



A new system of child maintenance

Summary of responses to the consultation

May 2007



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Presented to Parliament by
the Secretary of State for Work and Pensions
by Command of Her Majesty
May 2007

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Ministerial foreword



Our White Paper last December laid the foundations for a fresh start for child maintenance in this country. It built on the recommendations from Sir David Henshaw in setting out a new approach that would empower parents to take responsibility for making their own maintenance arrangements but provide radically strengthened enforcement powers to chase down those who fail to pay. It proposed a simpler, more accurate and transparent process for assessing child maintenance payments and, crucially, a new organisation – the Child Maintenance and Enforcement Commission (C-MEC) – to replace the existing Child Support Agency.

These changes represent a fundamental redesign of the child maintenance system. They remove the barriers that have too often in the past prevented parents from reaching private settlements. They offer new and radical enforcement powers, including the imposition of curfews, surrendering of passports and the piloting of mandatory withholding of wages as the first means of collecting maintenance. And through the creation of C-MEC, they ensure that the legacy of previous failings will not undermine the effectiveness of the new system. C-MEC will not just be a radically different delivery body but it will have a wider role with primary responsibility for all aspects of operational policy. It will have the flexibility to innovate and to adapt its policies in the light of developing experience. And it will mark a clean break with the past.

I'm grateful to all those who have submitted responses and attended our consultation events. The broad level of support for our reforms shown in this document is very encouraging. But it is equally important, that we recognise areas where we need to go further in addressing remaining concerns and consolidating the emerging consensus around the detail of our proposals. One such area is around measures to promote joint parental responsibility. The Government intends to come forward with proposals on joint birth registration in England, Wales and Northern Ireland, but they will first be subject to future consultation and will not form part of the forthcoming legislation to reform the child maintenance system. The Government will only legislate on this issue when it is sure that robust and effective safeguards can be put in place to protect the welfare of children and vulnerable women.

We are, I believe, at a critical point in the reform of child maintenance in the UK. We must now take this opportunity to realign policy with the reality on the ground; to deliver a system that offers better value for the taxpayer – and most importantly of all – to use this new child maintenance system to tackle child poverty much more effectively, properly meeting the needs of the children and parents with care who depend upon it.

A handwritten signature in black ink, appearing to read 'John Hutton', written in a cursive style.

Rt Hon John Hutton
Secretary of State for Work and Pensions
May 2007



Introduction

Introduction

Background to the child maintenance White Paper

1. The child maintenance White Paper, *A new system of child maintenance*, was published on 13 December 2006.¹ It set out the Government's proposals for the fundamental redesign of the child maintenance system, following recommendations made by Sir David Henshaw in July 2006.²
2. The proposals in the White Paper are far-reaching and ambitious, but necessarily so. While many parents and their children do benefit from maintenance payments and the services offered by the Child Support Agency, the reality is that the current system has not delivered anywhere near what was expected of it.
3. The White Paper recognised the need for improvements on two fronts – what is offered to parents and how it is offered. It sought to address these two issues by recommending that an improved, client-focused policy framework be put in place to empower and enable parents to make their own maintenance arrangements, backed up by a more effective process for assessing, collecting and enforcing payments. A new organisation – the Child Maintenance and Enforcement Commission (C-MEC) – would replace the Child Support Agency. As well as being a provider of assessment, collection and enforcement services, C-MEC would be responsible for the commissioning of information and support for parents.
4. The reforms have been guided by four clear principles: tackling child poverty; promoting parental responsibility; providing a cost-effective and professional service; and ensuring simplicity and transparency. The Government believes that, as a result of the proposals in the White Paper, the child maintenance system would meet these key objectives much more effectively than is currently the case.
5. In particular we consider that the new policy framework and delivery arrangements would provide more money to more children and help tackle child poverty – our first and most critical test for reform. In their responses, many stakeholders welcomed the Government's focus on ensuring that the reform of the child maintenance system is directed at achieving this goal.

“There is a much greater role for child support policy in reducing child poverty, we are pleased to see the Department for Work and Pensions place this centre stage in principles and plans to overhaul child support.”

Child Poverty Action Group

“One Parent Families agrees that tackling child poverty is a top priority.”

One Parent Families

“Refuge agrees that a central priority for the work should be supporting families and tackling child poverty.”

Refuge

The purpose of this report

6. The Government recognises the importance of listening to, and engaging with, stakeholders in order to benefit from their expertise and experience. Over the past year, many individuals and organisations have contributed their thoughts and ideas to the redesign of the child maintenance system. This includes during the run-up to the publication of Sir David Henshaw’s recommendations and as part of an informal consultation exercise following the Government’s initial response to his report.³
7. This report captures the key issues and ideas that have been raised in response to the White Paper itself. The White Paper put forward a number of questions to help respondents shape and prepare their responses. Inevitably, there were many other areas where stakeholders wanted to comment and these are also reflected in this report. The report summarises how the comments and suggestions have influenced our proposals and how we intend to take them forward. It does not include every point raised or every quote from each organisation, but we have read and considered every response to ensure that this report provides a fair representation of the feedback.
8. During the consultation period, the House of Commons Work and Pensions Select Committee also conducted an inquiry into the proposals contained in the White Paper. The Select Committee’s report, which put forward a total of 35 recommendations, was published on 15 March 2007.⁴ The Government’s response to the Select Committee has been published alongside this report.⁵



Chapter 1

Consultation summary

Chapter 1: Consultation summary

- 1.1 Stakeholders were consulted early on in, and throughout, the policy development process. In considering what might be the most appropriate arrangements, Sir David Henshaw drew on contributions from, and the expertise of, a wide range of stakeholders.⁶ Moreover, following its initial response to Sir David, the Government ran an informal consultation exercise, seeking views on the broad principles of the proposed system. The responses to this were summarised in the White Paper.
- 1.2 The formal consultation period for the White Paper ran from 13 December 2006 to 13 March 2007. There were three ways for people to respond: by post; by telephone, via a dedicated telephone line; and by e-mail, through a dedicated e-mail address that could also be accessed via the Department for Work and Pensions website. In addition, people were able to provide feedback to us via the Work and Pensions Welfare Reform blog.
- 1.3 We received nearly 200 responses in total from a variety of stakeholders, including parents and staff at the Child Support Agency. A breakdown is provided in Table 1.1, and Annex A lists the organisations that responded. We are grateful to all those who contributed.

Table 1.1: Volume of responses

	Telephone	Letter	E-mail
Interest group		1	32
Parent with care	5	5	20
Non-resident parent	8	7	46
Non-resident parent's new partner			10
Client (not known)			1
Child Support Agency staff			15
Public		5	25
Other		2	9

Seminars and discussions

- 1.4 The Department for Work and Pensions facilitated and participated in a number of events, seminars and one-to-one discussions to gather feedback on the policy proposals.
- 1.5 On 30 January 2007 we held an event at the Child Support Agency's Employers' Forum. Among those attending were representatives from the Institute of Payroll and Pensions Management, the Federation of Small Businesses, and HM Revenue & Customs. This event provided an opportunity to take employers through the White Paper proposals and outline

how they might affect them. The group also discussed the proposal to test withholding from wages as the first means of collecting maintenance, as part of our commitment to work closely with employers during the policy's development.



The Child Support Agency's Employers' Forum

- 1.6 In February we held our main stakeholder event in London, described opposite. In addition, we participated in the annual Department for Work and Pensions Welsh Forum in Cardiff, which brings together organisations working with, and representing, the Department's customers in Wales. We also presented to the Department's Policy and Strategy Forum in London, which involves our main customer representative groups. These events provided the opportunity to obtain feedback on our proposals from a wide and diverse range of stakeholder groups.
- 1.7 In early March we were invited to attend a White Paper workshop in Edinburgh hosted by One Parent Families Scotland. This gave us an excellent opportunity to discuss issues pertinent to Scotland and hear, at first hand, frontline advisers' experience of supporting parents through the child maintenance process.
- 1.8 Shortly after the end of the formal consultation period, departmental officials and Ministers participated in a seminar, hosted by One Parent Families, on information and support services. The event brought together academics, family practitioners and third sector organisations who, in considering what an effective framework might look like, discussed existing research, their own experiences, and lessons from elsewhere.

Box 1.1: Stakeholder seminar on child maintenance redesign

On 22 February 2007 we held our primary event for stakeholders. It provided an opportunity to update stakeholders on developments since the publication of the White Paper and for officials and Ministers to hear at first hand stakeholder's thoughts on the Government's proposals. Lord McKenzie, the Minister responsible for child maintenance, opened the event.

The areas that were discussed on the day included:

- how both parents can best be supported and encouraged to make their own maintenance arrangements, and in particular the important role of information and support services;
- the interface between the court and child maintenance systems, and the Government's proposals to move towards an administrative approach to enforcement;
- early thoughts on the customer experience under the new child maintenance arrangements; and
- cases where care of the child is shared between the parent with care and the non-resident parent. Stakeholders came forward with a variety of ideas in this area. As a result of the interest this generated, we convened a further workshop on 8 March to discuss this issue.



Lord McKenzie of Luton, Department for Work and Pensions Minister, addresses attendees

White Paper distribution

- 1.9 The child maintenance White Paper was available in a variety of formats, as was the accompanying Regulatory Impact Assessment. We distributed over 1,300 copies of the White Paper, in addition to those that people may have downloaded directly from our website.

