

Service Types and Methods of Payment: Overview

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Service Types and Methods of Payment: Overview

What are Service Types?

Clients using the Child Maintenance Service (CMS) to calculate their statutory Child Maintenance liability have a choice between two 'types of service' that we can offer:

Direct Pay

This is the CMS's Preferred Service Type. The CMS calculates child maintenance liability, but the clients manage how / when this is paid between them. Both clients must agree to this Service Type before it can be agreed to.

Collect and Pay

This is where the CMS calculate child maintenance liability, and also collects payments from the non-resident parent and pass them onto the parent with care. Both clients will be sent a payment schedule informing them about how and when payments must be made.

If clients select the Collect and Pay service, you will need to arrange the most appropriate Method of Payment From the non-resident parent and an appropriate Method of Payment To the parent with care.

For information about what to do when clients can't agree on a service type refer to Direct Pay: Decision Making Guidance (see below).

What are Methods of Payment?

'Methods of payment' is the term used to describe:

- the way that the non-resident parent pays maintenance to the CMS if the clients have selected the Collect and Pay service. We refer to these payment types as Methods of Payment From; and

- the way that the CMS passes on these payments to the parent with care. We refer to these payment types as Methods of Payment To.

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[Methods of Payment From the Non-Resident Parent: Overview](#)

If clients are on the Collect and Pay Service Type, there are a number of ways that the non-resident parent can pay their child support maintenance.

Clients should be encouraged to agree to a preferred method of payment whenever possible. If they refuse to do so, a method of payment can be imposed by us. The CMS's preferred methods of payment are Deduction from Earnings Orders and Direct Debit because these methods are the most likely to ensure that payments are collected when they are due.

However, where the non-resident parent has a good reason for refusing to pay by a Preferred Method of Payment, there are other payment options that can be agreed to in exceptional circumstances.

A Deduction from Earnings Order can be imposed as a method of payment without the non-resident parent's agreement unless there is a good reason not to do so. A DEO can also be imposed as an enforcement method in circumstances where a non-resident parent indicates that they have no intention of paying maintenance. We call this wilful non-compliance.

In addition, wilful non-compliance can be assumed, and a DEO can be set up if the non-resident parent fails to contact us to set up a payment method within 14 days, where we have given them written warning that failure to contact us will result in a DEO being set up to enforce payment. The circumstances where we cannot assume wilful non-compliance are set out in the decision making guidance of the chapter on DEOs.

NOTE: if the non-resident parent is receiving Social Security benefits, then ongoing maintenance will normally be collected by direct deductions from their benefit payments (DFB). However, an additional Method of Payment may be agreed / imposed for the collection of any outstanding arrears.

Direct Debit

[1992/1989 Regulation 3\(1\)\(b\) of the Child Support \(Collection and Enforcement\) Regulations 1992](#)

A direct debit is where the non-resident parent gives the CMS authority to draw money from their bank or building society account on a regular basis.

Where a Direct Debit is set up, but is then cancelled by the non-resident parent, consideration should be given to taking arrears action/setting up a DEO immediately.

Where A Direct Debit collection fails (especially if it is not the first failure), then consideration should be given to taking arrears action/setting up a DEO.

Deduction from Earnings Order

[1991/48](#) *Sections 31 and 32 of the Child Support Act 1991*

[1992/1989](#) *Part III of the Child Support (Collection and Enforcement) Regulations 1992*

[2009/3151](#) *Regulation 3 of the Child Support (Management of Payment and Arrears) Regulations 2009*

A Deduction from Earnings Order instructs the non-resident parent's employer to make deductions directly from the client's wages and pay them to the CMS.

Non-resident parents can choose a Deduction from Earnings Order as their method of payment. We refer to this as a voluntary DEO.

There are 2 types of Deduction from Earnings Orders which can be imposed by us. We refer to these as MANDATORY DEOs. The first is under regulation 3 of the 1992 Regulations as a specified method of payment. The second is under section 31 of the Child Support Act 1991 for the purposes of enforcement. We can impose a DEO under regulation 3 where the non-resident parent will not agree a method of payment, unless there is a good reason not to do so. We can impose a DEO under section 31 where this is a reasonable course of action to take in order to secure payment of amounts of child support maintenance which will become due under the calculation, or where there are arrears.

