen days (or any additional period allowed) you should complete the Maintenance Calculation on the basis of the historic income figure.

Record current income figure on SIEBEL for Income Tolerance Check

Refer to the guidance on Income Tolerance for further information about this check.

REMEMBER: if the non-resident parent makes pension contributions, these figures must be recorded before the comparison is made. You should not deduct these from the income figure first – SIEBEL will do this automatically once it has both figures.

If the non-resident parent's current income is at least 25% different to the historic income figure, the maintenance calculation should be completed on the basis of the current income amount.

If not, the maintenance calculation should be completed on the basis of the historic income figure.

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## [Pre OR Post Calculation: CMG Initiates Current Income](#)

### [CMG Initiates Current Income](#)

CMG will initiate consideration of Current Income if the non-resident parent is not receiving benefits and one of the following applies:

- HMRC have returned no historic income details; or
- HMRC have been unable to accept / answer a request for an historic income figure, either via the IT interface or through clerical procedures. This will be for one of the following reasons:
  - an IT failure means the interface to request / supply historic income information is not available; or
  - an individual case cannot be operated on the system because certain details are not available.

The above scenarios may arise when:

- the initial application is made; or
- following a post calculation change of circumstances.

If one of these scenarios applies, you will need to request [evidence of current income](#) to complete the maintenance calculation, using the following steps:

- you should ask the non-resident parent for evidence of their current gross taxable income. This means the non-resident parent must supply evidence from their employer (such as wage slips or a statement) confirming their gross taxable income. Refer to the section on [Evidence of Current Income](#) for further advice;

- non-resident parents should be allowed fourteen days to provide evidence of their current income. Additional time can be allowed if the non-resident parent provides valid reasons why this is required;
- if the relevant evidence is provided, you should complete the Maintenance Calculation on the basis of the current income figure.

If the non-resident parent fails to provide sufficient evidence of their current income within fourteen days (or any additional time allowed) you should consider the following actions in the order they are provided:

Contact the non-resident parent's employer(s) if known

- if contact details for the non-resident parent's current employer(s) are held, then you should contact them directly to request details of the non-resident parent's current income.

Refer to the guidance on [Evidence of Current Income](#) for further advice.

- if the non-resident parent's employer details are not known, you should consider whether it is possible to estimate the non-resident parent's current income. Use the links below for further advice.

Consider [estimating current income](#)

Impose a [default maintenance decision](#) (DMD)

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### [Post-Calculation: Non-resident Parent requests Current Income](#)

[2012/2677](#) Regulation 23 of the Child Support Maintenance Calculation Regulations 2012

[2012/427](#) Regulation 23 of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012

A non-resident parent may ask for current income to be considered after the maintenance calculation has been completed, because their gross taxable income has changed by at least 25%.

**REMEMBER:** this can apply whether the maintenance calculation is based on historic OR current income.

Current income means the income that a non-resident parent is receiving now and for the foreseeable future. We would not consider current income to reflect short term changes, or other previously unreported changes to income that have happened between the present maintenance calculation and "now". What is relevant

is whether the income the non-resident parent is receiving now, and for the foreseeable future, is at least 25% different to the historic income figure.

The non-resident parent's request should be treated as an application for a supersession of the maintenance calculation. Refer to the guidance on Supersessions for further information about this process.

The action required in individual cases will depend on whether the non-resident parent is reporting an increase or a decrease in their income.

Non-resident parent reports a 25% decrease in income

NOTE: this will include cases where the non-resident parent reports that their income has reduced to nil. You should refer to the guidance on Evidence that [Employment has Ceased](#) for specific advice on the information / evidence you will need if a non-resident parent is reporting that they have ceased employment.

If the non-resident parent is reporting a decrease in their income you should:

Request evidence of current income

You should ask the non-resident parent for evidence of their current gross taxable income. This means the non-resident parent must supply evidence from their employer (such as wage slips or a statement) confirming their gross taxable income. Refer to the section on [Evidence of Current Income](#) for further advice. Non-resident parents should be allowed fourteen days to provide evidence of their current income. Additional time can be allowed if the non-resident parent provides valid reasons why this is required.

If the required evidence is not provided within fourteen days (or any additional time allowed), you should refuse to supersede the maintenance calculation and notify the non-resident parent of this. If the relevant evidence is provided, you should check whether the non-resident parent's new income figure has decreased by at least 25% different to the income figure being used in the present maintenance calculation figure before deciding whether to supersede the maintenance calculation. Use the drop down below for additional advice.

Record current income on SIEBEL for Income Tolerance Check

Refer to the guidance on Income Tolerance for further information about this check.

REMEMBER: if the non-resident parent makes pension contributions, these figures must be recorded before the comparison is made.

If the non-resident parent's current income is at least 25% different to the income figure being used, a supersession decision should be completed using the new income figure. If not, you should refuse to supersede the maintenance calculation and notify the non-resident parent of this.

## [Non-resident parent reports a 25% increase in income](#)

If the non-resident parent is reporting an increase in their income, you should:

Ask for full details of their new income

If a non-resident parent is reporting an increase in their income, (this applies regardless of whether the increase in current income is being declared at the provisional maintenance calculation stage or after the initial maintenance calculation) then verbal evidence can be accepted. This applies regardless of whether the last Maintenance Calculation was based on historic or current income. Caseworkers should exercise their judgment as to whether verbal or written evidence is most appropriate for the specific case scenario being considered, as well as using all the available evidence to make an accurate decision.

Note: Non-resident parents whose maintenance calculations are based on current income are under a duty to report increases of 25% or more within 14 days of the change occurring so we need to make it as straightforward as possible for them to comply with this.

Equally, where a decision was previously calculated on a historic income basis, if the non-resident parent is advising that their current income is now 25% higher, we should be ready to action that change as quickly as possible.

If a non-resident parent reports an increase in their income, you should ask them for:

- their new taxable gross weekly income figure; and
- the date that the change in their income occurred; and
- details of their employer if this information is not already held.

If the income figure is obtained, you should record it on SIEBEL for the 25% difference check (if they are moving from historic to current income). Refer to the drop down below for additional guidance.

Record current income on SIEBEL for Income Tolerance check

Refer to the guidance on Income Tolerance for advice on completing this check.

If the non-resident parent's current income is at least 25% increase in the different to the income figure being used in the present maintenance Calculation, you should complete a supersession decision using the new income figure. If not, you should refuse to supersede the maintenance calculation and notify the non-resident parent of this.

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## Post Calculation: Person with care requests current income

### Person with care requests current income

A person with care may ask for current income to be considered after the maintenance calculation has been completed if they can demonstrate the non-resident parent's income has changed by at least 25%.

Persons with care are unlikely to have full evidence of changes to a non-resident parent's income. However, you should not ask the non-resident parent for evidence of their current income unless the person with care provides reasonable grounds to support their case. It would be unfair to non-resident parents and impose an undue administrative burden on CMG if we investigated current income details solely on the basis of speculative assertions.

