Calculating child maintenance (for parents and children residing in England and Wales)

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Calculating child maintenance

Child maintenance can be arranged voluntarily between parents, or calculated (and, if necessary, collected) under the Child Maintenance Service (CMS), or determined by court order.

How do I calculate child maintenance?

- If the payer's income is less than £156,000 gross per annum (after deduction of pension contributions), apply the CMS standard formula. The calculation can be done on the CMS calculator: Calculate your child maintenance - GOV.UK (www.gov.uk).
- If the payer's income is £156,000 - £650,000 gross per annum, the 2023 High Court child maintenance case of *James v Seymour* sets out the following formula for one, two or three children:

1. Identify the payer's gross income (disclosed in their most recent P60 or tax return);
2. Reduce the payer's gross income by the number of children living with them: 11% for one child, 14% for two children and 16% for three or more children;
3. Deduct current pension contributions;
4. Gross up school fees and extras paid by the payer by the amount of income tax paid; this will give the

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‘Exigible Income’;

5. To the first £156,000 of the Exigible income apply the CMS formula:

- The first £800 per month: 12% for one child, 16% for two children, 19% for three children;
- For the balance over £800 up to £12,200 per month: 9% for one child, 12% for two children, 15% for three children

6. To the income over £156,000 multiply by 2.4% for a single child and 3% for each of two or three children.

7. Reduce for the number of nights the child spends with the payer each year:

- Less than 52 nights: no reduction;
- 52 – 103 nights: 1/7 reduction;
- 104-155 nights: 2/7 reduction;
- 156-175 nights: 3/7 reduction;

You should not use this formula if the payer has more than three children, earns more than £650,000 annually or primarily from unearned income, lives off capital, or needs to modify an existing child maintenance order. For variations, the maintenance should be as set out in the order and adjusted by the higher of CPI or RPI.

- If the payer’s income exceeds £650,000 gross per annum there is discretion and we will advise client on potential claims with reference to relevant case law.

For advice tailored to your circumstances, please contact our experienced legal team for a consultation. Please call us on 01202 786105 or email Joanna.Kay@la-law.com.

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