It is possible to impose a DEO as an enforcement mechanism at an early stage in the process - i.e. before imposing a method of payment - where there are grounds to do so. This would be in the situations referred to below where a non-resident parent, either explicitly or by failing to contact us, has indicated a wilful refusal to pay maintenance. Where this is the case, in the interests of the child (since this is a discretionary decision), we can impose a DEO without needing to consider whether there is a good reason not to do so.

A MANDATORY Deduction from Earnings Order may be imposed upon non-resident parents where:

- they have refused to agree to a Preferred Method of Payment, and there is no good reason not to impose a DEO;
- they have stated explicitly that they have no intention of paying maintenance - known as wilful non-compliance (Good Reason need not be considered);

- they have failed to contact us to set up a payment method within 14 days after we have given them written warning that failure to contact us will result in a DEO being set up to enforce payment. This is an assumption of wilful non-compliance. (Good Reason need not be considered); or
- they have failed to make payments on time and arrears are now due (Good Reason need not be considered).

Refer to the chapter on Deduction from Earnings Orders and Requests for further advice about this Method of Payment.

A full record must be made of the reasons why a mandatory DEO has been imposed.

Deduction from Earnings Request

Deduction from Earnings Requests operate in a similar way to Deduction From Earnings Orders for non-resident parents who are employed in the Armed Forces.

The main difference between a DEO and a DER is that employers are legally obliged to make any deductions specified in a DEO. This legal obligation does not apply to DERs, which are operated under a Memorandum of Understanding between the CMS and the Ministry of Defence.

Refer to the chapter on Deduction from Earnings Orders and Requests for further advice about this Method of Payment.

Deduction From Benefit

[1991/48](#) *Section 43 of the Child Support Act 1991*

[2001/18](#) *Schedule to the Social Security (Claims and Payments) Amendment Regulations 2001*

Deduction From Benefit is a method of payment that enables flat rate maintenance deductions to be made directly from a non-resident parent's prescribed benefits.

A Deduction From Benefit may only be made from one type of specified benefit in any one week and the amount of the specified benefit must be at least the same as the amount of the deduction plus 10 pence.

When a non-resident parent is in receipt of benefits, wherever possible, the system will automatically set up a deduction from benefit to collect ongoing maintenance. However, in some cases manual intervention may be required, such as where a non-resident parent has a case in the full collection service and a case that is maintenance direct, because the deduction will be a non-standard amount.

When a Deduction From Benefit is not automatically set up you may need to manually select the benefit that deductions are made from. In these circumstances you should use the order of preference set out below:

- income based benefit, or, where this is not available
- benefit paid at the highest rate.

If a non-resident parent pays their maintenance by Deduction From Benefit and wants to make additional payments towards their arrears, they could set up an additional method of payment to pay the arrears.

Default Standing Order

[1992/1989](#) *Regulations 3(1) and 7 of the Child Support (Collection and Enforcement) Regulations 1992*

This method of payment should be put in place if The non-resident parent will not agree to a method of payment and:

- a mandatory Deduction from Earnings Order cannot be imposed; or
- the non-resident parent is self employed and a Regular Deduction Order cannot be set up; or
- we have been unable to contact the non-resident parent to establish a Method of Payment from.

The CMS must specify a method of payment before child maintenance liability can be enforced. Although setting a Default Standing Order as the method of payment does not mean that payments will be made in this way, the fact we have set a method of payment means that any arrears which accrue can be enforced. Where a Default Standing Order is in place and one missed payment occurs, arrears action should be considered immediately.

NOTE: the difference between a Default Standing Order and a Standing Order is as follows:

- a Default Standing Order will be set as the method of payment where the non-resident parent will not agree to a payment method;
- a Standing Order will be set as the method of payment where there are good reasons to allow this method and we have agreed it with the non-resident parent.

Standing Order

A Standing Order allows payments to be made directly from the non-resident parent's bank / building society to the CMS. This is not one of the CMS's Preferred Methods of Payment, because:

- it is dependent on the non-resident parent setting up the Standing Order with his bank; and
- the Standing Order amount can only be changed by the non-resident parent.