What you told us

- 1.10 Stakeholders provided a wide range of views on the proposals in the White Paper. Overall, there was strong support for our proposal to give parents more choice over their maintenance arrangements, although there was some concern that, as a result, there may be a shift in the balance of power between parents. In that context, there was a clear recognition of the importance of information and support being widely available. Stakeholders also welcomed our proposal to extend, and subsequently increase, the disregard of maintenance in benefit, but called for the changes to be implemented earlier.
- 1.11 With respect to the delivery of child maintenance, there was support for our proposal to create the Child Maintenance and Enforcement Commission (C-MEC) and for the framework of objectives and principles that it would operate within. Stakeholders also supported our proposed principles for moving to the new arrangements, although they emphasised the importance of effective information and support being available in the run-up to and during the transition process.
- 1.12 Stakeholders generally supported our focus on simplifying the assessment process further, including greater use of information available from HM Revenue & Customs and fixed-term awards. There was, however, significant concern about setting the tolerance level at 25 per cent for situations where current income differs from the relevant tax year. Moreover, some stakeholders were also concerned that using gross, rather than net, income as a basis for assessment would impact adversely on some parents. Stakeholders also came forward with a variety of proposals for cases where care is shared between the two parents, ranging from maintaining the status quo to abolishing the rules completely.
- 1.13 There was some support for the Government's proposals to streamline and strengthen the collection and enforcement processes. Some stakeholders did, however, question whether the existing powers available to the Child Support Agency are used often enough to warrant new compliance measures. There was also some concern about our proposal to shift to an administrative approach to enforcement. Many respondents raised the question of human rights implications and sought reassurance that staff would be sufficiently well trained and accredited to administer this approach. In addition, many stakeholders focused on our proposal to publicise successful enforcement activity, and highlighted the importance of protecting the welfare of the child.
- 1.14 The following chapters discuss these themes, and other issues, in more detail. A summary of our policy approach following the consultation is provided opposite.

Box 1.2: Summary of key proposals for reform

We want to promote a greater degree of parental responsibility and choice, by encouraging and helping parents to come to their own child maintenance arrangements and by removing disincentives that may prevent them from doing so. We will:

- bring forward legislation to end the requirement that parents with care claiming benefit be treated as applying for child maintenance;
- by the end of 2008, extend the current benefit disregard to cases on the original child maintenance scheme, so that all parents with care claiming benefits can keep the first £10 a week of maintenance where it is being paid;
- from 2010–11, increase significantly the amount of maintenance that all parents with care on benefit can keep before it affects the level of benefits they receive; and
- provide both parents with improved information and support services so that they are able to come to an informed choice about their child maintenance arrangements.

The Government will come forward with proposals on the joint registration of births in England, Wales and Northern Ireland, which should first be subject to future consultation. The Government will only legislate on this matter when it is sure that robust safeguards can be put in place to protect the welfare of children and vulnerable women.

We believe that it is vital to provide a more accessible, reliable and responsive service for clients, and to deliver a fresh start for the delivery of child maintenance arrangements. To do this we will:

- create a new body to deliver child maintenance – the Child Maintenance and Enforcement Commission (C-MEC);
- establish C-MEC as a Non-Departmental Public Body, operating at arm's length from government; and
- enable C-MEC to take the lead in developing the detailed approach to moving existing cases over to the new system.

We want there to be a simpler, more accurate and transparent process for assessing child maintenance payments. To this end, we will:

- use the latest available tax-year information as the basis for calculating a child maintenance liability, unless current income differs by at least 25 per cent;
- move to a system of fixed-term awards of one year, with some exceptions for significant changes of circumstance only, with the income used to work out the liability updated each year;

- use gross, rather than net, weekly income as the basis for calculating maintenance liabilities. The percentage rates of income that are payable for each child will be reduced, with a further reduction in these rates for higher rate taxpayers at around the point at which the higher rate of income tax becomes applicable for many taxpayers;
- increase the flat rate of maintenance paid by, among others, most non-resident parents on benefit from £5 to £7 a week; and
- improve shared care procedures, reflecting parental agreements on shared care where these have been made, and introducing an interim decision in cases where parents have agreed to share care but have yet to work out the precise pattern. The overall effect will be that cases can be administered more quickly.

We want to provide C-MEC with the tools to establish reliable collection as quickly as possible, and to take firm enforcement action at the earliest possible opportunity against non-resident parents who do not fulfil their responsibility to pay maintenance. We will:

- bring forward legislation to pilot withholding from wages as the first means of collecting maintenance;
- remove the requirement to apply to the courts for a Liability Order before proceeding with enforcement action, and replace it with a swifter and more effective administrative process;
- make much more use of information drawn from financial institutions and credit reference agencies in order to trace non-resident parents and collect and enforce maintenance;
- seek powers to collect directly from accounts held by financial institutions;
- enforce the surrender of a non-resident parent's passport or impose a curfew on them if they fail to pay maintenance;
- publish, in suitable cases, the names of non-resident parents who are successfully prosecuted, or who have a successful application made against them in court; and
- bring forward legislation so that C-MEC would have the power to charge for the use of its services.

We consider that it is important to increase our efforts to collect and reduce debt. We will:

- negotiate settlements where a non-resident parent makes a reasonable offer to pay an amount which is less than the full amount of debt owed on the understanding that it is accepted in full and final settlement of the entire debt. Where the debt is due to the parent with care, C-MEC will only accept an offer where the parent with care has agreed;
- explore the potential for selling debt. We are undertaking a commercial evaluation of the debt in order to understand how this might work in practice; and
- seek powers to tidy up historic debt by writing it off in very limited circumstances, to enable the off-setting of child maintenance liabilities, and to recover arrears from the estate of a deceased non-resident parent.



Chapter 2

A new focus – encouraging parents to make their own arrangements

Chapter 2: A new focus – encouraging parents to make their own arrangements

What the White Paper proposed

To promote a greater degree of parental responsibility and choice, encouraging and helping parents to come to their own child maintenance arrangements and removing disincentives that may prevent them from doing so, by:

- bringing forward legislation to end the requirement that parents with care claiming benefit be treated as applying for child maintenance;
- by the end of 2008, extending the current benefit disregard to cases on the original child maintenance scheme, so that all parents with care claiming benefits keep the first £10 a week of maintenance where it is being paid;
- from 2010-11, increasing significantly the amount of maintenance that all parents with care on benefit can keep before it affects the level of benefits they receive; and
- ensuring that the new child maintenance system provides parents with better access to information and support and links them to high-quality products and services to enable them to make informed decisions.

The White Paper also set out that the Government would come forward with proposals on joint birth registration in England, Wales and Northern Ireland, which should first be subject to future consultation.

Encouraging parents to make their own arrangements

What you said

- 2.1 Stakeholders welcomed the Government's proposal to give parents more choice over their child maintenance arrangements by ending the requirement that parents with care claiming benefit be treated as applying for child maintenance.

"We support the proposal to abolish the requirement placed on parents with care to claim child support if claiming an out-of-work benefit."

One Parent Families

"It is excellent to abolish the rule that 'parents with care' on benefit are automatically treated as claiming from the CSA."

Families Need Fathers

"Encouraging parents to make their own arrangements is also welcome..."

Resolution

"...we welcome the proposals that empower parents to take responsibility for making their own maintenance arrangements."

GMB

"In particular we believe the decision to bring forward legislation ending the presumption that parents with care claiming benefits will be applying for maintenance is the right one."

Barnardo's

"We welcome the abolition of the 'requirement to co-operate'..."

One Parent Families Scotland

"The approach of encouraging parents to take the lead in making arrangements for child maintenance is commended."

The Justices Clerks Society

"We fully support the removal of the requirement to make a maintenance claim through the CSA by a parent with care who claims Income Support or income-based Jobseeker's Allowance."

Law Centre (NI)

- 2.2 There was, however, some concern that, by ending this requirement, many parents would be unable to make a consensual and stable maintenance arrangement, or that parents with care would be pressured into an outcome that is unsatisfactory to them. Similarly, respondents urged caution about underestimating the number of parents who would need help and support to make their own arrangements.

“Parents with care must have a clear choice to go to C-MEC if they want, without being pushed into making voluntary arrangements that are unsatisfactory. The losers in this situation would be poor children.”

One Parent Families

“...where domestic violence has occurred, this emphasis on reaching voluntary agreements could result in women being pressured into reaching agreements which they are not sure about, for fear of being labelled ‘unreasonable’.”

Rights of Women

“The move towards private arrangements may therefore shift the power balance against parents with care (predominantly women) in favour of non-resident parents (predominantly men).”

Child Poverty Action Group

“We are concerned that a parent with care will settle for too low an amount in order to reduce conflict with their ex-partner.”

Parentline Plus

“Given the power imbalances that exist within many families, agreements may be reached which favour the non-resident parents above the parent with care, which would do little to ease the income poverty levels within lone parent families.”

End Child Poverty Network Cymru

“There will, nevertheless, always be families who require considerable support in order to reach and maintain amicable, fair arrangements, as well as those who will need protection from harm.”

Refuge

How the Government will take this forward

- 2.3 The Government welcomes the positive reaction to this proposal. It continues to believe that this is an important change to make in order that parents are encouraged to take responsibility for arranging child maintenance. We will therefore bring forward legislation to implement this change.
- 2.4 We understand stakeholder concerns that some parents will not be able to make arrangements that meet their own needs. In addition, recent research published by the Department also highlights the importance of not underestimating the number of people who may require help and support.⁷ The research also identified, however, that factors such as low levels of trust between parents can potentially be addressed.
- 2.5 Our overall intention is to maximise the number of children covered by maintenance arrangements. As such, our proposals are not designed to push either parent into a

maintenance arrangement that does not suit them or that they are unhappy with. We want to support and empower as many separated parents as possible to make some form of stable maintenance arrangement, wherever it is possible to do so. What matters most is getting the right arrangement for the children concerned.

