



## Child maintenance arrears

You may have a financial responsibility for a child or ex-partner who no longer lives with you. If so, you may be paying in one of several ways. You may be paying money:

- to either a child or ex-partner on a voluntary basis, to a child or ex-partner that has been ordered by the court or in a legally enforceable agreement.
- for a child to the Child Support Agency (CSA) or Child Maintenance Service (CMS).

If you fall into arrears with these payments, the consequences are different depending on the way you're paying.

If you fall into arrears of voluntary maintenance payments, your partner could take court action against you.

If you fall into arrears of maintenance arranged by the CSA or CMS or in a legally enforceable agreement or ordered by the court, the consequences could be very serious. It's important to sort out these debts before you deal with other debts that you might have, for example, like credit card or catalogue debts, loans or overdrafts.

This fact sheet tells you what can happen if you get into arrears of maintenance arranged by the CSA or CMS or in a legally enforceable agreement or ordered by the court.

## Child Support arrears

If your financial circumstances change and you don't think you can keep up your child maintenance payments, or you think the payments are no longer reasonable, you should contact the CSA or CMS as soon as possible. Ask them to re-calculate how much you should be paying and send them a copy of a [budget sheet](#) to show them your financial circumstances.

If you get into arrears, the CSA or CMS will contact you and try to come to an agreement on how you will pay the arrears. Even if they don't contact you, you may want to contact them just to discuss your position. They have to follow guidelines which direct them to be reasonable when coming to an agreement. In some cases, they could accept a lump sum in full and final settlement of your arrears. In very rare cases, they could agree to write off the arrears. It's very important not to ignore any letters you get from the CSA or CMS. Get advice immediately if you don't know how to reply.

If you don't keep to the agreement, the CSA can:

- order payments to be taken from your bank account

Information applies to Scotland only



- order your employer to **deduct money from your wages**. This money will go towards paying on-going maintenance and for the arrears, or
- order payments to be made direct from your **benefit**, or
- apply to the sheriff court for a court order called a **liability order**.

You can find out more about how the CSA or CMS deals with non-payment from Child Maintenance Options at [www.cmoptions.org](http://www.cmoptions.org).

Once they have a liability order, the CSA or CMS can:

- instruct **sheriff officers** to go to your home and value belongings that could then be sold to pay off your arrears. This can only be done if the court agrees to make an exceptional attachment order. Many of your goods will be exempt from being valued by the sheriff officers
- apply to the sheriff court for extra powers to make you pay – for example, they could take money direct from your bank account to pay off the arrears. This is called a **bank arrestment**.

If the CSA or CMS still can't recover the money you owe, it can apply to the sheriff court for another court order which could **send you to prison** or disqualify you from driving. This would only happen if it knew you had the money but failed or refused to pay. If the CSA or CMS has applied for a liability order against you, you should get advice from an experienced adviser.

## Maintenance in a legally enforceable agreement or ordered by the court

When the court first decided how much maintenance you must pay, it took into account your income and outgoings. When a lawyer helped you and your partner to draw up a legally enforceable agreement this was based on your financial situations at that time.

However, your financial circumstances may change. For example, you may get ill or lose your job, or be in a relationship with someone else and have more children. If your circumstances change and you can no longer afford the amounts ordered by the court or in the legally enforceable agreement, you can apply to the court to change (**vary**) the order or re-negotiate the terms of the agreement with your ex-partner. If s/he doesn't agree to the changes you want to make to the agreement you would have to go to court to have a decision taken about what maintenance you should be paying.

You should make up an income and expenditure sheet and calculate your budget for paying the arrears then send a copy of your **budget sheet** to your solicitor. You will have to pay a fee to make your application or involve a solicitor in changing your agreement but this could be reduced or waived if you're on a low income.



If you cannot pay the arrears, the court order or legally enforceable agreement can be enforced and payment of the money demanded in a variety of ways, depending on your circumstances. The court can:

- order you to pay the arrears by **direct debit** or **standing order and freeze your bank account until you do**
- order your employer to make deductions from your wages
- instruct **sheriff officers** to go to your home and assess the value of your possessions under an exceptional attachment order. Many of your possessions will be exempt from being valued but those that aren't exempt can be sold to meet your debt
- make you bankrupt.

If you are ordered to attend a means enquiry hearing, you should get advice.

## Further help

### Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB, including those that give advice by e-mail, click on [nearest CAB](#), or look under C in your phone book.

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This fact sheet is reviewed on a monthly basis. The law changes frequently. To confirm you are looking at the most up-to-date version, download the fact sheet from [www.adviceguide.org.uk](http://www.adviceguide.org.uk) or contact your local Citizens Advice Bureau.

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