Standing Orders are therefore a less reliable / efficient method of payment than Direct Debit, but it may be appropriate for this method of payment to be agreed in certain circumstances. For example: if the non-resident parent wants to pay arrears towards a specific Liability Order, using the Liability Order reference number. It is not possible to do this via a Deduction from Earnings Order or Direct Debit.

NOTE: the difference between a Default Standing Order and a Standing Order is as follows:

- a Default Standing Order will be set as the method of payment where the non-resident parent will not agree to a payment method;
- a Standing Order will be set as the method of payment where there are good reasons to allow this method and we have agreed it with the non-resident parent.

Bank Head Office Collections Account (BHOCA)

This method of payment allows the non-resident parent to make payments to the CMS at any bank / building society using payment slips with their reference number included to ensure any payments are correctly allocated.

This method of payment is not automated and depends on the non-resident parent making each individual payment. It is the least reliable method of payment and should only be used if absolutely necessary.

Split Care Offsetting

This method of payment may be used in cases where a couple have more than one qualifying child and they are both a parent with care in relation to at least one child. This means that they will be liable to both pay and receive child maintenance simultaneously.

In these circumstances, split care offsetting can be used as a method of payment so that the parent who is liable to pay the higher amount, just pays the difference between this amount and the amount they are entitled to receive. A separate Method of Payment will need to be set up for these payments to be made and recorded.

Even though only one of the clients is actively making a payment in these circumstances, we still need to record that the remaining payments are being made via adjustment.

- Split care offsetting should be recorded as the method of payment from the client who does not need to make active payments;
- The client who needs to make active payments should have a separate method of payment set up for the amount they have to pay in the usual way.

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[Methods of Payment To the Parent with Care: Overview](#)

[1992/1989 Regulation 5 of the Child Support \(Collection and Enforcement\) Regulations 1992](#)

If clients choose the Full Collection Service, you will need to arrange a suitable method for making payments to the Parent with Care.

There are three Methods of Payment to (MOPT) a Parent with Care:

Direct Payment

The CMS receives payments from the non-resident parent and pays them directly into a bank / building society account that has been nominated by the parent with care. This will normally be their own account, but can be someone else's if the parent with care requests this.

NOTE: parents with care should not be allowed to have their child maintenance paid into a qualifying child(s) account.

Post Office Card Account (POCA)

The CMS receives payments from the non-resident parent and pays them directly into a Post office Card Account that has been nominated by the parent with care. This will normally be their own account, but can be someone else's if the parent with care requests this.

NOTE: parents with care should not be allowed to have their child maintenance paid into a qualifying child(s) account.

Simple Money Transmission Service (SMoTS)

This method of payment should only be used if the parent with care does not have a bank, building society or post-office account that payments can be made to; and does not wish to nominate anyone else's account for these purposes.

This method of payment allows the CMS to make payments onto a cash card, which the parent with care can use to withdraw money at PayPoints (found in many shops and newsagents).

This method of payment has replaced previous manual payment methods such as cheques, girocheques and payable orders.

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[Direct Pay: Decision Making Guidance](#)

[1991/48](#) Sections 4(2), 7(3) and 29 of the Child Support Act 1991

[1992/1989](#) Regulation 2(1) of the Child Support (Collection and Enforcement) Regulations 1992

Direct Pay is one of the statutory child maintenance service types provided by the CMS. If clients choose Direct Pay, the CMS will calculate the non-resident parent's statutory child maintenance liability and notify both clients of this.

However, it is then up to the clients to arrange how / when payments are made between themselves. The CMS will not issue a payment schedule and will only become involved in the collection of payments if one of the clients asks for their Service Type to be changed to Collect and Pay.

NOTE: When a case is Direct Pay the non-resident parent has an obligation to pay their full ongoing maintenance liability to the parent with care. They should not agree a different amount. If the non-resident parent and the parent with care want to agree a lower amount than the ongoing maintenance liability they can consider closing their case and making a Family Based Arrangement.

If an amount less than the ongoing maintenance liability is paid, the non-resident parent is still liable to pay the remainder. However, the CMS will only consider pursuing any arrears that accrue during a Direct Pay period if the case is brought into the Collect and Pay service and the parent with care says that arrears have accrued see the drop down Ongoing Case: One/Both Clients request change to Collect and Pay for further advice.