If a person with care asks for current income to be considered they should be:

- reminded that we will only consider using current income if the non-resident parent's income is now at least 25% different to the figure used in the present maintenance calculation and if this is not expected to be a short term change; and
- asked to explain why they believe the non-resident parent's income is higher than the income figure used.

### Reasonable Grounds

The person with care must have reasonable grounds to believe that the non-resident parent's income is:

- at least 25% different than the figure being used in the present maintenance calculation; and
- is likely to be a long term change. Long term in this context will normally mean that the change is expected to last for at least 12 weeks.

Examples of reasonable grounds for these purposes could include:

- non-resident parent has been promoted;
- non-resident parent has started a new job with increased earnings;
- non-resident parent has increased their working hours (for example working regular periods of overtime).

Examples of explanations that would not give reasonable grounds:

- non-resident parent has taken on additional casual work;
- non-resident parent is doing irregular overtime;

- lifestyle related factors. For example: the non-resident parent has purchased a new car/property or gone on expensive holidays.

#### Person with care does / does not have Reasonable Grounds

- If the person with care does not have reasonable grounds, you should refuse to accept the application for supersession.

This is not the same thing as a “refusal to supersede” decision and it does not carry appeal rights. The applicant has simply made an application for a supersession, which has not been accepted due to insufficient information. In these situations, the non-resident parent does not need to be notified of the outcome. A refusal to supersede decision only needs to be issued if the application for a supersession is accepted and investigated, but it is found that the criteria for a supersession are not met. For example: the 25% threshold is not satisfied.

- If you accept that the person with care has reasonable grounds to believe that the non-resident parent’s income is at least 25% different to the figure used in the maintenance calculation, you should take the following steps.

#### Request evidence of current income

- You should ask the non-resident parent for evidence of their current gross taxable income. This means the non-resident parent must supply evidence from their employer (such as wage slips or a statement) confirming their gross taxable income. Refer to the section on Evidence of Current Income for further advice.
- Non-resident parents should be allowed fourteen days to provide evidence of their current income. Additional time can be allowed if the non-resident parent provides valid reasons why this is required.

#### Evidence is / is not provided

- If the non-resident parent fails to provide the required evidence within fourteen days (or any additional time allowed) refer to the section on Person with Care Request: Non-resident parent fails to respond for advice on the next action you should take.
- If the relevant evidence is provided, you should record the current income figure on SIEBEL for the 25% difference check. Refer to the drop down below for further advice.

#### Record current income on SIEBEL for income tolerance check

Refer to the guidance on [Income Tolerance](#) for further information about this check:

- If the non-resident parent's current income is at least 25% different to the income figure being used in the present maintenance calculation, a revision (within 30 days of the provisional calculation) / supersession decision should be completed using the new income figure.
- If not, you should refuse to supersede the maintenance calculation and notify the person with care and the non-resident parent of this.

Person with Care Request: Non-resident parent fails to respond

[2012/2677 Regulation 42 and 49 of the Child Support Maintenance Calculation Regulations 2012](#)

If the non-resident parent fails to respond to a request for current income information in these circumstances, you should consider the following:

Where a person with care requests for current income to be taken into consideration (having reasonable grounds to believe a 25% change to the non-resident parent's income), and the non-resident parent fails to cooperate in providing sufficient information to allow maintenance calculation, regulations provide provisions for, and Estimate to be made or a default maintenance decisions (DMD) to be imposed. (please see guidance under [CMG initiates current income](#), NRP fails to respond)

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## [Evidence of Current Income and Identifying the Relevant Figure](#)

### Introduction

This section covers:

- what will be sufficient evidence of a non-resident parent's current income from employment; and
- how you can identify the correct figure, depending on the type of evidence received.

### REMEMBER:

- the evidence needs to reflect either the non-resident parent's income now and for the foreseeable future or income over a past period which allows a weekly average amount to be obtained;
- where there is a clear pattern of what the current income is likely to be, for example where pay is expected to be same each week or month, past changes / fluctuations will not be relevant, except where they are useful in clarifying what the non-resident parent's income now and for the foreseeable

future will be (For example; if the non-resident parent can produce past wage slips to show that their income since a change in hours / employment has remained constant, and that these payments are expected to continue. This would be good evidence that their income is expected to continue at that amount);

- Verbal evidence can be accepted if the non-resident parent is reporting an increase in the level of their income (see [non-resident parent reports a 25% increase in income](#)).
- if a non-resident parent has income from more than one source of employment / self-employment, you will need to obtain details of them all to calculate their total current income. See Aggregating Current Income guidance;
- you should refer to the separate guidance on self employed income for cases where there is information / evidence to indicate the non-resident parent has earnings from self employment.

#### What is Current Income from Employment?

Current income from employment will include any taxable income that a non-resident parent receives as the holder of an office or employment. This is income paid to an employee that is subject to income tax under Part 2 of the Income Tax (Earnings and Pensions) Act 2003.

The following table shows the most common types of taxable and non-taxable income from employment. NOTE: in many cases, the evidence provided by a non-resident parent will specify a gross taxable income figure. However, the information below may be helpful if you need to explain why some amounts are / are not included, or if the evidence requires you to identify and deduct non-taxable elements. In cases where it is not clear whether specific amounts are/are not taxable and hence whether it should be included in current income, **you should seek clarification from the non-resident parent or the non-resident parent's employer.**

Taxable Employment Income Table

Taxable Employment Income	Non Taxable Employment Income
Additional housing cost allowances	Childcare vouchers
Basic salary / wages	Direct reimbursement for work related expenses
Bonus / commission payments	Pension contributions

Holiday pay	Subsistence payments (unless significantly in excess of what the employee would be likely to pay)
Medical expenses paid directly to the employee	Tax credits
Overtime / shift payments	Work experience payments to young people taking part in government or other work experience schemes if they hold the status of 'trainee' and not 'employee'
Payment for additional duties	Work related training costs
Removal / transfer costs associated with a new job location if these exceed £8000	
Sick / Maternity pay / Paternity pay (including statutory sick pay (SSP) and statutory maternity / paternity pay)	
Taxable benefits in kind	
Taxable foreign income	
Tips	
Work related expenses with profit to the employee	

Note: Although redundancy payments exceeding £30,000 are subject to HMRC income tax, they are not included within the definition of Historic Income or Current Income under regulations 34 to 38 of the Child Support Maintenance Calculation Regulations 2012 and therefore should not be included within the maintenance calculation.

What do we need to consider when determining current income for employed non-resident parents.

Note: guidance below does not apply to self-employed non-resident parents if the non-resident parent is self employed see guidance on Current Income-Self Employed for information on how to determine gross income.

