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[Role Reversal and Split Care Offsetting: Overview](#)

What is Offsetting?

Offsetting is a process that allows us to adjust child maintenance payments and arrears in four specific situations:

1. Where a non-resident parent has made certain payments to a Third Party, either directly or via the parent with care;
2. Where two clients both owe each other arrears; and
3. Where one client is liable to make ongoing payments to a client that owes them arrears; and
4. Where two clients are liable to pay each other ongoing child maintenance.

This guidance covers Scenarios 2, 3 and 4 which will only occur where there is / has been either a Role Reversal or Split Care on a case. Use the following drop downs for an explanation of these terms.

Refer to the separate guidance on Third Party Offsetting for advice on cases where a non-resident parent has made payments to a third party.

Role reversal

This occurs when a qualifying child changes the parent they live with. This means that the parent with care and the non-resident parent 'reverse' their roles in relation to the qualifying child, so that the parent with care becomes the non-resident parent and vice versa.

Split care

This occurs where the same two clients have more than one child, and each client is:

- a parent with care in relation to at least one child
- a non-resident parent in relation to the other child/ren

In these circumstances there will be two child maintenance cases. The parent with care and non-resident parent will be the same two individuals in both cases, but their role in each case will be different: i.e. they will be the non-resident parent in one

case, but the parent with care in the other case. This means they will be liable to pay and receive child maintenance concurrently.

Split Care Offsetting can be applied in 2 distinct ways:

To adjust arrears that the parties owe to each other; and

To adjust the payments due where each party has ongoing liability to the other, so that the party liable to pay the higher amount pays the balance between that, and the amount that the other party is due to pay them.

Example:

Client 1: is due to receive £50 a week as a parent with care and to pay £75 a week as a non-resident parent;

Client 2: is due to receive £75 a week as the parent with care and to pay £50 a week as the non-resident parent.

Client 1 will pay Client 2 £25 a week, as this is the balance between the amount they are due to pay and the amount they are due to receive.

Client 2 will make no payments.

Offsetting: Important Points to Remember

- Whether to offset is a discretionary decision. There is no right of appeal, but any decision to allow / refuse offsetting can be challenged through Judicial Review. It is therefore essential that you fully record the reasons for your decision. Refer to the Discretionary Decision Making Guidance for further advice;
- Offsetting only applies to parent with care arrears or ongoing payments. We cannot offset against Secretary of State arrears in any circumstances;
- We do not need to obtain consent from clients in order for offsetting action to be taken, but we must inform them that we are proposing this and invite them to comment.

Offsetting Debt Against Debt (Two Clients both owe each other arrears): Decision Making Guidance

When can we consider offsetting debt against debt?

We can consider offsetting debt against debt where two clients both owe each other arrears.

A Debt against Debt offset can be considered:

- at the request of either client, or
- at the CMG's instigation if we identify that this action may be appropriate

Debt against Debt situations arise in two scenarios:

Role Reversal Cases:

When a qualifying child changes the parent they live with. This means the parent with care and non-resident parent 'reverse' their roles in relation to the qualifying child, so that the parent with care becomes the non-resident parent and vice versa.

The potential for a Debt Against Debt offset arises if:

- the former non-resident parent (now the parent with care) owed arrears to the former parent with care (now the non-resident parent) at the point their roles were reversed; and
- the 'new' non-resident parent fails to pay their current liability, so that they now owe arrears to the 'new' parent with care.

Split Care Cases:

In Split Care cases, two clients have more than one child, and each client is:

- a parent with care in relation to at least one child
- a non-resident parent in relation to the other child/ren

In these circumstances there are two child maintenance cases. The parent with care and non-resident parent will be the same two individuals in both cases, but their role in each case will be different: they will be the non-resident parent in one case, but the parent with care in the other case. This means they will be liable to pay and receive child maintenance concurrently.

The potential for a Debt Against Debt offset arises if:

Both clients have failed to pay their full maintenance liability in their roles as non-resident parent on the respective cases.

Deciding whether a Debt Against Debt Offset is Appropriate:

- If you identify that two clients both owe each other arrears, or
- A client contacts you to request that arrears they owe to another party are offset against arrears that party owes them

You will need to consider whether a Debt against Debt offset is appropriate.

Points to Consider:

- You must inform both parties when you are considering offsetting debt against debt and invite their comments before you make your decision;
- Any comments provided by the parties must be taken into account;
- Whether to offset debt against debt is a discretionary decision. It is essential that you take into account the welfare of any child potentially affected by your decision and record the reasons for your decision in full. Refer to the Discretionary Decision Making Guidance for further advice;
- There is no right of appeal against a refusal to offset, but decisions can be challenged by way of Judicial Review. Full and accurate decision making is therefore essential;
- If a full offset is not appropriate due to the circumstances of the case, a partial offset can be considered.

REMEMBER: we cannot apply offsetting in relation to Secretary of State arrears.