New Case: Both clients request Direct Pay

- If both clients want Direct Pay as their Service Type, then this should be permitted.
- It must be clearly explained to both clients that they will be responsible for managing their payments and should keep appropriate records (for example: bank statements or receipts) to confirm how much has been paid and when.

You should emphasise the importance of this in case of any future disputes about payments made / received.

- Parents with care should be advised that they need to tell us quickly if payments are not received and they want to change to Collect and Pay and have the arrears collected.

New Case: Dispute over service type

[1991/48](#) Section 4 (2A) of the Child Support Act 1991 (As amended by Section 137 of the Welfare Reform Act 2012)

[1991/48](#) Section 7 (3A) of the Child Support Act 1991 (As amended by Section 137 of the Welfare Reform Act 2012)

Amendments made to the Child Support Act 1991 by section 137 of the Welfare Reform Act 2012 mean:

- Only a parent with care, person with care or child in Scotland may make a request for collection (Collect & Pay); and
- Where a parent with care, person with care or child in Scotland makes a request for collection (Collect & Pay) this may only be granted if the non-resident parent agrees or they are deemed to be 'unlikely to pay'.

This ensures that neither client can be forced into charging when it isn't necessary.

This means where an NRP requests Direct Pay but a PWC requests Collect & Pay an 'unlikely to pay' check must be completed. Please refer to the [Unlikely to Pay](#) guidance.

- If the NRP is deemed to be 'unlikely to pay' then the request for Collect & Pay will be granted.
- If the NRP is not deemed to be 'unlikely to pay' then the case will be made Direct Pay.

Alternatively if a PWC requests Direct Pay but the NRP requests Collect & Pay then the case will be made Direct Pay.

Please refer to the 'New Case: Both clients request Direct Pay' drop down above for information that should be explained to both clients when a case is made Direct Pay.

Ongoing cases: Clients request Direct Pay

Clients can request to change from the Collect and Pay Service to Direct Pay at any point.

Where a PWC makes a request for a change of service type to Direct Pay this must be accepted.

Where a NRP makes a request for a change of service type to Direct Pay this will only be granted if:

- The PWC agrees; or
- The NRP successfully passes a compliance opportunity. For information on eligibility for the compliance opportunity and how it works please refer to guidance HERE [DN: insert link <http://np-cmg-sharepoint.link2.gpn.gov.uk/sites/policy-law-and-decision-making-guidance/Pages/Unlikely-to-Pay.aspx>]

NOTE:

Most payment types will be automatically adjusted when you amend SIEBEL to reflect a change to Direct Pay. However, if there was a Regular Deduction Order / Deduction from Earnings Order in place while the case was Collect and Pay you will need to ensure that this is discharged when the case changes to Direct Pay, unless there is more than one parent with care, and the other parent(s) want their case to remain on Collect and Pay. In these circumstances you would need to vary the Regular Deduction Order / Deduction from Earnings Order to remove any amount payable to the parent changing to Direct Pay.

Ongoing case changes to Direct Pay: Arrears already on case

The CMS will not enforce action to collect arrears while the Direct Pay Service type is in place even if the arrears accrued while the case was Collect and Pay. However arrears can be added to the payment schedule. If a parent with care wants the CMS to continue collecting arrears, they should be advised this will only be done if:

- the case remains on Collect and Pay; or
- they change to a Family Based Arrangement for ongoing maintenance. In this situation, their case would be closed, and the CMS would continue collecting arrears only

If there are arrears on the case, you must explain to both parties that the non-resident parent will need to pay the arrears directly to the parent with care, as well as the ongoing payments due. Both parties should be advised it is essential that they keep full records of any arrears payments made / received (such as bank statements / receipts) in case the case changes back to Collect and Pay and there is any dispute about the amount of arrears that have been paid.

Refer to the guidance on arrears where case changes to Collect and Pay for further advice about what happens if:

- arrears accrue during a Direct Pay period;
- there are still arrears outstanding following a Direct Pay period which accrued during a Collect and Pay period.