*2012/2677 Regulation 38 (2) (a) and (b) Child Support Maintenance Calculation Regulation 2012*

There are two legislative provisions contained within the 2012 Maintenance Calculation Regulations that allow CMG to determine how we calculate current income.

Once we have accepted the request for the income change/or a move to current income we need to consider which of the two regulations (see below) applies based on the circumstances of the change being requested.

Overview of the legislative provision of Regulation 38 (2)(a) and (b):

Regulation 38(2)(a) - states that current income can be considered “if it appears to the Secretary of State that the non-resident parent is (or is to be paid) a regular amount according to a settled pattern that is likely to continue for the foreseeable future”. Note: Current policy guidance defines foreseeable future as a guideline of 12 week period of time.

This regulation is intended for clients who, as implied in the description, have regular earnings (the level of earnings is broadly consistent in each pay period), and who are receiving this amount on a regular basis (for example, the client is paid weekly / fortnightly etc. as opposed to on a fluctuating basis and, finally, this position is likely to continue for a minimum of a 12 week period from the effective date of the relevant maintenance calculation.

Where this applies the non-resident parent’s current income is calculated as the weekly equivalent of amounts received. See guidance for more information on how to work out the weekly figure.

Regulation 38(2)(b) - states “that where (a) does not apply (for example where the non-resident parent is a seasonal worker or has working hours that follow an irregular pattern) that part of the non-residents parent’s income is to be calculated as the weekly average of the amounts paid over such period preceding the effective date of the relevant calculation decision”.

The regulation is about establishing a fair average amount and is intended to apply where Regulation 38(2)(a) does not apply i.e. where earnings are unsettled in nature and/or fluctuate over a period of time. Examples of this could be seasonal employees, or non-resident parents who work for employment agencies and their earnings fluctuate or on “zero hours” contracts where their employment and /or earnings are sporadic.

In order to calculate a fair average gross figure, you will need evidence of the non-resident parent’s income from employment usually in the form of payslips covering an appropriate period. The appropriate period in this context may differ from one case to another depending on the degree of fluctuation in earnings.. For example, the paying parent may work in the tourism industry where earnings fluctuate seasonally. There, we may decide that a 6 month period of time is appropriate. Where someone’s earnings change week-on-week, we may determine that a shorter

period of weeks is appropriate if it is sufficient to allow us to determine a fair average of the non-resident parents gross earnings.

Remember: When requesting payslips from employed non-resident parents with unsettled and/or fluctuating earnings, the period payslips cover is not prescribed and there is no “definitive” period which must be chosen. The level of evidence required may vary from one case to another depending on how frequently earnings fluctuate.

How do I apply provisions for calculation of current income in practice?

In order to determine which of the above regulations, (Regulation 38(2)(a) OR 38(2)(b)) would apply in calculating the non-resident parent’s income from employment, you should ask relevant questions regarding the circumstances of their employment. For example:

- What is the nature of the non-resident parent’s employment, are they employed/ self-employed ?
- If employed, what is the nature of that employment i.e.:
  - Is the non-resident parent paid on regular intervals receiving a weekly / monthly pay?
  - Is income likely to continue for at least the next 12 weeks?
  - Is the amount of pay the non-resident parent receives broadly consistent or does it change regularly?
  - If earnings vary regularly why is this and to what degree does earnings vary?

Once we have decided which regulation and circumstance applies we can then determine what information we require in order to progress the current income application.

Note: if the non-resident parent is self employed see guidance on ‘Current Income-Self Employed’ for information on how to determine gross income.

Example 1 – Income expected to continue for the foreseeable future

- 21/09/13 - initial maintenance calculation effective date

The initial maintenance calculation is performed using an historic income amount of £21,000 (£403.85 per week).

- 12/05/2014 - Telephone call from non-resident parent advising of a change to income. Client advises CMG that they had lost their job back in April but managed to find a new job beginning in May, and explain this is a full time permanent job with regular monthly pay).

- On the earned income declaration form the non-resident parent states their gross monthly income is now £750 and requests that we consider their current income.

You need to decide which legislation is appropriate to this scenario.

As the earnings are expected to continue for the foreseeable future Regulation 38(2)(a) should apply and the non-resident parents gross weekly income should be determined as the weekly equivalent of their gross monthly income. See 'Current income-Employed' Guidance for more information.

Remember: the effective date of the change will be the date change was notified to CMG irrespective of when the non-resident parent started their new rate of remuneration. See guidance on Effective Dates for more information.

#### Example 2 – Zero Hours Contract

- 21/09/13 - initial maintenance calculation effective date

The initial maintenance calculation is performed using an historic income amount of £21,000 (£403.85 per week).

- 12/05/2014 - Telephone call from non-resident parent advising of a change to income. Client advises CMG that they are now employed under a zero hours contract. Non-resident parent also states although they get paid monthly, their earnings vary and that they are uncertain whether employment will last for the next 12 weeks.
- On the earned income declaration form the non-resident parent stated that their gross weekly income is £255.67 and that they started with this employment on 3 February 2014.
- Pay details provided: February (£250.23) March 14 (£492.48), April 2014 (£1094.40)

To calculate non-resident parent's current income you need to decide which legislation is appropriate to this scenario.

As the non-resident parent's earnings fluctuate i.e. the earnings are unsettled in nature, and the client has also indicated that the earnings may not last for the foreseeable future (12 weeks) Regulation 38(2)(b) should be applied to calculate non-resident parent's current income from employment..

The appropriate period of time preceding the effective date is February to April 2014 and earnings for this period are aggregated to determine a gross weekly average.

Summary



When considering a request for current income, to determine how to calculate non-resident parent's income from employment you need to decide which legislative provisions applies to the given set of circumstances. This will determine what evidence we will need to obtain, and for what periods of time.

- the evidence needs to reflect either the non-resident parent's income now and for the foreseeable future or income over a period preceding the effective date which allows a fair weekly average amount to be obtained;

where there is a clear pattern of what the current income is likely to be, for example where pay is expected to be the same each week or month, past changes / fluctuations will not be relevant, except where they are useful in clarifying what the non-resident parent's income now and for the foreseeable future will be. For example; if the non-resident parent can produce past wage slips to show that their income since a change in hours / employment has remained constant, and that these payments are expected to continue. This would be good evidence that their income is expected to continue at that amount.

What Type of Evidence is Required?

The specific type of evidence needed to confirm a non-resident parent's current income from employment will partly depend on the reason current income is being considered.

Wage Slips

To gain a fair reflection of the non-resident parent's current gross income, the information provided on wage slips will need to be sufficient to allow you to determine the non-resident parent's income now and for the foreseeable future.

Where the non-resident parent has irregular working pattern, their taxable earnings is to be calculated as the weekly average.

The following outlines the forms of evidence which can be accepted from employers, when to accept each form of evidence, and in the case of verbal evidence how this should be recorded.

Any statement from an employer is evidence whether made orally or in writing.