- 2.6 We are therefore clear that this change has to be delivered in conjunction with the provision of effective information and support services, as described later in this chapter. There also needs to be a robust and visible administrative body in place that parents can turn to, and access directly, to assess, collect and enforce maintenance where necessary. That way, both parents would be able to make an informed choice about the arrangements that suit them best, and do so with the confidence that help will be available where this is not possible or where arrangements break down.

Incentivising parents to make their own arrangements

What you said

- 2.7 Stakeholders supported our proposal to extend the £10 a week maintenance disregard to all cases on the original child maintenance scheme by the end of 2008. Similarly, they supported our intention to increase significantly the amount of maintenance that all parents with care on benefit can keep before it affects the level of benefits they receive from 2010–11. Stakeholders did, however, call for these changes to be implemented sooner, particularly given the focus the White Paper placed on tackling child poverty.

"We support the move to ensure that more of the maintenance paid goes to the children..."
Families Need Fathers

"OPF is pleased at the belated extension – from 2008 – of the £10 maintenance disregard to parents with care on benefit under the pre-2003 scheme. However, we consider that the very welcome proposal to introduce a 'substantially higher' disregard should be brought forward from the intended date of 2010/2011."

One Parent Families

"While we welcome the Government's commitment to increase the disregard 'significantly' it is disappointing that parents with care won't see the benefit of that measure for another three years or so."

GMB

"We agree that tackling child poverty is a top priority, and welcome proposals for the child maintenance disregard to be extended. However, the failure to implement the £10 disregard for parents until 2008 or the 'substantially higher' disregard until 2010/11 is a further betrayal of parents who should have benefited in 2003."

One Parent Families Scotland

"...it is encouraging that PWCs will receive a higher disregard than the current £10 per week."

National Association for Child Support Action

"We strongly support the 'significant' increase to the disregard. CPAG calls for this to be full, a significantly larger increase will have a direct improvement for children."

Child Poverty Action Group

How the Government will take this forward

- 2.8 The Government welcomes the support for this proposal. We consider it to be a key change so that more children can benefit from the maintenance that is paid and to provide a stronger incentive for parents with care to seek, and non-residents to pay, maintenance.
- 2.9 We recognise that many respondents would like these changes to be introduced earlier. As we set out in the White Paper, ending the requirement that parents with care claiming benefits be treated as applying for child maintenance will free up resources in Jobcentre Plus, thereby enabling it to apply the disregard and provide appropriate links to information and support for parents claiming benefit. This change will therefore be implemented by the end of 2008.
- 2.10 In the White Paper we said that we would need to undertake further analysis to understand the effect that a significantly higher disregard might have on incentives to work, alongside its impact on administrative burdens and its potential contribution to tackling child poverty directly. In February 2007 we published a review of international evidence on the effects that a higher child maintenance disregard may have on work incentives and employment rates.⁸ The research, while informative, did not provide conclusive evidence on the impact of a higher disregard in a UK context.
- 2.11 Given that there is little conclusive empirical evidence, we want to take forward more analysis in this area. Therefore, we are commissioning a piece of work to model, in the context of the child maintenance system in the UK, the impact of different disregard levels on work incentives. We anticipate that this will be published in the autumn.

Helping parents to make their own arrangements

What you said

- 2.12 The White Paper was clear about the importance of help and support being available to both parents to help them make an informed choice about seeking, and coming to, stable maintenance arrangements. In the White Paper, we asked how we could best encourage both parents to access support services, and how, if we were to introduce it, a register of private arrangements could be made an attractive prospect for parents.
- 2.13 Stakeholders responded positively to the importance we attached to information and support. Responses highlighted the need for the Government to work closely with external organisations and to ensure that services are not delivered in isolation from other support that is available during the process of parental separation. Stakeholders put forward a number of ideas and suggestions about the principles that should underpin any help and support and how they might be structured. These are summarised in paragraph 2.18.

“The Society agrees that the involvement of bodies such as the DWP, Local Authorities, Jobcentre Plus and voluntary agencies is crucial to this process.”

The Justices Clerks Society

“...we welcome the emphasis on looking at support services which provide support for parents across the range of issues which may come up in respect of family break-up including residence, access and child care – child maintenance is seldom an issue which families think about in isolation.”

Barnardo's

“Given the increase in choice that the new system of child maintenance will offer parents, it is crucial that a high degree of quality information, advice and support is offered to parents to enable them to decide on the most appropriate method for them to secure a child maintenance agreement that works.”

Law Centre (NI)

“Support services need to be put in place for parents making their decisions to ensure that they receive all the help, information, guidance and understanding that they need and demand.”

End Child Poverty Network Cymru

“Agreements between parents are only likely to be made where information and guidance services are available.”

Resolution

“The new C-MEC should think quite radically about its philosophy if it is to achieve a larger proportion of parents reaching their own agreements. A part of that philosophy should be to provide useful advice and information to service users, as identified in the White Paper.”
National Family Mediation

“The Magistrates’ Association supports proposals to stress the value of paying maintenance. Simple, easily available information for parents is essential.”
The Magistrates’ Association

- 2.14 The White Paper was clear about the value the Government places on working with external organisations in the design and delivery of information and support services. Many third sector stakeholders questioned whether sufficient capacity exists to help deliver these arrangements. Their concern centred mainly on the effectiveness and scale required, and reference was made to the current shortage of information and support available to both separating and separated parents.

“It is clearly questionable as to whether existing services would have the capacity to undertake additional tasks of the potential magnitude proposed here within their existing structures.”

End Child Poverty Network Cymru

“However, the sector is, as a whole, under-funded and over-stretched.”
Rights of Women

“Advice services both in the statutory and voluntary sector are currently over-stretched...”
Barnardo’s

“Advice NI believes that the advice sector can assist Government fulfil its advice and guidance role, however this role will have to have adequate resources attached to it.”
Advice NI

- 2.15 Respondents’ views varied on the proposal for a register of private arrangements. Many stakeholders acknowledged that it could provide reassurance and support to parents when they make their own arrangements. However, some stakeholders questioned whether a register would add value and asked, if it were introduced, whether C-MEC would enforce a private arrangement if it subsequently broke down.

“Thus we welcome the proposal to introduce a register where private arrangements will be recorded, and careful monitoring will be visible.”

National Association for Child Support Action

“We are supportive of the piloting registration suggested in the White Paper...this could have both a symbolic effect of laying out terms and the practical benefit of enabling speedy resolution of disputes since it would be clear what initial terms had been agreed.”

Child Poverty Action Group

“Moving towards a register of private maintenance agreements, with monitoring, should go some way to help ensure that parents with care do receive the financial assistance that they and their children are entitled to...”

End Child Poverty Network Cymru

“OPF has limited faith in a register of private agreements as a means of increasing the flow of maintenance payments to children.”

One Parent Families

“The Society believes that private maintenance agreements should be enforceable.”

The Law Society of England and Wales

“We recommend further consideration be given to the need to record private maintenance agreements in some form.”

Law Centre (NI)

“...it is vital that a register of agreements is in place, so that in the event of breakdown the specifics of the arrangements can be examined.”

Rights of Women

“If private maintenance agreements are to work, there must be some form of registration of these agreements with C-MEC for enforcement purposes, should payment fail to be made.”

Resolution

How the Government will take this forward

- 2.16 The Government takes the provision of information and support in the reformed child maintenance system very seriously. In order to deliver the outcomes we want – in particular to lift more children out of poverty – we are clear that there must be products and services available that encourage and support parents to establish maintenance arrangements.
- 2.17 In the period since we published the White Paper, we have actively sought to gain a better understanding of existing provision of information and support services in the third sector. We have held a number of meetings with stakeholders that have an expertise in this area, including Gingerbread, One Parent Families, Parentline Plus and Citizens Advice. We have

also visited some of their services to see, at first hand, how they operate. As described in paragraph 1.8, officials also participated in a seminar hosted by One Parent Families that looked specifically at how parents can be supported to make their own maintenance arrangements.

