

Changes to Child Support

In a move to cut costs, the CSA system is being dramatically overhauled again and a new calculation, based on gross rather than net income, will come into force. Part of the changes include the introduction of “family based arrangements” which do not require the involvement of the CSA. However, where the CSA is involved both the Non-Resident Parent (NRP) and Resident Parent (RP) will be charged for using the service.

Before an RP can make a formal application to the CSA in respect of maintenance they must first go through the Child Maintenance Options Service. The Options Service will provide information and guidance, both online and by telephone, about how best to seek maintenance. Their role is simply to provide impartial information and support, they will not provide advice.

It seems clear that “family based arrangements” will be encouraged and these agreements can be downloaded from the Options website. However, the form itself has no obvious link to how child maintenance is calculated. The new system’s basic calculation is 12% for one child, 16% for 2 children and 19% for 3 or more children based on the NRPs gross income. There are different rates for higher tax earners and conversely other rules which can reduce liability.

The form is somewhat misleading in that it refers to payments in respect of individual children and “benefits in kind”. For example, Mr X’s liability in respect of maintenance for 2 children is £400 and so the agreement states that Mr X will pay £200 for each child. However once maintenance for the older child is no longer payable, then Mr X’s liability for the one remaining child increases to £300 per month rather than the £200 which he might have expected to have to pay. Furthermore, whilst the NRP may make further voluntary contributions in addition to the agreed maintenance payment for items such as school uniforms, etc, this is not something which the RP can claim on top of a NRP’s maintenance liability. The agreement, once it is reached, is not legally binding but rather declares that “signing this arrangement is a clear statement of our commitment to our children”.

For a fee of £25, the Calculation Service will provide an assessment under the new gross system using information provided by HMRC. Of course HMRC can only provide information which they have and the RP may be suspicious that not all income has been declared but it does at least provide a definitive figure. The use of the Calculation Service does not trigger liability but the figure provided can be used within an agreement and so this service may well be attractive to both the RP and NRP.

If a voluntary agreement cannot be reached then the RP will have no alternative other than to make an application through the CSA. In these circumstances there will be an application fee of £20 regardless of the RPs circumstances. The application can then proceed in one of two ways:

The Direct Pay Service - There are no charges attached to this service and it will consist of payments being made directly between the parents once assessment of liability has been made.

The Collection Service - If this service is used then the NRP will be charged a fee of 20% on top of their liability, whilst the RP will have 7% deducted from any payment due to them. These charges will be payable for the life of the case so, for example, where the NRPs liability is £100 per month he or she will actually have to pay £120 per month but the RP will receive only £93 per month; the £27 will go to the Treasury.

The gross scheme has new features which are different from those in the previous schemes. For example, a recalculation of liability will only be considered when the NRPs income has changed by 25%. Other changes in circumstances will however still generate an immediate recalculation, for example the NRP changing his or her job or having a new child in the household. The NRP will still receive a discount on his or her gross income where there are relevant children and there will still be apportionment where two different RPs are claiming. Pension contributions will also be deducted before the gross income is assessed.

A major change under the new scheme is that, where an NRP can prove equal care absolutely, there will be no liability for child support regardless of any disparity in incomes. Previously, even on a shared care arrangement, the parent with Child Benefit could still make a claim for child support. A further change is that where there is a dispute as to how much overnight contact the NRP has, the agency is entitled to assume that the NRP has one night staying contact a week thereby reducing their liability by 1/7.

It is questionable, however, whether the new system has gone far enough. When calculating child maintenance only earned income (whether through employment or as self employment), Tax Credits and pension/annuity payments will be included. Dividend and rental income will NOT be included nor will income from any other capital investment. In cases such as these the variation system must be used.

In conclusion, therefore, the new system maintains a level of simplicity in respect of straightforward cases, ie where the NRP is employed and paid through PAYE. Where the NRP has income from other sources, such as dividend income, then matters are less straightforward. It also seems unfair for RPs who have no choice other than to use the CSA to obtain maintenance from the NRP but are then penalised for having done so to the tune of some 7% of the amount which is awarded to them.

The new system could have gone much further than it has. There will always be NRPs who will do anything to avoid paying maintenance for their children. It is hoped that the push for agreement will avoid use of the system altogether but, in our experience, the CSA is usually only ever involved when there has been a level of dishonesty regarding income or the NRP has failed to pay maintenance. It may actually be, therefore, that the system will handle as much work as previously but with fewer staff and an inevitable result will be that yet more families will not receive the maintenance to which they are entitled.

The new system was due to take effect for new cases from October 2012 but to date it has not started.