Evidence can come from the following sources:

- wage slips;
- a written or verbal statement from the employer.

This list is not exhaustive.

It must be recognised that the onus in the first instance is on the non-resident parent to provide the necessary information, and a reasonable amount of time, 14 days or

time period agreed should be allowed for the information to be provided before contacting the employer.

### Written Evidence

Where an employer is unable to provide verbal evidence or where written verification is required employer can be asked to provide evidence in writing.

Note:

- a reasonable timescale should be allowed for the employer to respond. (A reasonable timescale has been defined as 14 days from the original request followed by a subsequent 24 hours if the information is not received);
- where a written return is required, if the employer does not provide written evidence of income/earnings, make a further call to the employer asking for confirmation over the telephone and requesting written confirmation by fax within 24 hours. Any information provided over the telephone must be recorded in the case notes;
- if after 24 hours written confirmation has not been received, consider 'acceptable evidence' provisions and the information from earlier telephone calls to make the maintenance calculation;
- if there is insufficient evidence consider estimated earnings.

### Presentation of Statements

A signed statement is evidence from the employer. If the circumstances in which the statement was made and signed are not obvious, it should be accompanied by a signed and dated explanation. This explanation is particularly important where the statement may have an adverse effect on someone's case, which may be instigated by evidence about the circumstances in which it was made.

Refer to Is the evidence from a reliable source for further guidance on what should be taken into account in considering written evidence.

### Verbal Evidence

Verbal evidence from an employer can be accepted providing the employer is willing to provide the information verbally.

Where information is supplied verbally you must be satisfied:

- the employer is not being misleading and the evidence supplied is correct;
- the evidence provided is not improbable or self-contradictory;

- that there is no known relationship between the non-resident parent and Employer other than that of worker/employer that may cast doubt into the accuracy of the evidence provided.

In such cases the information does not need to be requested in writing and a decision can be made.

All evidence gathered over the telephone should be recorded at the point the information was obtained.

Where information is supplied verbally and the caseworker is satisfied that the employer is not misleading or supplying incorrect information, caseworkers DO NOT have to request the information in writing and a decision can be made immediately on the evidence provided.

Detailed notes of the conversation must be saved in the case notes

Non-resident parent's present maintenance calculation is based upon current income and reports a 25% + increase in their current income

- In these circumstances, you can accept a verbal statement from the non-resident parent of their gross taxable income, without requiring supporting evidence. This is because non-resident parents have a legal obligation to report changes of this type and we need to ensure it is as simple as possible for them to do so.
- If required use the guidance on "what is gross taxable income from employment" if you need to explain to the non-resident parent what figure they should provide.
- If there is doubt about the figures consider if the non-resident parent can provide further information from his employer or consider contacting the employer to clarify allowable and non-allowable expenses that are in payment.
- Use the guidance on [calculating the annual gross](#) taxable income figure if the non-resident parent provides a figure for a period other than an annual figure (e.g. weekly / monthly).

You will normally need to obtain written evidence to confirm the non-resident parent's current income from employment. However, you can reasonably accept verbal evidence from an employer under the Acceptable Evidence provisions (providing the employer is willing to provide the information verbally) where:

- the non-resident parent has said it's easier for us to obtain the information required;

- continuing to chase proof will lead to unacceptable delay, for example, because of the age of the case;
- the non-resident parent has failed to provide the information;
- the non-resident parent has not provided sufficient evidence of earnings (see Decision Making Principles for current income evidence) and you require supporting evidence as confirmation of earnings from the employer to make a decision.

Where information is supplied verbally you must be satisfied:

- the employer is not being misleading and the evidence supplied is correct;
- the evidence provided is not improbable or self-contradictory;
- that there is no known relationship between the non-resident parent and Employer other than that of worker/employer that may cast doubt into the accuracy of the evidence provided.

In such cases the information does not need to be requested in writing and a decision can be made.

Information gathered verbally should be recorded at the point the information was obtained.

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## **Written Evidence of Current Income: Decision Making Principles and Points to Consider**

### Evidence

Evidence of current income must always reflect the non-resident parent's income now and likely current income for the foreseeable future. This may include evidence for past periods, but only to the extent that it allows you to determine what is the non-resident parent's income is now. However, where a non-resident parent's earnings fluctuate, evidence of past earnings may often be the most reliable.

Additional guidance on this type is included in the section on: suitable and sufficient periods. (Hyperlink to be included)

### Earnings Evidence

To confirm the non-resident parent's current income, suitable evidence can include any of the following, providing the decision making principles outlined below are satisfied:

- wage slips; or
- a written or verbal statement from the employer (refer to 'All other cases' for guidance on verbal statements);
- a copy of the non-resident parent's contract or letter of appointment.

This evidence can be accepted where the non-resident parent has started a job and has not yet received sufficient wage slips. A contract or appointment letter which gives the gross amount can be accepted if it is clear that there are unlikely to be additional payments included in gross pay. For example a letter which refers to an amount of "basic pay" might suggest that additional payments could be made. If a non-resident parent wants to supply such a letter as evidence of current income, they should be asked if they expect to receive other payments with their earnings. If they do, the letter cannot be accepted and you will need to consider other means of obtaining the evidence, such as wages slips or approaching the employer.

If the income evidence is accepted, the figure provided should be converted to a weekly equivalent amount where necessary.

Earnings evidence which would not be acceptable:

Where we are trying to establish a current income figure, which will either be based on evidence of a settled pattern for the foreseeable future or, where the non-resident parent is a seasonal worker or has working hours that follow an irregular pattern, the most recent appropriate past period preceding the effective date enabling a "fair" average gross weekly income to be calculated.

Therefore evidence should only be accepted if it provides the best means of establishing one of the above. Therefore, recent pay slips or for the newly employed, contract letters or employers' statements are among the "favoured" forms of evidence.

The following types of evidence would not be acceptable for the following reasons :

- P60, P45 and other PAYE forms: are issued after the end of the tax year and will by definition be for a past period. There will almost certainly be more recent evidence of current income that can be obtained. In addition these forms only give an annual figure without any reference to the number of weeks or months that the non-resident parent has been working in the tax year, so cannot give a "true" weekly income figure. [Exception: the P11D form, which sets out, again for a complete tax year, the value of taxable benefits in kind, may be used in certain circumstances. This will arise because these values of such benefits are often only worked out at the end of the year, and so will not appear as taxable amounts on wage slips issued at the time;

- Year to date (YTD) figures: in themselves do not enable the caseworker to identify if there is a settled pattern to the non-resident parent's current pay. Additionally, they do not identify the period by which the amount could be divided to arrive at a weekly average. We cannot assume that the year to date will always have begun at the start of the tax year;
- wage payments quoted on bank statements: these will be net, not gross amounts. It is not the task of the caseworker to convert net figures to gross figures. Again, there will usually be better sources of evidence of gross weekly income figures;
- earnings information as set out on a benefit award, particularly Universal Credit notices: CM earnings rules differ from most benefit rules, for example it is usually net earnings amounts that are taken into account in benefits.