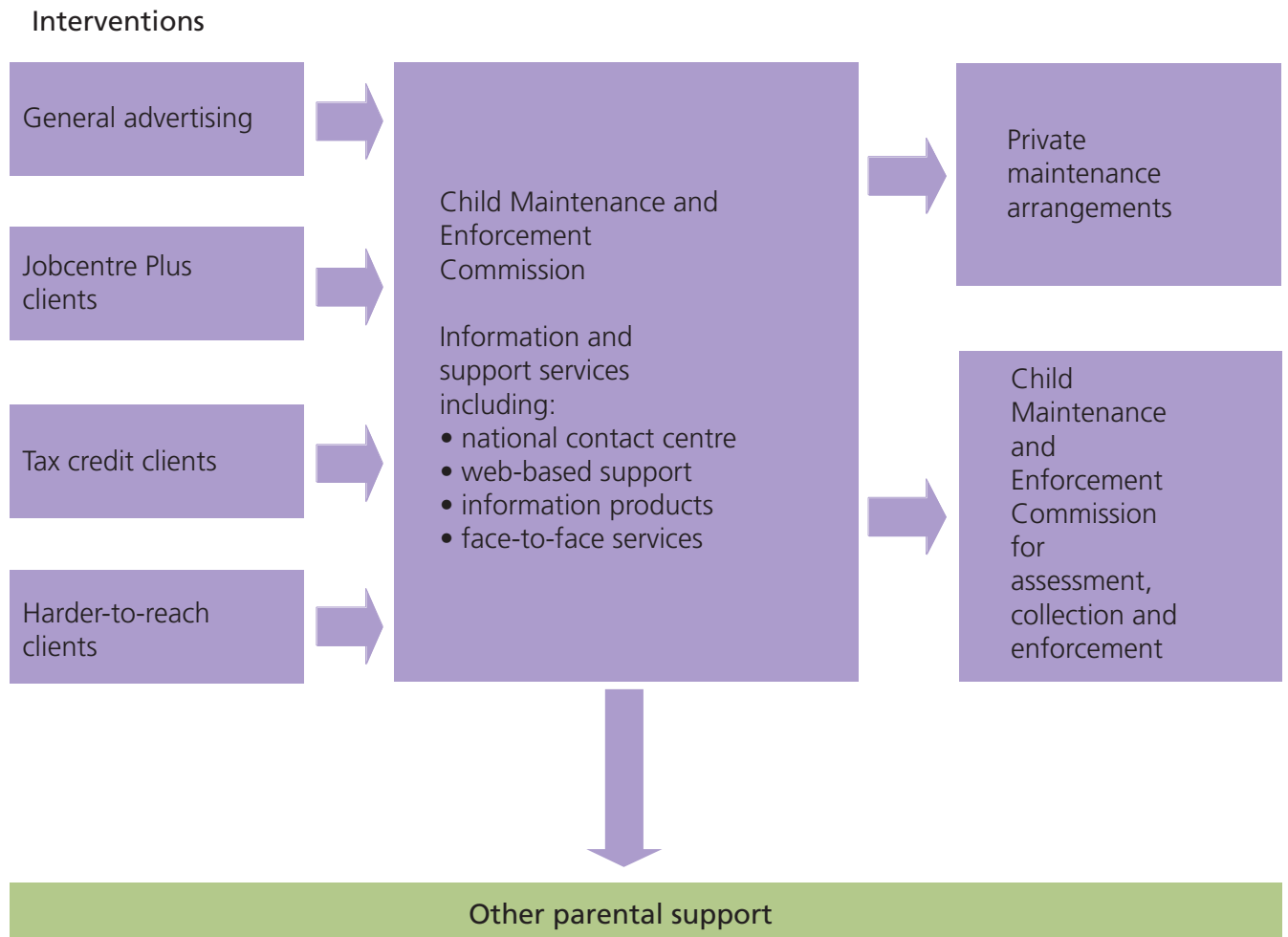
2.18 Respondents gave a number of informative ideas about how information and support services might be structured and delivered. In particular, they made reference to the importance of:

- providing both universal and targeted services;
- parents being able to access help by various means, such as face-to-face meetings (which might include mediation), interactive support and helplines;
- services being non-judgemental, independent and impartial, so that parents can take rational decisions;
- parents and children being aware of the services on offer and, when they are used, services being affordable and available when needed; and
- working closely across government and making use of other sources of information that were not explicitly mentioned in the White Paper, such as the legal profession, libraries, schools and general practitioners.

2.19 We are grateful for these thoughts and suggestions. They highlight the importance of a wide-ranging, joined-up approach. It has reinforced our understanding that it will be important to provide a trusted service that can be accessed by, and is genuinely helpful to, both parents.

2.20 In order that we can understand more fully what services separated or separating parents require, we will carry out additional research that will help in the development of information and support services. The research will help us to understand the key interventions that will need to be in place to support parents to come to maintenance arrangements. It will also provide further insight about how these should be tailored to meet a wide range of customer needs.

2.21 In light of the input we have received, we are now in a position to outline the information and support we would expect C-MEC to commission or provide, and how the service fits alongside C-MEC's role as an assessor, collector and enforcer of maintenance. We envisage that the information and support services will retain close links with the assessment, collection and enforcement services, albeit having a more clearly impartial status supporting the parents' chosen methods of reaching maintenance agreements. What is important is that both parents can get equal access to impartial, high-quality information and support that will help them reach and make suitable decisions. Figure 2.1 illustrates how this approach might work.

Figure 2.1: An overarching model for an information and support service

2.22 Our current thinking is that the overall service would be open to all parents who need help and support in establishing and maintaining child maintenance agreements. As the figure illustrates, the central aspect of the overall service we would expect to be provided would be a national contact centre (i.e. helpline) with web-based support. We expect this service to be run primarily through a mix of private and third sector resources.

2.23 We are not envisaging that the contact centre would be in place to answer any detailed, specific issues about a person's case if they used C-MEC for assessment, collection or enforcement purposes. The sorts of issues we would expect a national contact centre to cover would include:

- encouraging any separating couple to consider maintenance as a critical issue to be resolved at as early a stage as possible;
- helping empower either parent to initiate, debate and resolve maintenance issues with their ex-partner;

- helping either parent understand what a ‘reasonable’ level of maintenance might be in their case;
- helping either parent understand the pros and cons of different methods of arranging maintenance given their circumstances, for both newly separated parents and existing Child Support Agency clients during the transition process;
- linking people up with the appropriate products once they have made a decision about suitable routes for maintenance; and
- providing support to either parent when private maintenance arrangements go wrong or need renegotiation.

2.24 Given our overall objectives, we particularly want to encourage access to these services by low-income families in and out of work. We believe that there are important proactive intervention points (illustrated at the far left of the figure) that are already clearly identifiable, such as parents being clients of Jobcentre Plus or eligible for tax credits. We are currently working to develop mechanisms that will help C-MEC reach people and bring them into these services.

2.25 We would also expect C-MEC to back up these services with high-quality information products covering a wider range of separation issues. In particular, we believe there may be merit in developing a standard maintenance agreement form and a guide for parents.

2.26 The Government recently made clear a commitment to help create a new universal integrated system of help and support for parents by 2010-11 and to provide a gateway to the wide range of support on offer to parents through the third sector.⁹ It is sensible to link up some of the existing provision used by separating or separated parents to ensure that those services are more user-friendly. Having services that are accessible across different outlets without cohesion is unhelpful for parents. Therefore, we would expect C-MEC to work closely with government departments to ensure that, wherever possible, parents have all their information and support needs met without their having to approach a range of outlets.

2.27 We know that many of the issues around separation are bundled together in both parents’ minds at the point of separation. We would expect C-MEC to recognise this when helping parents, and to ensure that signposted help is offered where possible while remaining focused on issues to do with putting into place reliable child maintenance arrangements for those children who have the most to gain from them.

2.28 Throughout the process of designing these services, we would want to involve third sector partners. We are clear that there remains a real lack of information and support for parents who want to manage their own finances around separation, but we also recognise the need to be realistic about the capacity of those partners. Therefore, we would expect C-MEC to work closely with the third sector in both design and delivery.

- 2.29 A register of private agreements needs to be seen as an additional, complementary element of the overall information and support service. The potential value of a register is in the extent to which it supports greater numbers of parents to feel comfortable enough to try a private maintenance agreement (and support compliance in those arrangements).
- 2.30 To try and address some of the key concerns about private arrangements, the register would need to let parents know what level their C-MEC assessment could be, provide copies of completed maintenance forms and support parents to regularise maintenance payments for their children. Registered agreements would not become enforceable if that arrangement subsequently broke down. Rather, parents would be supported and, wherever necessary, referred quickly across to the relevant part of C-MEC for arrangements to be put on a more robust footing.
- 2.31 We think the arguments for and against a register are fairly well balanced. Some consultation respondents to the White Paper believed a register would be well used, offer further help in re-balancing the negotiating power between parents, and have a wider symbolic importance for parents by formally recording their financial commitment to their children. Other respondents thought very few would use the register and suggested it could be confusing and complex for parents.
- 2.32 Since no parallel register exists elsewhere at present, there is little definitive evidence that a register would prove cost-effective and would be sufficiently well utilised. To this end, the Government believes that C-MEC should form a view as to whether it should run a register, potentially on a test basis first, to assess take-up, its cost-effectiveness and the relative stability of the agreements reached.
- 2.33 We recognise that there is still considerable work to be done on information and support and we will continue to work closely with stakeholders in developing these issues further. We are likely to want to start prototyping some of these services from spring 2008. C-MEC will provide all the key aspects of the proposed services on a national basis by autumn 2008 and will further develop this model thereafter in the light of experience.

The role of the courts

What you said

- 2.34 Some respondents disagreed with the Government's decision in the White Paper to retain the 12-month rule, whereby after a year the courts no longer have exclusive jurisdiction over child maintenance Consent Orders: instead, either parent can apply to the Child Support Agency and have the Consent Order overturned. Some respondents argued that the power to overturn Consent Orders in this manner could operate as a disincentive for parents to come to maintenance arrangements.

- 2.35 Alternative suggestions included allowing the courts to impose maintenance decisions in cases where other financial provision is being settled in court. Others felt that the courts should deal with the most complex cases, such as where there is significant challenge in establishing a person's income.

"It is the society's view that this [the 12-month rule] is a disincentive for parties to enter into such agreements..."

The Law Society of Scotland

"In cases where the court are dealing with making other financial orders, there has to be an investigation of the parties' income. In these cases, why can't the Court adjudicate on the issue of child support, when it has all of the necessary information before it."

Resolution

"...if either private maintenance agreements or Court Orders can be moved to the administrative system after twelve months this is not going to help parties reach agreement or be cost effective."

The Law Society of England and Wales

"The power to overturn could also operate as a disincentive to parents to apply for a consent order knowing that it could be overturned after 12 months by the Agency."

