

Voluntary Payments

Overview: Contents

- [Voluntary Payments: Overview](#)
- [Voluntary Payments: Process](#)

Decision Making Guidance: Contents

- [Payments that can be treated as a Voluntary Payment](#)
- [Evidence of a Voluntary Payment](#)
- [Deciding whether a Voluntary Payment has been made](#)

Voluntary Payments: Overview

[1991/48](#) Section 28J of the Child Support Act 1991

[2000/3177](#) Child Support (Voluntary Payment) Regulations 2000

[1991/2628](#) Article 28J of the Child Support (Northern Ireland) Order 1991

[2001/21](#) Child Support (Voluntary Payment) Regulations (Northern Ireland) 2001

What is a Voluntary Payment?

Voluntary Payments occur when:

- An application for child maintenance has been made;
- The maintenance calculation has not yet been completed;
- The non-resident parent has made voluntary payments to the parent with care, the CMG or a third party such as a mortgage lender; and
- The payment is made on or after the effective date.

NOTE: We should encourage non-resident parents to make voluntary payments from their first contact with the CMG, to:

- Help prevent / minimise arrears building up;
- Establish compliance from an early stage; and
- Keep payments flowing if a case cannot be progressed promptly for any reason.

It **must** be stressed to non-resident parents that if they are going to make Voluntary Payments directly to the parent with care, they need to keep a record of the following:

- Date of payment;
- Amount of payment;
- Method of payment;
- Any receipts relating to the payment: e.g. bank statements.

This will help avoid difficulties when decisions are required about the amount of direct Voluntary Payments that have been actually made, especially if the non-resident parent and parent with care give conflicting evidence.

Whether we allow a Voluntary Payment is a discretionary decision. There is therefore no right of appeal against any decision to allow / disallow a Voluntary Payment. However, clients can challenge these types of decisions through Judicial Review, so it is important to consider all evidence and record reasons for the decision in full.

[Voluntary Payments: Process](#)

The process for dealing with Voluntary Payments will depend on:

- Whether the payment has been made directly to the parent with care, or via the CMG; and
- Whether the payment has been reported by the parent with care or the non-resident parent.
- Whether the payment is accepted as maintenance by the parent with care within the period between the effective date being set and a maintenance calculation being completed.

Parent with care states voluntary payments received

If a parent with care informs the CMG that a Voluntary Payment has been made by the non-resident parent, then this can be taken as fact without further enquiries. The non-resident parent can be contacted and advised that this amount will be deducted from his arrears once a maintenance calculation has been completed and the full arrears due has been calculated.

Refer to the Decision Making Guidance on Voluntary Payment disputes, if the non-resident parent does not agree with the facts the parent with care has provided. E.g. if they say they have paid a higher amount.

Non-resident parent states voluntary payments made

If a non-resident parent informs the CMG that they have made Voluntary Payments directly to the parent with care, the parent with care must be asked whether they can confirm this, before a decision can be made about any adjustment.

Refer to the Decision Making Guidance for further advice.

[Payments that can be treated as a Voluntary Payment: Decision Making Guidance](#)

Voluntary Payments can be made:

- Directly to the parent with care; or
- To the Commission;
- Payments can be made by the non-resident parent to a third party in certain circumstances, see below for details.

Payment has to be made by the following methods:

- In cash;
- By standing order;
- Direct Debit;
- By cheque or postal order;
- By debit card;
- By transfer between accounts.

What type of payments can be accepted?

Directly to the parent with care

- Payments of money made directly from the non-resident parent to the parent with care can be taken into account as voluntary payments of child maintenance, providing they have been made in respect of the qualifying child/ren and for child maintenance.
- Spousal maintenance payments (payments made to support the non-resident parent's former spouse, rather than their child/ren) or payments made directly to the qualifying child/ren cannot be taken into account

To CMG

Any payment received in to CMG from the non-resident parent.

Paid to a third party

- A mortgage or loan taken out on the property which is the qualifying child's home which was taken out to facilitate its purchase or pay for essential repairs / improvements; or
- Rent on the property which is the qualifying child's home; or
- Mains supplied gas, water or electricity charges at the qualifying child's home; or
- Council tax (rates in Northern Ireland) payable by the parent with care in relation to the qualifying child's home; or
- Essential repairs to the heating system in the qualifying child's home; or
- Repairs which are essential to maintain the fabric of the qualifying child's home

NOTE: payments to mortgage lenders can only be considered if they have been made in respect of a parent with care's mortgage liability. We cannot consider payments that a non-resident parent is liable to make themselves.

If the non-resident parent and the parent with care have a joint mortgage, we can consider any portion of the payment that clearly related to the parent with care's liability.