Additional guidance on the acceptable types of evidence is provided below. However, dependant on the type of evidence you are considering, you will need to take into account the following decision making principles in deciding whether the evidence is suitable and sufficient.

#### Decision Making Principles for current income evidence

Is the evidence from a reliable source

If a non-resident parent submits evidence of their gross taxable income, you need to consider whether it is reliable. Printed pay slips can usually be taken at face value; but if they are handwritten, consider whether to seek confirmation from the employer.

If the evidence is from their employer, you should take into account:

- does it include a company name / address / logo?
- does it include contact details?
- does it include the name of the employee providing the information?

If you are in any doubt about whether evidence from an employer is genuine/reliable, you should contact them directly to confirm the details provided. (A telephone call or issue of the appropriate forms/letters would be appropriate ways to contact the employer).

**REMEMBER:** in these circumstances, you may wish to check any contact details given on the evidence via the internet / telephone directories.

Is the evidence for a suitable / sufficient period?

You need to consider whether the evidence sufficiently reflects the income that the non-resident parent is currently receiving. This means taking into account whether the evidence relates to an appropriate period (e.g. 5 weekly, 2 monthly etc.) and

whether, it is possible to confirm the amount of income the non-resident parent will be receiving for the foreseeable future or at least twelve weeks.

Is there evidence of commission / bonus payments?

Bonus or commission or other similar payments paid in the past 12 months are taxable and should be included in current income. They may either be paid together with regular pay or at different less frequent intervals. For example a non-resident parent may receive their regular earnings monthly, but may also be paid a quarterly commission payment or annual bonus payment.

What are “other similar payments”?

These are any other taxable payments which are likely to be paid at different intervals to regular pay, but are not expected to be “one-off” payments. They include:

- profit-related pay;
- intermittent overtime payments;
- royalty payments;
- other Taxable payments such as “Training” day payments to armed forces reservists, part-time fire-fighters, lifeboat crews and those engaged in similar activities.

If payments are made with the same frequency as regular earnings

In these cases, payments will be shown on wage slips or a statement as a component of gross pay. That gross pay figure can be treated as the current income figure (subject to any conversion to a weekly amount).

If payments are made with a different frequency from regular earnings

Evidence will be needed of any payments made in the past 12 month period.

If the non-resident parent has been in their existing employment for less than 12 months, the required evidence is of any bonus or commission payments made since the employment began.

Evidence of bonus or commission payments should be in the form of wage slips or statements. If the non-resident parent is unable to supply this information, you should contact their employer by telephone or the issue of CSML4001.

Any payments made over the last 12 months should be added together, and then divided by 365 and multiplied by 7 to arrive at a weekly equivalent amount. This calculation should apply even if the non-resident parent has been in their present employment for less than 12 months.

Is there evidence of fluctuating payments?

Note: Although bonus and commission payments will be the most common examples of such payments, the relevant Regulations refer to “other payments” made separately from or at longer intervals to regular earnings. Caseworkers should be aware of other payments, such as profit-sharing or irregular overtime payments that may be paid in this way]

Bonus and commission payments are taxable and so will be included in the historic income figures supplied by HMRC. To enable a fair test of whether the 25% tolerance threshold has been breached, these payments should also be included in current employment income calculations.

In some cases such payments could be made to employees at different intervals to regular earnings. Therefore payslips submitted in the normal way to confirm current income may not always capture such payments. Relying solely on such evidence could enable non-resident parents to manipulate the situation so that bonus/commission payments end up not being included in the calculation of current income.

Therefore evidence of current income needs to include bonuses and commission payments where these have been made at different intervals to regular pay.

While different employers may make such payments at different intervals, it is extremely unlikely that payments will be made less frequently than once a year. Therefore only payments made in the past 12 months (and only payments relating to that employment) will be included in current income. [NB Regulations only refer to the “past 12 months” - this should generally be taken to mean the 12 months ending on the effective date of the resulting calculation decision.]

Evidence of such payments will normally be provided by the NRP (either with wage slips or on the declaration of income form) or by the employer.

Once evidence has been supplied, any such payment made in the last 12 months should be added together, and then converted to a weekly amount (dividing by 365 and multiplying by 7).

How to identify the gross taxable income figure

[2012/2677](#) *Regulation 38(1) of the Child Support Maintenance Calculation Regulations 2012*

The figure that you need to identify is the non-resident parent’s gross taxable income figure. This is because under the 2012 scheme, a non-resident parent’s liability is based on income of this type.

This may mean that you need to make adjustments to reflect non taxable elements of the non-resident parent’s overall income, depending on whether the evidence



specifies a gross taxable income figure, or shows a gross income figure with each of the taxable / non-taxable components itemised.

If the non-resident parent's evidence specifically shows a gross taxable income figure, that figure can be accepted. However, if the evidence does not specify this, you should treat any gross amount shown as fully taxable unless:

- the evidence shows specific amounts that fall within non-taxable categories (see what is gross taxable income from employment); or
- the non-resident parent reports that the gross amount shown includes non-taxable amounts; and
- the non-resident parent is able to provide additional supporting information confirming what and how much these are. For example: confirmation of the payment breakdown from their employer.

NOTE: Although an annual figure needs to be recorded on SIEBEL, the evidence does not necessarily need to show an annual figure. Providing you can confirm what the non-resident parent's current income is for a definite period (e.g. weekly, calendar monthly etc.) the figure can be converted to an annual amount. See the specific guidance on this point below.

Is the non-resident parent paid in a foreign currency?

*2012/2677 Regulation 37(2) of the Child Support Maintenance Calculation Regulations 2012*

If a non-resident parent receives current income in a currency other than sterling, then any costs associated with converting the income to sterling can be deducted from the current income figure. These costs will tend to be either:

- a commission payment (which will be a percentage of the amount being converted); or
- a one off charge for a fixed amount.

If a non-resident parent states, or provides evidence showing they are paid in a currency other than sterling, they should be asked to provide evidence confirming the amount of these charges for the period that their current income evidence relates to.

Evidence for these purposes can include:

- a statement or receipt from their bank / exchange bureau; or
- copies of bank statements, where the charges are shown as an entry.

If you receive a case where a non-resident parent is paid in foreign currency and you require support, please contact the Advice & Guidance Team.

Do you need to convert the income figure to an annual amount?

When you record the non-resident parent's gross taxable income details on SIEBEL, you will need to record an annual figure. However, the non-resident parent may provide evidence for a lesser period depending on their payment frequency. For example: they may provide weekly or monthly wage slips. Refer to the guidance on [calculating the annual current income](#) figure for advice on how you would convert a weekly / monthly etc figure to an annual amount in these circumstances.