The Justices Clerks Society

How the Government will take this forward

- 2.36 The Government has noted representations that the powers of the courts should be significantly widened to allow them to determine and then impose child maintenance on both parents. The decision we came to in the White Paper was made because we do not want two parallel State systems operating on different principles. Neither do we want a system where parents are tied in and denied ongoing flexibility about the most suitable way for arranging maintenance. It is our view that any gains would be far outweighed by the complexities of adopting this approach. We do not want a return to the past where the courts have jurisdiction to impose child maintenance.
- 2.37 The 12-month rule helps ensure that, if court orders break down or circumstances change, children will still have the opportunity to receive maintenance because their parents will have a route into the help and support available from C-MEC. Abolishing the 12-month rule would permanently remove this option for parents who have a court Consent Order. As a result, the Government is committed to retain the 12-month rule.
- 2.38 We are, however, keen to explore ways in which we might improve the interface between the administrative system and the court system so that wider financial settlements on divorce, which may contain an element of child maintenance provision, can progress as quickly and smoothly as possible. We plan to take this work forward with interested stakeholders.

Encouraging parental responsibility – joint registration of births

What you said

2.39 We received a mixed response to our proposal that current legislation should be changed to require both parents' names to be registered following the birth of their child unless it would be unreasonable to do so. Some stakeholders agreed fully with this proposal. By contrast, others welcomed the principle of encouraging paternal responsibility but felt that a legal requirement to register the father on the birth certificate could have a harmful impact on the mother.

"One Parent Families supports the general intention to promote responsible fatherhood, which lies behind the proposal to require joint registration of births by unmarried couples but considers this aim will not be met by passing a law, where failure to comply punishes not the father, but the new mother."

One Parent Families

"We support a requirement to have both parents registered at the child's birth."

Families Need Fathers

"We support this proposal."

Jewish Unity for Multiple Parenting

"Whilst the principle of joint registration of the birth of a child seems positive, Refuge is concerned about the proposal that it should become a legal requirement, with penalties facing mothers who do not comply."

Refuge

"Forcing women to justify why they do not want to name a father on a birth certificate is not acceptable. Such an approach, rather than encouraging responsible fatherhood, would in fact penalise and potentially humiliate women."

Rights of Women

"We do not support the suggestion that unmarried fathers should be added to birth certificates without the consent of the mother."

One Parent Families Scotland

"We generally agree therefore, with the proposal to encourage joint registration of birth but have some concerns about the administration and enforcement of such a policy."

Law Centre (NI)

“The Society is concerned that this has implications for the welfare of the child in respect of the parental responsibilities and rights which will be held then by the unmarried father.”

The Law Society of Scotland

2.40 Some respondents were concerned about this proposal being taken forward in the context of reforming the child maintenance system and as part of a child maintenance Bill.

“It is unfortunate that the Government has brought this proposal forward in the context of the CSA, but nevertheless we strongly agree that a child has a right to know their parents.”

Families Need Fathers

2.41 Some respondents also called for payments of child maintenance to be linked to contact with, or access to, the children concerned.

“We propose a link be established between payment of child maintenance through the Child Support Agency/C-MEC and Court Contact Orders...”

Jewish Unity for Multiple Parenting

“There is a strong belief among NACSA members that maintenance payments and contact should be connected.”

National Association for Child Support Action

“It is agreed that voluntary arrangements should be made wherever possible and as soon after the relationship breakdown as possible and that those agreements should include proposals for reasonable contact.”

Families Need Fathers (West Midlands)

How the Government will take this forward

2.42 The White Paper was clear that the Government would only legislate on this issue if it is sure that robust safeguards can be put in place to protect the welfare of children and vulnerable women. Work on this issue is being taken forward by a cross-departmental group chaired by the Cabinet Office. Any proposals in this area will be subject to further consultation and debate.

- 2.43 To inform our thinking we have recently commissioned research that will examine the decision-making processes and help us to identify barriers and bridges with regard to joint birth registrations. It will also help us to develop a greater understanding of the characteristics of unmarried couples who currently register solely or jointly.
- 2.44 Sir David Henshaw recognised, as we do, that this is an issue of child welfare which has wider ramifications, not only for the family law system, but also across government. Such proposals, if taken forward, will not form part of the legislation to reform the child maintenance system and will not affect the timetable for moving to the new child maintenance system set out in the White Paper.
- 2.45 As far as linking child maintenance with contact is concerned, the Government will continue to treat the two as separate issues. Where relationships break down, it is vital that children's interests come first. If a court has determined that contact is best for the child's welfare, contact should take place. To withhold it because of a dispute over money is wrong, and would focus on the dispute between adults at the expense of children. Similarly, it is wrong to withhold child maintenance, which helps to meet the day-to-day needs of the child, because of a disagreement over contact.



Chapter 3

A fresh start – delivering child maintenance in a new way

Chapter 3: A fresh start – delivering child maintenance in a new way

What the White Paper proposed

To provide a more accessible, reliable and responsive service for clients, and to deliver a fresh start for the delivery of child maintenance arrangements, by:

- creating a new body to administer and facilitate child maintenance – the Child Maintenance and Enforcement Commission (C-MEC);
- establishing C-MEC as a Non-Departmental Public Body, operating at arm's length from government;
- creating the new position of Commissioner for Child Maintenance to lead C-MEC; and
- enabling C-MEC to take the lead in developing the detailed approach to moving existing cases over to the new system.

A new body to administer child maintenance

What you said

- 3.1 The White Paper set out the Government's plans to create a new body to administer and facilitate child maintenance – the Child Maintenance and Enforcement Commission (C-MEC). While a number of stakeholders welcomed the Government's intention to create a new organisation, others questioned whether such a move would mark a clean break with the past.

"BT believe that in order to realise the full potential of its aims the CSA needs to undergo a dramatic alteration. BT supports the view that to best accomplish this mission a new organisation is required."

BT

"If C-MEC are to manage existing cases, and operates with existing CSA staff and IT systems, it is difficult to understand how this can be considered a 'radical reform'."

National Association for Child Support Action

"The planned hand-over from the CSA to C-MEC is so long term and the continuities are so strong that there will be no 'fresh start'."

Families Need Fathers

"It has been clear for some time now that the current system as administered by the CSA is not performing as anticipated. We welcome the creation of C-MEC and the moves by the Government to reform the system with the aim of ensuring a more effective and efficient means of reducing child poverty and ensuring parents do take responsibility for the financial needs of their children."

Law Centre (NI)

"The C-MEC will in fact just be a re-hash of the CSA with minimal chance of improving an existing failing organisation..."

Jewish Unity for Multiple Parenting

"Although the White Paper talks of a 'clean break', in reality it would appear that the CSA (its staff and computer system) will simply be re-branded as C-MEC from 2008 onwards."

One Parent Families

- 3.2 A number of stakeholders also emphasised the importance of C-MEC being adequately resourced in order that it could carry out its role to the standard required.

"It is vital that the new Agency is properly resourced and that its staff are appropriately trained."

The Justices Clerks Society

"We do, however, believe it is important that C-MEC is well funded and resourced to deliver in practice the type of service which will most benefit families."

Barnardo's

"...we would be very concerned if the financial and staff resources required by C-MEC were not available to it."

Child Poverty Action Group

How the Government will take this forward

- 3.3 The White Paper emphasised how important it is that the legacy of previous failings does not damage the effectiveness of the child maintenance system in the future. We will therefore proceed with our proposal to create C-MEC as a replacement to the Child Support Agency.

- 3.4 The White Paper was clear, however, that the system's problems go far wider than the Child Support Agency itself. As such, our proposals for a fresh start go much further than simply establishing a new organisation. Instead, they reflect wide-ranging changes to both the policy and the delivery framework which entail not only the creation of a new and radically different delivery body, but one that will take on a wider role than ever before.
- 3.5 As outlined in Chapter 2, our new approach of giving parents more choice over their maintenance arrangements means that C-MEC will take on a key responsibility as a provider of information and support, in addition to its role in assessing, collecting and enforcing maintenance. Breaking the compulsory links to the benefits system will help C-MEC to operate at more of a distance from government, which in turn will enable it to focus on its key tasks with more freedom and flexibility and to develop services in a way that delivers the best outcomes for children.
- 3.6 In the meantime, it is important that the Child Support Agency continues to build on the recent improvements in its performance. Our investment in the Operational Improvement Plan will provide a solid foundation for the new arrangements and underlines our commitment to delivering a system that works for children. Similarly, the Government will ensure that sufficient resources and funding are in place to deliver the future arrangements.

Governance, leadership and accountability

What you said

- 3.7 The White Paper set out that C-MEC would operate within a framework of objectives and principles. It identified three particular aims for C-MEC – to help parents meet their responsibilities as a means of tackling child poverty; to encourage, empower and, where necessary, require parents to meet their obligations; and to ensure the delivery of a high-quality and efficient service. We asked if these three aims are appropriate and, by and large, stakeholders agreed that they were.

"We are encouraged by the focus on the need to help reduce child poverty through an effective child maintenance system and feel there is a healthy balance struck between the desire to help, encourage and empower parents alongside underlining their responsibilities and obligations in respect of their children present welfare and future prospects."

End Child Poverty Network Cymru

"We agree with these aims provided there is strict quality assurance of those whom receive commissioned contracts from C-MEC."

Parentline Plus

"We agree with the stated aims of the C-MEC..."

Rights of Women

"Barnardo's welcomes the objectives and principles for the new body – as laid out in the white paper – in particular the emphasis on helping to reduce child poverty and improve the welfare of children."

Barnardo's

"We support in principle the aims and objectives."