Debt Against Debt Adjustment completed: Next Steps

- if there is an arrears balance outstanding after any Debt against Debt adjustment
- the party who owes the arrears is liable to make ongoing payments

you should consider whether a further offset of their ongoing payments against the remaining arrears they are owed is appropriate.

Refer to the Decision Making Guidance on Offsetting Arrears against Ongoing Payments for further advice.

Offsetting Ongoing Payments Against Arrears: (One party is due to make ongoing payments to a party that owes them arrears): Decision Making Guidance

When can we consider offsetting ongoing payments against arrears?

We can consider offsetting ongoing payments against arrears where:

- one party is liable to make ongoing maintenance payments to another party, but
- the party due to receive these payments also owes child maintenance arrears to the party liable to make them

This may occur in cases where there is / has been:

- a Role Reversal: and the person who is now the parent with care owes arrears to the other party from when they were the non-resident parent, or
- Split Care and one of the parties has accrued arrears

Deciding whether is it appropriate to offset ongoing payments against arrears:

If you decide that it is appropriate to offset arrears against ongoing payments, the party who is due to make the ongoing payments will either:

- pay at a reduced rate, or
- make no payments

until the arrears they are owed have been reduced to the agreed amount, or cleared, if that is what you decide is appropriate.

This means that a parent will be without maintenance for a period of time, because the payments they are due to receive will be stopped / reduced in line with the arrears that they owe. It is essential that you carefully consider the effect that this may have on the welfare of all children potentially affected.

Additional Points to consider:

- you must inform both parties when you are considering offsetting ongoing payments against arrears and invite their comments before you make your decision
- any comments provided by the parties must be taken into account; Whether to offset ongoing payments against arrears is a discretionary decision. It is essential that you take into account the welfare of any child potentially affected by your decision and record the reasons for your decision in full. Refer to the Discretionary Decision Making Guidance for further advice
- there is no right of appeal against a refusal to offset, but decisions can be challenged by way of Judicial Review
- full and accurate decision making is therefore essential
- the length of time that the parent who owes the arrears will be without their ongoing maintenance payments

Remember: if a full offset is not appropriate due to the circumstances of the case, a partial offset can be considered. This means that offsetting may be agreed for a shorter period than would be needed for the debt owed to be fully cleared.

Offsetting Ongoing Payments: (Split Care cases: both parties are due to make ongoing payments to each other): Decision Making Guidance

When can we consider offsetting ongoing payments against arrears?

We can consider offsetting ongoing payments against ongoing payments where:

- one party is liable to make ongoing maintenance payments to another party, but
- the party due to receive these payments is also liable to make ongoing maintenance payments to them

This will occur in cases where there is Split Care and both cases have a positive maintenance calculation.

Deciding whether is it appropriate to offset ongoing payments against ongoing payments:

If you decide that it is appropriate to offset ongoing payments against ongoing payments, the party who is due to make the higher ongoing payments will pay the difference between the two liabilities, and the person who is due to make the lower ongoing payments will pay nothing.

This means that overall both maintenance liabilities will be satisfied. It is essential that you carefully consider the effect that this may have on the welfare of all children potentially affected.

Additional Points to consider:

- you must inform both parties when you are considering offsetting ongoing payments against ongoing payments and invite their comments before you make your decision
- any comments provided by the parties must be taken into account; Whether to offset ongoing payments against ongoing payments is a discretionary decision. It is essential that you take into account the welfare of any child potentially affected by your decision and record the reasons for your decision in full. Refer to the Discretionary Decision Making Guidance for further advice
- there is no right of appeal against a refusal to offset, but decisions can be challenged by way of Judicial Review
- full and accurate decision making is therefore essential"

NOTE:

The system will not allow offsetting arrears against ongoing payments, or ongoing payments against ongoing payments where one or both of the cases are direct pay, or have a Method Of Payment From (MOPF) of Deduction From Benefit (DFB). If offsetting is considered appropriate in such a case, consult A&G for further advice before discussing the option with the customer."

Charges

- if we offset arrears against arrears, and NRP collection charges apply to those arrears, those charges will still remain due (because we arranged for collection), although these can be written off if they are below £65
- if we offset arrears against ongoing maintenance, and NRP collect charges apply to the arrears, then they will remain due (as we have already arranged for collection), but as we won't be collecting any ongoing maintenance from the other case until the arrears have been cleared there will be no further NRP collection charges accruing on that case
- if we offset ongoing maintenance against ongoing maintenance, the person who has the higher MC (and therefore is paying just the difference between the higher MC and the lower MC), will be liable to pay NRP collection charges on the amount they pay (as opposed to the full MC) because that is all we are arranging to collect. The person receiving the maintenance will be liable to pay PWC collection charges based on the amount actually collected. However, the person who isn't paying anything will not be required to pay any NRP collection charges

For more information on any cases involving role reversal and split care offsetting, please contact Advice & Guidance.

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