Is there evidence of any pension contributions?

If the non-resident parent is making pension contributions, refer to the section on Private Pension Scheme Contributions

#### [Additional Guidance on different types of evidence](#)

##### Earned Income Declaration Form

The non-resident parent will on most occasions be required to complete an Earned Income Declaration Form which requests that accompanying wage slips are provided when the form is returned.

##### Wage Slips

The number of wage slips needed to confirm a non-resident parent's gross taxable income will depend on:

- the frequency of their payments; and
- whether earnings fluctuate.

Where the non-resident parent's earnings are consistent, the following number of wage slips will be sufficient to confirm the gross taxable income figure.

<b>Frequency of Payment</b>	<b>Number of Wage Slips Needed</b>
Weekly	5
Fortnightly	3
4 Weekly	2

Monthly	2
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If you are unable to make an informed decision based on the number of payslips supplied, it is acceptable to ask for additional information from the non-resident parent to support the decision making process.

If the non-resident parent is unable to provide the required number of wage slips, for example: because their income / job has recently changed, you will need to confirm any taxable income figure obtained with the non-resident parent's employer. Refer to the guidance on written / verbal statements from the non-resident parent's employer for further advice.

Written / Verbal Statements from the non-resident parent's employer

REMEMBER: employers – both present and former - are legally obliged to supply information required for the purposes of making a maintenance calculation (Regulation 4(2)(b) of the Child Support Information Regulations 2008). If an employer refuses to provide information requested, you should refer the case to Criminal Compliance, who can arrange for an inspector to visit the employer.

Although written evidence of current income from employment will be the norm, caseworker can reasonably accept verbal evidence from an employer (providing the employer is willing to provide the information verbally) where:

- the non-resident parent has said its easier for us to obtain the information required;
- continuing to chase proof will lead to unacceptable delay, for example, because of the age of the case;
- the non-resident parent has failed to provide the information within the time allowed;
- the non-resident parent has not provided sufficient evidence of earnings and caseworker requires supporting evidence as confirmation of earnings from the employer to make a decision.

Where information is supplied verbally the caseworker must be satisfied:

- the employer is not being misleading and the evidence supplied is correct;
- the evidence provided is not improbable or self-contradictory;
- that there is no known relationship between the non-resident parent and the employer other than that of worker/employer that may cast doubt into the accuracy of the evidence provided.

In such cases the information does not need to be requested in writing and a decision can be made.

Copies of the non-resident parent's contract

### Recording Current Income Decisions

Notes should be used to record information in relation to the non-resident parent's current income evidence including:

- the form of income evidence provided;
- the period that the income evidence covers;
- whether any of the verbal evidence was applied-and if so, reasons for this.

Decisions made in relation to evidence of current income should be fully documented in Notes explaining why evidence is deemed complete to allow for a maintenance calculation or similarly if evidence provided is insufficient, notes explaining this should be documented.

- why you accept evidence reflects non-resident parent's income now and for the foreseeable future

For example: new employment, non-resident parent unable to provide wage slips as they have started a new job. Letter from current employer provided stating non-resident parent's gross amount of X and length of contract as X

- why evidence provided has been considered reliable (some points to consider; does the letter from employer confirming earnings have a letter head, employer contact details, is it dated?);
- if wage slips have been provided as a form of evidence- do these cover a sufficient period?- refer to guidance on Wage slips for information on what period wage slips ought to be for;
- is it a settled pattern that is likely to continue for the foreseeable future?

For example: 'x' number of wage slips from x employer, provided by non-resident parent (covering period xx/xx/xx to xx/xx/xx) sufficient to confirm non-resident parent's gross taxable income will remain the same long-tem. Proceed with maintenance calculation.'

- where the non-resident parent's income fluctuates what evidence over what period has been provided to allow a fair average of gross weekly income to be worked out;

- if you decide information provided is not-suitable/insufficient as evidence of current income, record reasons fully and what follow up actions, if any, have been taken.

For example: "non-resident parent confirmed they have payslips covering (period ) xx/xx/xx – xx/xx/xx .Maintenance Calculation yet to be made, non-resident parent has until xx/xx/xx to provide payslips. If not received, contact employer"

Non-resident parent fails to provide evidence of current income

If a non-resident parent fails to provide evidence of their current income, the action needed will depend on the reason that current income was being considered.

Refer to the specific guidance for each of the potential current income scenarios for further advice.

Pre-calculation: non-resident parent requests current income

Pre / Post calculation: CMG initiates current income

Post Calculation: non-resident parent requests current income

Post Calculation: person with care requests current income

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## Calculating the Annual Current Income Figure

### Calculating the Annual Current Income Figure

When you are using current income, you need to record an annual gross taxable income figure on SIEBEL.

In cases where the non-resident parent has provided evidence confirming their annual gross taxable income, this figure can be entered directly.

However, where the non-resident parent's evidence has confirmed their gross taxable income for a lesser period (For example: weekly or monthly, because of their pay frequency) you will need to convert the amount to an annual figure using the appropriate calculation below.

#### Weekly Gross Taxable Income Figure Confirmed

Multiply the weekly amount by 365, then divide by 7.

Example:

- Weekly GTI = £220

- $£220 \times 365 / 7 = £11,471.428$
- annual current income to be recorded on SIEBEL: £11,471.43

Fortnightly Gross Taxable Income Figure Confirmed

Multiply the fortnightly amount by 365, then divide by 14.

Example:

- fortnightly GTI = £500
- $£500 \times 365 / 14 = £13,035.714$
- annual current income to be recorded on SIEBEL: £13,035.71

Four Weekly Gross Taxable Income Confirmed

Multiply the four weekly amount by 365 then divide by 28

Example:

- four weekly GTI = £970
- $£970 \times 365 / 28 = £12,644.64$
- annual current income to be recorded on SIEBEL: £12,644.64

Calendar Monthly Gross Taxable Income Figure Confirmed

Multiply the monthly gross figure amount by 12

Example:

- monthly GTI = £1400
- $£1400 \times 12 = £16,800.00$
- annual current income to be recorded on SIEBEL: £16,800.00

REMEMBER:

The annual figure you record should include any amounts for pension contributions. An annual figure for these contributions will be recorded separately and SIEBEL then uses both figures to calculate the non-resident parent's gross weekly income figure.

Recording Current Income Decisions

To assist caseworkers to make decisions on evidence accurately, lawfully, and quickly, based on all available information.

Notes should be used to record all information in relation to the NRP's current income evidence for example:

- the form of income evidence provided;
- the period that the income evidence covers;
- whether any of the 'acceptable evidence' provisions were applied-and if so, reasons for this.

In addition, decisions made in relation to evidence of current income should be fully documented in Notes explaining why evidence is deemed as complete:

- why is evidence accepted as the non-resident parent's income 'now and /foreseeable future';
- why evidence provided is reliable;
- why is it a settled pattern.