The Magistrates' Association

How the Government will take this forward

- 3.8 We welcome the support for these objectives. They will shape the way in which C-MEC develops and prioritises its services. This is particularly important because C-MEC will be free to decide on the approach taken in a number of key areas.
- 3.9 The number of maintenance arrangements will be the key indicator of C-MEC's success and, as such, maximising the number of these arrangements will be its main objective. This will be underpinned by two secondary objectives, the first focusing on encouraging and supporting parents to set up private arrangements and the second focusing on securing compliance within the statutory scheme.

Moving to the new system

What you said

- 3.10 The White Paper was clear that C-MEC should develop the detailed proposals for moving to the new system. It did, however, set out four key principles to guide the approach. These were to:
- ensure that the transition to the new regime is driven by child poverty considerations;
 - empower parents to make an informed choice;
 - minimise disruption through clear and effective communication; and
 - ensure that the approach is practical and achievable.

3.11 Stakeholders generally supported the principles for moving forward, although some sought more detail on how the transition to the new system would be achieved in practice.

"We have some concerns as to how the transition to C-MEC will be managed in practice but welcome the principles guiding the approach to transition."

Law Centre (NI)

"The Society thinks that the aims are appropriate."

The Law Society of England and Wales

"We welcome the central principle guiding the approach to transition be the focus on child poverty considerations and support for the poorest families first and foremost. This is essential if child maintenance reform is to assist the Government in seeking to achieve their goal of eradicating child poverty by 2020. We are also pleased to learn that the Government intend to learn from past experience and ensure the new approach is practical and achievable."

End Child Poverty Network Cymru

"We believe that the principles guiding the approach to transition are correct. However, we are concerned that there is too little detail about how these objectives will be achieved."

The Centre for Separated Families

3.12 Several respondents supported the principle of focusing on the poorest children first. By contrast, some felt that, in order to make the transition more achievable, moving cases on a date-order basis would be a more sensible approach.

"A balanced approach is needed. It would be a mistake, for example, to allow a 'cherry picking' approach, where the easiest cases are done first – with all the difficult ones neglected. Within this framework, we agree that the old cases with a 'nil' assessment are a very good place to start, and likely to lead to significant immediate gains for parents with care."

One Parent Families

"A simpler and arguably fairer way forward, would be to deal with the transition of cases on a date order basis."

Resolution

"One alternative would be to deal with the transition of cases on a date-order basis, so that the oldest cases are dealt with first."

The Law Society of England and Wales

"The Society suggests a more appropriate approach for transition to the new regime would be on an 'oldest orders first' basis. This would also ensure that those previously not entitled to the Child Maintenance Premium would be the first to benefit."

The Justices Clerks Society

"BT support the Government's decision to focus on the poorest families first..."

BT

3.13 A number of respondents also noted the importance of ensuring that effective information and support services are available in the run-up to and during the transition process.

"In advance of the transitional process, parents will need to be given the necessary advice and guidance, so they can determine whether or not to make a private agreement, or alternatively, to transfer to C-MEC."

Resolution

"It is essential to correctly educate the public in preparation for CMEC's arrival."

National Association for Child Support Action

"...there will be a demand for information as people become aware that a new system of child maintenance is being devised."

Advice NI

How the Government will take this forward

- 3.14 The Government welcomes the general support for the principles underpinning the transition to the new system. While we are clear that C-MEC should develop the detailed plans, we recognise the importance of working with stakeholders as it does this.
- 3.15 We plan to take forward a wide-ranging programme of research that will help C-MEC to shape its plans for transition. This includes a large representative survey across the Child Support Agency client base. The survey will enable us to develop further our understanding of the choices that existing Child Support Agency customers will make, and in particular whether they may make private, legal or administrative arrangements within the future system.
- 3.16 In addition, we have commissioned an extensive survey across the current estimated 2.5 million separated or separating parents who have a child maintenance interest, thereby capturing both Child Support Agency and non-Child Support Agency customer groups. The objectives of this research include developing a statistically representative profile of the 'child maintenance constituency' in order to inform further estimates concerning likely customer flows and where support services could be tailored to meet the needs of specific customer groups.

- 3.17 To ensure that the transition is successful, we also need to learn from the past. Previous experience in this area has clearly highlighted that the approach must not be overly ambitious, overly prescriptive or rushed. We are therefore clear that, in addition to giving C-MEC the flexibility to develop its detailed plans, an incremental approach is most likely to succeed. This is how we are moving forward: removing compulsion on benefit claimants and extending the £10 a week disregard at the end of 2008 will then pave the way for wider changes in 2010.
- 3.18 C-MEC will be responsible for developing the detailed plans and proposals for moving cases to the new arrangements. This includes which cases might move first. This may mean focusing efforts on parents with care on benefit who have nil assessments on the old scheme. Figures show that around 90 per cent of these cases are likely to have a positive maintenance calculation.
- 3.19 We recognise the importance of parents having access to high-quality information and support as we move to the new system. Parents who are currently using the Child Support Agency will be provided with key information to inform their choice over how to arrange maintenance.
- 3.20 There will be a communication programme to support parents beyond this process, starting in 2009. Communications will be developed to ensure that, at all stages of the transition, clients are kept fully informed of the choices available to them. It is envisaged that there will be a variety of communication methods used to ensure that all clients receive and understand information about the effect these changes will have on them. It will be critical to provide sufficient, relevant information to allow clients to make an informed choice.



Chapter 4

Simplifying and improving the child maintenance assessment process

Chapter 4: Simplifying and improving the child maintenance assessment process

What the White Paper proposed

To put in place a simpler, more accurate, and transparent process for assessing child maintenance payments, by:

- using latest available tax-year information as the basis for calculating a child maintenance liability, unless current income differs by at least 25 per cent;
- moving to a system of fixed-term awards of one year, with some exceptions for significant changes of circumstance only, with the income used to work out the liability updated each year;
- using gross, rather than net, weekly income as the basis for calculating maintenance liabilities; and
- once the future scheme starts, increasing the flat rate of maintenance paid by, among others, most non-resident parents on benefit from £5 to £7 a week, reviewing this, and other formula rates, at regular intervals.

The principle of simplification

What you said

- 4.1 The White Paper set out the Government's proposals to simplify the way in which maintenance is assessed so that a faster, more accurate and transparent process could apply. It asked specifically if this, combined with an exceptions regime, is the right way forward. Stakeholders were generally in favour of this approach. They recognised that it could promote understanding of how maintenance is assessed and reduce the burden on C-MEC in a way that enables it to focus its efforts on keeping money flowing to the children who need it.

“Providing a simpler assessment formula will be an important and first step in the process. We welcome this proposal.”

The Magistrates’ Association

“The IPP would welcome simplification when determining the award to the resident parent.”

The Institute of Payroll Professionals

“As a general principle the Society supports the proposal for a faster, more accurate and transparent process for assessing child maintenance payments. In particular, it welcomes the proposal to speed up the assessment process, ensure that cases are up to date and ensure that there is regular and accurate communication with parents about their assessment.”

The Justices Clerks Society

“This appears to be a sensible way forward.”

Parentline Plus

“Rights of Women would welcome a simplification of the formula, as it will enable women to understand how maintenance is calculated, compared to the current situation which is extremely complicated.”

Rights of Women

“We welcome the proposals to simplify and speed up the assessment process.”

Law Centre (NI)

How the Government will take this forward

- 4.2 The Government welcomes the support for the general principle of simplification. Although major changes were introduced in 2003 to simplify the assessment process, there are still complexities that undermine the performance of the system and make the scheme difficult to understand and administer. We made clear in the White Paper the importance of having a transparent and robust process in place for handling exceptions from the basic regime. Going forward, the Government and C-MEC will continue to review and develop the exceptional cases regime and act as necessary, to ensure that child maintenance liabilities are based on as fair an assessment of a person’s income as possible.

Treatment of income and fixed-term awards

What you said

- 4.3 The White Paper proposed basing a child maintenance liability of a non-resident parent who is in employment or self-employment on historical information from HM Revenue &

Customs. This would be based on the latest tax year for which it has details. Several stakeholders welcomed this change.

"One Parent Families is pleased that the White Paper acknowledges the need to simplify the assessment process for child support, through greater use of information on income held by HMRC."

One Parent Families

"Barnardo's welcomes the concept of introducing a simpler assessment formula for the calculations of child maintenance, particularly one that involves information which can primarily be sourced from the Inland Revenue rather than requiring information directly from the non-resident parent – since this reduces the possibility of disputes."

Barnardo's

"We support sensible simplification, such as using latest tax year information ... and having fixed one year awards except in exceptional circumstances."

Families Need Fathers

"We agree and support DWP in trying to develop links with HM Revenue and Custom to improve access to tax data..."

Child Poverty Action Group

- 4.4 Some stakeholders were, however, worried that basing maintenance assessments on retrospective income from HM Revenue & Customs and fixing awards for one year could mean that information would be out of date. As a result of this, stakeholders questioned whether a maintenance assessment would accurately reflect a non-resident parent's present circumstances and the extent to which this would have a harmful effect on either parent or on the children concerned.

"Children in separated families may end up getting less under the new formula, because the non-resident parent would be making payments based on his income up to two years previously."

One Parent Families

"The information at HMRC may be wholly inaccurate in respect of a person's financial circumstances."

Resolution

"Rights of Women has some concerns about calculating maintenance solely on the basis of latest tax returns, particularly in relation to self-employed non-resident parents as tax returns do not always reflect the reality of the father's income."

Rights of Women

"We recognise and appreciate the reasoning behind the desire to simplify the current assessment process but fear that many parents with care and their children will not get their full entitlement in situations where the non-resident parent's income increases – payment assessment being made retrospectively."