Case changes from Direct Pay to Collect and Pay: Arrears

If a case changes from Direct Pay to Collect and Pay, the CMS can consider collecting:

- arrears that the parent with care states have accrued whilst the case was Direct Pay: and / or
- arrears that accrued before the case was Direct Pay

Arrears accrued while case was Direct Pay

We should only consider collecting arrears for a Direct Pay period if the parent with care states they want this to be done. There is no legal limit on how far back a breakdown of Direct Pay can be retrospectively applied. However in general you should only need to consider retrospectively applying payments back to the last annual review. Before deciding whether this action is appropriate, you would need to contact the non-resident parent to check whether:

1. they agree that payments were missed; or
2. whether they do not agree that payments have been missed.

If a non-resident parent does not agree that payments have been missed, then they will need to provide evidence confirming the payments were made. Acceptable evidence for these purposes would include:

- bank statements;
- duplicate(s) of any cashed cheque(s);
- any form of receipt from the parent with care.

If non-resident parents fail to provide evidence confirming this, we will assume the payments were not made.

In these circumstances, and in cases where the non-resident parent confirms that the payments were not made, you would need to decide whether it is appropriate for the CMS to collect the arrears, taking into account any evidence / information provided by the parties, and particularly how many payments had been missed before the parent with care informed the CMS and requested a change to Full Collection.

Arrears accrued before the case was Direct Pay

If the parent with care states the non-resident parent has failed to pay arrears that accrued before the case was Direct Pay you will need to ask them for full details of any payments that were made. You should then contact the non-resident parent to check if they agree with the information provided. If the non-resident parent states

additional payments were made they should be asked for evidence of this. Acceptable evidence for these purposes will be:

- bank statements;
- duplicate(s) of any cashed cheque(s);
- any form of receipt from the parent with care.

However, you must ensure that you do not treat payments of regular maintenance as payment of arrears. This should be clear from the amount / period of payments.

Example: Non-resident parent was liable to pay regular maintenance of £200 per month and owed arrears of £1,000. Non-resident parent made payments of £250 per month and states these were all for arrears. You should only treat the £50 above the regular maintenance payment as made towards the arrears.

If the non-resident parent cannot provide evidence to show that arrears that accrued before the case was Direct Pay were collected you should collect these amounts.

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[Deciding the Method of Payment From: Decision Making Guidance](#)

The CMS's preferred Service Type is Direct Pay. However, if one / both of the clients want the Collect and Pay Service, you will need to arrange a suitable method of payment from the non-resident parent.

Non-resident parent refuses - consider DEO / DER

If a non-resident parent refuses to agree to a Preferred Method of Payment, you must consider whether it is appropriate to impose a Deduction From Earnings Order or to issue a Deduction from Earnings Request.

It will be appropriate to impose a Deduction from Earnings Order if:

- HMRC have confirmed the non-resident parent is employed; and
- the non-resident parent refuses to agree a preferred MOPF and is unable to provide a good reason why a DEO should not be imposed: or
- they actively refuse to pay by any MOPF(wilful non-compliance);
- they have failed to contact us to set up a payment method within 14 days after we have given them written warning that failure to contact us will result in a DEO being set up as a method of enforcement (assumption of wilful non-compliance).

It will be appropriate to issue a Deduction from Earnings Request if:

- the non-resident parent is employed in the Armed Forces; and
- is not on active service in a recognised warzone.

Refer to the chapter on Deduction from Earnings Orders and Deduction from Earnings Requests for further advice.

DEO / DER not appropriate - consider other methods of payment

If it is not possible / appropriate for a DEO / DER to be imposed, you should ask the non-resident parent if they will make payments by an alternative method of payment, which can include:

- a Standing Order; or
- Bank Head Office Collections

This will only be agreed to ensure the non-resident parent is paying their regular payments. We should continue trying to get the non-resident parent to agree to a Preferred Method of Payment.

REMEMBER: a non-resident parent who has refused to agree a Preferred Method of Payment may have provided a good reason why this action should not be taken. However, if they fail to keep up to date with their payments and arrears accrue, then a DEO can be imposed.

Refer to the chapter on Deduction from Earnings Orders and Deduction from Earnings requests for further advice.

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