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## [Pension Contributions](#)

### Deductions from Current Income

Deductions can be made from Current Income for any private or occupational pension contributions made by the non-resident parent. The onus will be on the non-resident parents to inform us if they are making pension contributions and to provide evidence confirming the amounts. Any evidence of pension contributions must relate to a period corresponding to that covered by the non-resident parent's Current Income details.

### Occupational Pension Scheme Contributions - Evidence

In the majority of cases where the non-resident parent is making contributions to his employer's occupational scheme, they will usually be collected by deductions from pay. In such cases it will usually be possible to ask the non-resident parent to obtain this information from their employer.

### Private Pension Scheme Contributions: Evidence

The preferred evidence for private pension contributions in Historic Income cases is a copy of the annual statement that pension providers are legally obliged to provide for each tax year. However, this will not normally be acceptable evidence in Current Income cases, as it is only issued after the end of the tax year to which the payments relate and therefore will not show the contributions that the non-resident parent is currently paying.

Where a non-resident parent pays contributions to a private scheme provider, it will usually be necessary for the non-resident parent to show bank statements or some other record of their payments such as an annual pension statement.

If the non-resident parent does this, the onus is on them to identify:

- that the payments are made to the pension provider;
- the payment amounts; and
- frequency of payments.

If the frequency is other than annual you will need to convert this to an annual figure.

If the non resident parent is able to provide evidence the relevant amount will need to be deducted from the gross current income figure. The non resident parent's gross weekly income will then be calculated on the basis of the adjusted figure.

### Calculating the Gross Value of the Contributions

#### Treatment of contributions to occupational pensions schemes

For contributions to occupational pension schemes, take the total amount paid during the period covered by Current Income.

#### Treatment of contributions to private pensions schemes

For contributions to private pensions schemes, the amount that should be deducted will be the 'gross' amount. This means the amount of the contributions, plus the Income Tax relief due on them. These amounts will normally be shown separately on the pension provider's annual statement.

If the provider's annual statement shows a single amount, you should assume that this is the gross amount. If a non-resident parent disputes this, they must provide confirmation from their pension provider that this is not the case.

Where evidence of pension payments is taken from bank statements, rather than an annual pension statement, the following rules should be applied to calculate the gross amount.

**NOTE:** You will need to ask the non-resident parent if they were a basic or higher rate taxpayer, as this will affect the evidence you will require (see below).

#### Non-resident parent was a basic rate taxpayer during the relevant tax year

The gross amount of their pension contributions will be:

$\text{£ Amount of contributions} \times 100 / 80$  (this reflects the current basic income tax rate of 20%).



Non-resident parent was a higher / additional rate tax payer

NOTE: The following section will only apply if the evidence relates to a completed tax year. If the evidence of contributions relates to the current tax year, the non-resident parent will not yet have been able to claim additional relief from HMRC.

Tax relief is only given by the pension provider at the basic rate of income tax. The remainder must be claimed by the taxpayer from HMRC.

The 'grossed up' amount of the pension contributions that should be deducted from the non-resident parent's income will be the total of:

- £ Amount of contributions x 100 / 80 (this reflects the current basic income tax rate of 20%); and
- £ Amount of additional tax relief allowed by HMRC.

Higher / additional rate tax payers who want pension contributions to be deducted from their income must submit the normal evidence required PLUS a copy of the HMRC tax calculation notice, which will provide the amount of additional tax relief allowed.

If the non-resident parent fails to provide this evidence, you should only allow tax relief at the basic rate.

Example: Non-resident parent was a higher rate / additional tax payer

Non-resident parent is required to support one qualifying child. HMRC confirm an income figure of £60,000 for the tax year 2010 – 2011. The non-resident parent claims they paid £3000 to their personal pension scheme during that tax year. The non-resident parent submits an annual statement from their pension provider, confirming they received £3000 in payments from the non-resident parent and that they have added £750 in income tax relief at the basic rate of 20%. The non-resident parent also submits a tax calculation notice from HMRC, which shows additional relief of £750 for the balance of tax relief at the higher income tax rate (i.e. 40% higher income tax rate – 20% basic income tax rate already covered by the pension provider).

The total amount to be deducted for pension contributions from the non-resident parent's will therefore be: £3000 (amount of contributions) + £750 (basic rate income tax relief) + £750 (balance of higher rate income tax relief) = £4500.

The income figure to be used in the Maintenance Calculation will therefore be £60,000 - £4500 = £55,500.

This figure will be converted into a weekly amount of: £55,500 x 7 / 365 = £1064.38.

Making the Deduction for pension contributions

When the gross amount of the non-resident parent's contributions has been calculated, the annual figure should be recorded on SIEBEL.

SIEBEL will deduct this amount from the non-resident parent's annual gross taxable income figure, and convert the balance into the Gross Weekly Income figure that will be used in the Maintenance calculation.

#### Other Deductions

Non-resident parent Current Income in another currency

[2012/2677 Regulation 37\(2\) of the Child Support Maintenance Calculation Regulations 2012](#)

If a non-resident parent receives Current Income in a currency other than sterling, then any costs associated with converting the income to sterling can be deducted from the Current Income figure. These costs will tend to be either:

- a commission payment (which will be a percentage of the amount being converted); or
- a one of charge for a fixed amount.

If a non-resident parent states they are paid in a currency other than sterling, they should be asked to submit evidence confirming the amount of these charges that corresponds with the period of Current Income being considered. Evidence for these purposes could include:

- a statement or receipt from their bank / exchange bureau; or
- copies of bank statements where the charges are shown as an entry.

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#### [Evidence that Employment has ceased](#)

Evidence that Employment has ceased

#### **Evidence that Employment has ceased – Pre 7 March 2016**

If a non-resident parent reports that their income has reduced because they have left employment and they are not claiming a Prescribed Benefit, you should ask them to submit:

- a copy of their P45; or
- a copy of their termination letter (or equivalent) from their employer; or

- if no independent evidence is available, a signed written statement from the non-resident parent.

The onus is on the non-resident parent to provide supporting evidence. If they fail without good reason to do this, the application for supersession should normally be rejected.

If exceptionally you consider that it is reasonable for a non-resident parent not to have this evidence, you can consider, if the non-resident parent agrees, contacting the former employer direct. The employer is still legally obliged to supply information.

### **What to consider when determining a nil income – from 7 March 2016**

When determining the level of income for a maintenance calculation, verbal evidence can be accepted from a non-resident parent when they report a change to their employment status.

This means when talking to a non-resident parent, if you are informed that they are no longer employed and have no income, there is no requirement for a written declaration to be issued.

You should:

- accept the information you are told as verbal evidence;
- phone the employer to confirm and record the change (record in case notes)

**Note:** Where a decision has been made not to obtain a written declaration of nil income, there must be a recording of the phone call in which the client has advised of their £0.00 income. As per a written declaration, a call recording could be provided as evidence in an appeal hearing.