End Child Poverty Network Cymru

"Furthermore, using gross income for assessment purposes is likely to bring inaccurate assessments for the NRP because the data could be up to two years old, which could subsequently lead to a higher non compliance rate."

National Association for Child Support Action

- 4.5 In particular, respondents did not support the proposal to set the tolerance level for situations where current income differs from the relevant tax year at 25 per cent. Some stakeholders noted that this may be an even more pertinent issue for self-employed people.

"We think the proposal only to allow reduced payments if income in the current year is 25% below the previous tax year is far too draconian."

Families Need Fathers

"We consider that the proposed increase from 5% to 25% in change of income of the non-resident parent before a change of circumstance can be considered is too high."

The Magistrates' Association

"Whilst the system undoubtedly has to protect itself from being swamped with continual reviews with little change, it also has to be considered that even a difference of a few pounds per week can be 'a significant change' to a low income family."

National Association for Child Support Action

"While a 'fixed' system will provide greater clarity and simplify the process by guarding against constant changes there is the danger of generating 'considerable rough justice' as if the non-resident parent's income falls by 24 per cent he/she will still be liable to pay the 'fixed' amount until it falls by more than a quarter."

Law Centre (NI)

"The 25% plus or minus rule (by which a parent would have to show a change of actual compared to previous years income) is viewed as too high a percentage and could result in hardship to the liable parent or a loss to the parent with care."

The Justices Clerks Society

"A reduction in income of as much as 24 per cent can be very difficult for a family, and would be made even worse if they were unable to apply for a reduction in maintenance payments paid to children of previous relationships."

Barnardo's

"...there is therefore a potential for a substantial variance in earnings without any increase/decrease to the earnings assessment."

Royal Mail

"In the case of a self-employed person, income can change considerably from one year to the next."

Resolution

How the Government will take this forward

- 4.6 The Government welcomes the support for C-MEC having much closer links with HM Revenue & Customs. Under existing legislative gateways, HM Revenue & Customs shares data with the Department for Work and Pensions, and we will bring forward legislation to extend this exchange to C-MEC.
- 4.7 Employers and taxpayers (including self-employed taxpayers) have a responsibility to pass information on incomes to HM Revenue & Customs, but after a delay. For example, a person subject to the self-assessment process has until 31 January following the end of the previous tax year to submit a self-assessment return. This information has then to be processed by HM Revenue & Customs. Therefore, liabilities will be based on income that is 'out of date'. This is inherent in the use of HM Revenue & Customs data.
- 4.8 Under existing arrangements, changes in the amount of earnings are not routinely reported to the Child Support Agency and cases are not regularly reviewed. As such, the future child maintenance scheme, based on historic tax-year data, with a system of annual reassessment, is likely to calculate a liability on a more up-to-date income basis than is currently the case.
- 4.9 As we set out in the White Paper, the Government has decided that where current income differs from that produced by use of historic tax-year data by more than a certain level, current income can be used. We have carefully considered comments concerning our proposal to set such a tolerance level for income changes at 25 per cent. We consider that this strikes an appropriate balance between enabling the system to account for changes in circumstance while helping C-MEC to deliver the quality of service that the Government believes it should achieve.
- 4.10 The 25 per cent tolerance level would allow significant changes in income such as the loss of a job or a substantial change in wages to be taken into consideration, while ensuring that less significant changes do not hamper the efficiency of the new system. By way of illustration, with a tolerance level of 10 per cent, almost half of employed non-resident

parents would be eligible for an adjustment since their income is higher than the previous year, compared with less than a quarter for a tolerance level of 25 per cent.

- 4.11 To ensure that the work of reviewing cases is spread out throughout the year, our intention is that cases will be updated each year on the anniversary of the start of the case. Therefore, if there is a new application on 1 August 2010, the income used, unless the 25 per cent tolerance rule applies, is likely to be that for 2008-09 (depending on the latest tax-year data that is available). On 1 August 2011, assuming that there has been, before that date, no change of circumstances (such as the non-resident parent losing their job, or the death of a qualifying child) that has given rise to an immediate supersession, the existing calculation will be superseded by a new calculation based on the 2009-10 tax year.
- 4.12 The Government envisages that a system along these lines will apply as the default system for non-resident parents who earn income from self-employment. This will mean that C-MEC will be able to assess swiftly the appropriate level of liability. Instead of resources being consumed by the need to find out what the income of a self-employed person is, they can be used to ensure that the liability is actually met.

Using gross income as a basis for assessment

What you said

- 4.13 The White Paper set out the Government's intention to base a maintenance liability on a non-resident parent's gross, rather than net, income. A number of stakeholders commented on the effect this change might have on some non-resident parents with respect to interactions with the tax system. Some organisations also sought clarification on how pension contributions would be treated as part of the assessment.

"But given the proposal to use income tax data, it is difficult to see why the Paper proposes to use gross income, not net. The income tax allowances are designed to reflect an individual's personal financial circumstances."

Families Need Fathers

"For higher rate tax payers, they will pay a disproportionate amount of their income due to their tax band. It cannot be correct that the proportion of maintenance paid by a parent differs, depending upon the tax rate which is applied."

Resolution

"Gross pay does not take into account a person's day to day tax position. If tax was underpaid in the previous year then in the following year the Government would take more tax from the parent; they would have less take home pay."

BT

How the Government will take this forward

- 4.14 We have carefully considered respondents' views. Given the existing information flows between HM Revenue & Customs and the Department for Work and Pensions, the use of gross income is necessary if we are to use tax-year data. Since this ensures a swifter assessment of income, we have therefore decided to proceed with this proposal.
- 4.15 As the White Paper set out, because gross income is higher than net income, we will reduce the percentage rates of income that are payable for each child.
- 4.16 We have carefully considered respondents' concerns about the effect on calculations for non-resident parents in the higher-rate tax bracket. We agree that it would not be right to either parent if there were to be a substantial change in liability at the point at which we start using gross income as a basis of assessment. We have now concluded that a structure of rates which applies for all income from £200 a week to the cap on the income taken into account is inappropriate. Instead, for income from £200 to £800 a week, we have decided that the basic rate of liability will be 12 per cent for one qualifying child, 16 per cent for two qualifying children and 19 per cent for three or more qualifying children. On that part of the non-resident parent's income above £800 a week, the respective figures will be 9 per cent, 12 per cent and 15 per cent. Thus, if a non-resident parent has one qualifying child, an income of £500 a week will lead to a liability of £60 a week (12 per cent of £500). An income of £1,000 a week would give rise to a liability of £114 a week (12 per cent of £800 plus 9 per cent of £200).
- 4.17 A non-resident parent's assessable income will be reduced if they have a child living with them in their current family. The reduction will be the same as the basic rates used to calculate maintenance: 12 per cent where there is one relevant other child, 16 per cent where there are two relevant other children, and 19 per cent where there are three or more relevant other children. This reduction will apply to the whole of the non-resident parent's income, including any amount above £800 a week.
- 4.18 These rates will be reviewed during the course of each Parliament and it will be possible to amend them by secondary legislation if deemed appropriate.
- 4.19 We have decided on a change in one further area. We have decided that to keep the income cap at the same £2,000 a week figure in the future child maintenance scheme would not be right because it would mean an effective reduction of around one-third in the maximum level of income taken into account in the determination of liabilities. Instead, this cap will be imposed at £3,000 a week gross income, which is approximately the same level in net income terms. There are only around 100 cases in the 2003 child maintenance scheme where the income of the non-resident parent is affected by the existing cap.

4.20 In the White Paper, we referred to the need for more detailed consideration of the treatment of pension contributions in the gross income scheme. Because of the way that pension contributions to occupational pension schemes are administered in the Pay As You Earn scheme, we have decided that the best approach is that gross income for child maintenance liability purposes will be calculated net of all private pension contributions, whether to occupational or personal pension schemes.

The structure of the basic formula

What you said

4.21 Of those who raised comments in this area, there were mixed responses to the Government's proposal to increase the flat rate payment for non-resident parents on benefit from £5 to £7 a week.

"The move to increase the flat rate is acceptable given that no increase has been awarded since 2003. However there would need to be a safeguard against these rates being cranked up on a regular basis."

National Association for Child Support Action

"The proposal to raise the minimum payment by non-resident parents on benefit from £5 to £7 is entirely wrong in principle."

Families Need Fathers

How the Government will take this forward

4.22 The Government has considered these comments and intends to proceed with its proposal to increase the flat rate to £7 a week. As set out in the White Paper, the increase would take place once the new scheme is introduced, which the Government anticipates will be in 2010–11. Based on the Gross Domestic Product deflator, the general price level in that year will be 30 per cent higher than in 2000–01, the year in which the flat rate was set at £5 a week. We therefore believe that an increase in the flat rate to £7 a week is justified, given the actual and expected rise in prices over the ten-year period. As was also set out in the White Paper, the Government will review this, and other formula rates, during the course of each Parliament.

Split care and shared care

What you said

4.23 Under the existing child maintenance scheme, the child maintenance assessment is adjusted where a non-resident parent provides overnight care for at least 52 nights a year. Around one in five cases on the new child maintenance scheme has their maintenance calculation reduced due to shared care arrangements. Many stakeholders came forward with suggestions as to how the rules might be changed. These ranged from maintaining the status quo to abolishing the adjustment completely. Stakeholders were largely silent on the White Paper proposal regarding split care.

“OPF suggests that, in future, a high threshold should be set for altering assessments where there is shared care...[but] does not accept the proposal that where a child lives equally with both parents there should be no child maintenance.”

One Parent Families

“These rules need to be abolished. They are a barrier to shared parenting.”