Example: non-resident parent and parent with care have a joint mortgage, but the non-resident parent is making the full mortgage payment. In these circumstances we could consider allowing half of the payment, as this would reflect the parent with care's mortgage liability.

To avoid the possibility of a double benefit to the NRP, a Voluntary Payment should not be allowed in respect of any payment that has been taken into account as a Variation and vice versa.

REMEMBER: payments to a third party do NOT include any payments made directly to the qualifying child/ren, which cannot be considered.

Payments made under a court order

Payments made:

- under a court order;
- in respect of qualifying child/ren in our case;
- after the effective date of a maintenance calculation.

Cannot be taken into account as Voluntary Payments. These payments are not 'voluntary' as they are enforced by Court.

However, even though these payments cannot be considered as Voluntary Payments, you can treat them as payments of child maintenance. Regulation 8A of the Maintenance Arrangement and Jurisdiction Regulations 1992 / Regulation 8A of the Maintenance Arrangement and Jurisdiction Regulations (Northern Ireland) 1992 makes this allowance to safeguard the non-resident parent from the possibility of having two child maintenance liabilities

Please Note: Before accepting such payments you must check the terms of the court order and make sure that the payment relates to the qualifying child/ren in our case.

[Evidence of a Voluntary Payment: Decision Making Guidance](#)

Deciding the amount of money to allow as a voluntary payment is a discretionary decision. Refer to the guidance on [Discretionary Decision Making](#) for further advice.

What is evidence of a Voluntary Payment?

Evidence or verification of payment is defined in

[2000/3177](#) Regulation 4 of the Child Support (Voluntary Payment) Regulations 2000

[2001/21](#) Regulation 4 of the Child Support (Voluntary Payment) Regulations (Northern Ireland) 2001

as evidence provided by the non-resident parent in the form of:

- a bank statement;
- a duplicate of a chased cheque;
- a receipt from the payee; or
- a receipted bill or invoice; or
- verification orally or in writing from the person with care.

The evidence you will need will depend on who the payment was made to:

Directly to the parent with care

If the parent with care accepts the stated payment no evidence will be required; however if the amount /dates are disputed you will need:

- copies of receipts; or
- copies of the non-resident parent's bank statements showing the payments made.

To CMG

No additional evidence is required as all payments will be logged on the system.

Paid to a third party

Copies of the non-resident parent's bank statements confirming the payments to a third party and / or copies of statements from third party companies.

REMEMBER: payments made directly to the qualifying child/ren cannot be treated as Voluntary Payments

[Deciding whether a Voluntary Payment has been made: Decision Making Guidance](#)

Any decision made in respect of Voluntary Payments must be fully documented. The decision must include details of why / how it was reached so that if the decision is disputed or queried at a later stage, it can be shown that the decision was reasonably made.

Providing that the parent with care agrees that the payment was made for the stated reason and the stated amount the payment can be accepted.

You do not need the parent with care's permission to accept a payment as being in lieu of maintenance. If the parent with care disputes the purpose of the payment you will need to decide whether or not to accept the payment based on the evidence provided. The parent with care could dispute the voluntary payment on the grounds that it was not paid at all or that the amount is incorrect.

Parent with care disputes that payments were made

In these circumstances, if the non-resident parent provides evidence to confirm that the payments have been made, then these payments can be accepted. However if the non-resident parent is unable to provide this evidence no voluntary payment can be taken in to account.

Parent with care disputes payments made for purposes stated

In these circumstances you will need to decide whether the proposed purpose of the payment stated by the non-resident parent seems more probable than the purpose stated by the parent with care. In considering this point you will need to take in to account all evidence provided, including any information about what the payments were actually used for, whether the amounts seem reasonable / consistent with the purpose each party states etc.

Examples:

A non-resident parent may claim their £10 a week Voluntary Payments to the parent with care were for their rent or mortgage. Given the low amount of the payment, this would seem unlikely without any additional explanation.

Similarly, a non-resident parent may say they have made payments of £1500 to the parent with care, which were intended to be used for mortgage / rent payments. The parent with care might say the £1500 they received from the non-resident parent was a birthday present for the 2 year old Qualifying Child Again, this would seem unlikely.

It is also important to consider the timing relating to the voluntary payment. For example: if the payment is being disputed by the parent with care, it is worth considering if the dates coincide with birthday dates or Christmas.

Parent with care disputes the amount paid

In these circumstances you will need to request any evidence from the non-resident parent supporting that the amount stated was paid, you will then need to consider whether the proposed amount of the payment stated by the non-resident parent seems more probable in the circumstances than the amount stated by the parent with care.

In considering this point you will need to take in to account all evidence provided, including any information about what the payments were actually used for, whether the amounts seem reasonable / consistent with the purpose each party states etc.

PLDMG @