You can then create a new maintenance calculation and progress the case as normal.

#### *1991/48 Section 4 (2) (b) of the Child Support Act 1991*

Although we would normally expect the non-resident parent to report their employment has come to an end (as it serves their best interest to do so) and to provide evidence of this, there may be exceptional circumstances where the non-resident parent is unable to provide written evidence of this. In these cases, CMG can contact the former employer direct. Former employers have a duty to provide information under the Child Support Act.

#### **Employment has ceased: Next Steps**

If you receive information that a non-resident parent has left employment, you will need to obtain full details of their current circumstances, to ensure the maintenance calculation is amended to reflect these. You will need to know:

- does the non-resident parent have gross taxable income from any other employment (For example: a second or new job). If so, you will need to obtain their current income details in the usual way;
- has the non-resident parent (or their partner) claimed any social security benefits, or do they intend to make a claim in the near future?
- if the non-resident parent states they have no income from employment and do not intend to claim social security benefits, you should ask them how they will support themselves. If you are informed that they are no longer employed and have no income, there is no requirement for a written declaration to be issued (decisions made from 07 March 2016).

Where non-resident parent's employment has ceased and s/he has or is starting another job:

- check whether historic income can be used, refer to guidance on historic income;
- if we know who the employer is contact employer for current income details. If not obtain current income details in the usual way (applying rules on treatment of pension contributions where required). If the non-resident parent is has more than one job- Refer to Aggregating Current Income for further guidance.

If neither of these applies and you are satisfied that the non-resident parent now has nil income, you should supersede the maintenance calculation on this basis.

REMEMBER: in these circumstances, you should remind the non-resident parent that that they have a legal duty to notify CMG within 7 days if their gross weekly income increases to £7 or more. (Regulation 9A of the Child Support Information Regulations 2008).

Non-resident parent has income from a second job

If a non-resident parent has income from a second job which is already included in the maintenance calculation, you should refer to the Aggregating Current Income guidance below.

Aggregating Current Income

[2012/2677 Regulations 37, 38, 2\(a\), \(b\), 39, 40 & 41 of the Child Support Maintenance Calculation Regulations 2012](#)

Non-resident parent's earnings can be generated from a range of sources which may include:

- employed earnings;
- self-employed earnings;

- earnings from taxable pension.

As the non-resident parent's current income is the sum of all earnings, child maintenance calculation needs to take account of all taxable earnings provided there is some indication that the non-resident parent's income is likely to remain at the current income amount for the foreseeable future (normally a figure 12 weeks and over).

Employed current income should be calculated as the weekly equivalent of that amount. Where this includes irregular working hours (e.g. short-term contracts) that part of the non-resident parent's income is to be calculated as the weekly average of the amounts paid over such period preceding the effective date.

Where the sum of the non-resident parent's income includes self employment, taxable profits (for the most recently completed relevant period or where no such period has been completed yet, the estimated profits for the current relevant period) will need to be taken into consideration in calculating non-resident parent's liability.

#### Pension contributions

Refer to Deductions from current income for detailed guidance on this

The onus will be on the non-resident parents to inform us if they are making pension contributions and to provide evidence confirming the amounts.

Where the non-resident parent's employer make deductions of relievable pension contribution (employers occupational pension scheme), this amount should be deducted from gross earnings of the employed earnings it relates to NOT the sum inclusive of all other earnings.

If the non-resident parent makes contributions to private pension schemes, the 'gross' amount (amount of the contributions, plus the Income Tax relief due to them) should be deducted from the taxable income figure.

#### Non-resident parent has / is starting another job

Where non-resident parent's employment has ceased and s/he has or is starting another job:

Where a non-resident parent reports the employment we based our maintenance calculation on has ceased and they are starting a new job, you would only consider revision of maintenance calculation if the non-resident's income from their new employment is different by at least 25% and non-resident parent is able to provide evidence of this.

If non-resident parent is starting more than one new job. Refer to Aggregating Current Income guidance.

Non-resident parent (or their partner) is / will be claiming benefits

[2012/2677 Regulation 18 \(4\) of the Child Support Maintenance Calculation Regulations 2012](#)

Where an non-resident parent has reported their employment has ceased and their income now comprises of benefits of a prescribed kind:

- request evidence employment has ceased and confirmation of benefit payments from non-resident parent. Once this is received proceed with appropriate maintenance calculation. The effective date will commence from the date the change occurred (i.e. benefit entitlement start date).

Note: in most cases we will be automatically notified whenever a non-resident parent starts/comes off working age benefits, in which case non-resident parent will not be required to provide evidence.

- Where there is evidence non-resident parent has made a claim for benefits for which a decision is yet to be made, you can reasonably put calculation on hold until confirmation of benefit payment is received. Once evidence is received, effective date will commence from the date the change occurred.
- Non-resident's on UC: refer to guidance on treatment of UC (this is currently being drafted and will be included in Historic Income guidance).

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### [Income Tolerance](#)

[2012/2677 Regulation 23 & 34\(2\) of the Child Support Maintenance Regulations 2012](#)

[2008/2551 Regulation 9A of the Child Support \(Information\) Regulations 2008](#)

SIEBEL will automatically calculate whether or not Tolerance is breached. However, the following section will help you understand how / when the Tolerance Rule works and may also be helpful if you need to check figures before inputting them into the system or to advise clients.

The Tolerance Rule is relevant in 2 situations:

1. Pre maintenance calculation where a non-resident parent / person with care wants us to consider using current, rather than historic income; and
2. Post maintenance calculation where a maintenance calculation has already been completed using current income, but the non-resident parent / person with care reports a further income change.

## Under the Tolerance Rule

- We will only use current, rather than historic income, if there is at least a 25% difference between these amounts, which is expected to last for at least twelve weeks; and
- We will only change a maintenance calculation already based on current income if there has been at least a 25% change in the non-resident parent's current income, which is expected to last for at least twelve weeks.

REMEMBER: when you are checking if income tolerance is breached, you will be looking at historic / current income figures only. These will not necessarily be the same amount as the Gross Weekly Income figure, which may include adjustments for variations and / or relevant other children.

### Is Tolerance Breached?

You can check whether a non-resident parent's current income is 25% different to the historic / current income figure already held by applying the following equations:

Is latest current income at least 25% lower than the income figure held?

- $\text{Income figure held} \times 75 / 100 = X$
- the non-resident parent's income must fall to X or below to reflect at least a 25% difference.

Example:

- Income figure held = £200
- $£200 \times 75 / 100 = £150$
- non-resident's income must fall to £150 or below to reflect a 25% difference.

Is latest current income at least 25% higher than the income figure held?

- $\text{income figure held} \times 125 / 100 = X$
- the non-resident parent's income must equal or exceed X to reflect a 25% difference.

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