Families Need Fathers

“We recommend that consideration be given to the nature of a child maintenance assessment where shared care arrangements are in place.”

Law Centre (NI)

“Resolution support the abolition of the adjustment for overnight stays.”

Resolution

“Many non-resident parents have entered into shared care arrangements and this should be taken into account when making an assessment.”

End Child Poverty Network Cymru

“It is suggested that there should only be a reduction for an average of three nights a week and that it should be 35%.”

The Law Society of England and Wales

How the Government will take this forward

4.24 We are grateful for the suggestions that have been made. The Government has concluded that the regime for shared care should largely remain as it is now. There is no consensus among stakeholders for fundamental change in the regime. There will, however, be changes to procedures. In part, these will be made to enable cases to be administered more quickly. Therefore, we propose that there should be a power to presume, for a short period, the existence of a certain level of shared care in cases where both parents have

agreed to share care but have not yet worked out the precise pattern. Once the parents have agreed the pattern of shared care, this interim decision can be changed. In this way the child maintenance system will reflect agreements between parents in this area in a forward-looking manner, rather than looking back at what has happened previously. The proposal on split care will be taken forward as outlined in the White Paper.

Non-resident parents with child maintenance responsibilities outside the new scheme

What you said

4.25 The White Paper discussed the likelihood that, under the new child maintenance system, there will be non-resident parents who support different children both under a C-MEC assessment and under a private arrangement. It set out several approaches in which maintenance liabilities could be determined in cases of this kind, and asked for stakeholder's views. On balance, stakeholders preferred an arrangement where all children whom the non-resident parent supports are recognised.

"The favoured approach would be that detailed in 4.26 [of the White Paper]. This would be the fairest and simplest approach and would ensure that account is taken of children supported under existing arrangements."

The Justices Clerks Society

"Of the approaches outlined, we feel that all the children for whom the non-resident parent has responsibility for should be taken into account when making an assessment and calculation of their liability to pay parents with care."

End Child Poverty Network Cymru

"The Magistrates' Association supports the need to recognise the total number of children supported by the non-resident parent."

The Magistrates' Association

"All children for whom the non-resident parent has responsibility should be recognised when calculating his maintenance liabilities, by using the child support formula."

One Parent Families

"Each of these options is fraught with difficulties and delineates the complexity of making rules about complex personal circumstances. Nevertheless the option outlined in 4.27 [of the White Paper] seems to allow for recognition of new and past relationships."

Tavistock Centre for Couple Relationships

How the Government will take this forward

4.26 The Government intends to follow the approach set out in paragraph 4.27 of the White Paper, with all children of a non-resident parent, whether the subject of a child maintenance scheme calculation or under private arrangements, counted under an overall assessment. The liability would be apportioned depending on the number of children of each parent with care. The proportion so calculated would determine the level of maintenance payable to a parent with care who had made an application to C-MEC.



Chapter 5

Tougher enforcement

Chapter 5: Tougher enforcement

What the White Paper proposed

To put in place a faster, stronger and more streamlined enforcement process that gives non-resident parents the opportunity to pay child maintenance while ensuring prompt and vigorous pursuit of those who fail to meet this responsibility. This would be achieved through:

- collecting maintenance more efficiently, by:
 - bringing forward legislation to pilot withholding from wages as the first means of collecting maintenance;
- taking swifter enforcement action against non-resident parents, by:
 - removing the requirement to apply to the courts for a Liability Order before proceeding with enforcement action and replacing it with a swifter and more effective administrative process;
 - examining the scope for further strengthening and streamlining of the enforcement process by removing the requirement to apply to the courts for a Charging Order;
 - exploring the scope for introducing powers to collect directly from accounts held by financial institutions; and
 - making much more use of information exchanged with, and drawn from, financial institutions and credit reference agencies in order to trace non-resident parents and collect and enforce maintenance; and
- strengthening enforcement powers to ensure that non-resident parents comply with their responsibilities, by:
 - enforcing the surrender of a non-resident parent's passport or imposing a curfew on them if they fail to pay maintenance; and
 - publishing, in suitable cases, the names of non-resident parents who are successfully prosecuted or who have a successful application made against them in court.

The White Paper also stated that the Government would not seek a power to write off debt that may appear unrecoverable, but in limited circumstances, and where it is appropriate to do so, to write off debts and revalue some overstated debts. It also proposed that C-MEC would be given the power to charge for the use of its services.

Enforcing the payment of child maintenance

What you said

- 5.1 The White Paper was clear that the non-payment of maintenance would not be tolerated and that parents who do not meet their responsibilities would be dealt with effectively and efficiently. A number of stakeholders supported this approach, our overall focus on streamlining the collection and enforcement processes and our proposal to extend the range of enforcement powers available.

“One Parent Families very much welcomes the determined thought being given to how to pursue more vigorously non-resident parents who seek to evade paying for their children.”

One Parent Families

“The emphasis around the need to pursue non-resident parents who continue to seek to evade their responsibilities in respect of their children is to be welcomed, though every attempt should be made by the new organisation to seek to find resolutions to debt collection and compliance by non-resident parents prior to legal enforcement.”

End Child Poverty Network Cymru

- 5.2 We asked in the White Paper whether there are other approaches to enforcement that we could consider. In response, several stakeholders – based on perceptions of how the Child Support Agency applies its existing enforcement powers – questioned whether additional powers were needed.

“The existing agency have all the necessary and appropriate enforcement powers, but consistently, to date, have failed to use them.”

Resolution

“Rather than focusing on new powers we believe that a better approach to enforcement would be to ensure that, unlike the CSA, C-MEC uses the powers available to it.”

Barnardo's

“CSA currently have more than sufficient enforcement powers in which to target the non compliant, and CMEC will no doubt inherit all of these. We therefore do not feel there is any requirement to extend powers further. We do however call for a more appropriate and streamlined use of the powers when necessary.”

National Association for Child Support Action

"It therefore seems appropriate at this point for the C-MEC to explore the full utilization of existing enforcement powers before further sanctions are employed."

Law Centre (NI)

"It is the view of the Society that appropriate enforcement powers are already contained in existing legislation."

The Justices Clerks Society

"...it is difficult to understand proposals in the White Paper for even more drastic measures when existing powers have not been fully used or correctly administered."

The Magistrates' Association

How the Government will take this forward

- 5.3 We consider that the ideas put forward in the White Paper, as a package, would provide a more systematic assessment, collection and enforcement process, which will give non-resident parents the opportunity to comply with their responsibilities before enforcement action is taken. We are clear, however, that the non-payment of child maintenance will not be tolerated and that it is vital that a strong and visible enforcement regime is in place to encourage non-resident parents to comply.
- 5.4 The Government will proceed with almost all of the collection and enforcement proposals that were set out in the White Paper. We have noted the comments made about the use of existing compliance measures and the merits of introducing further powers. We consider that the success of these powers should not be judged solely on how frequently they are applied but on the impact they have in discouraging non-compliance and changing the behaviour of non-resident parents. Nevertheless, figures show that the number of enforcement processes undertaken is continuing to increase. In the year to January 2007 there had been a total of 34,000 enforcement processes undertaken, compared with 25,000 in the year to January 2006: an increase of one-third. It is vital that C-MEC builds on this and uses the new powers available to be relentless in enforcing maintenance arrangements.

Withholding from wages as the first means of collecting maintenance

What you said

- 5.5 We received a number of positive comments on our proposal to pilot withholding from wages as the first means of collecting maintenance even if the non-resident parent would be willing to pay by another method. Some respondents noted, however, that this would be a new process for employers to understand and administer.

"In particular, we are keen to see the testing of 'wage withholding' as a routine method of collecting maintenance as soon as possible."

One Parent Families

"The suggested pilot of deductions of earnings orders as the automatic/first means of securing payment is welcomed."

Resolution

"We are interested to see the White Paper's suggestions for pilot studies for deductions at earnings and look forward to examining the methodology and any outcomes."

Right of Women

"The Society believes that deduction from earnings should be the norm..."

The Law Society of England and Wales

"Piloting of withholding wages – this would be a massive step and unknown territory for most employers."

The Institute of Payroll Professionals

How the Government will take this forward

- 5.6 We welcome the support for this proposal. Departmental officials have already met with a number of business representatives and will continue to do so. However, before taking this proposal forward, we will carry out research later this year, working with businesses and others, to determine the most effective way to pilot this approach. This research will inform on impact assessment to quantify more clearly the costs for employers and to ensure this approach is feasible.
- 5.7 We do not envisage including non-resident parents who are already paying maintenance in the pilot: the intention is to include only new cases. The pilot will take into account the impact on non-resident parents who are willing to pay by other means, and we will consider grounds for exempting individual non-resident parents. We will share the impact assessment and lessons learnt from piloting this approach before we consider a full roll-out.

Administrative enforcement

What you said

- 5.8 The White Paper put forward a range of proposals to shift from a predominantly court-based enforcement system to an administrative approach. We asked if this was the right

way forward. This suggestion generated a high level of discussion and interest. Many respondents were concerned about the human rights implications and sought reassurance that, if the approach were implemented, staff would be sufficiently well trained and accredited to administer it, and that adequate appeal rights would be in place.

"In the longer term, a shift to an administrative approach to enforcement may well be the correct one, allowing speedier interventions with money flowing faster to children. However, the Child Support Agency has had a very poor record in calculating accurately the debts owed by non-resident parent."

One Parent Families

"Because of the civil liberties aspects and the likelihood of C-MEC errors, the increased emphasis on administrative sanctions is wrong."

Families Need Fathers

"The Magistrates' Association does not support the proposed shift from a predominantly court-based enforcement system to an administrative system."

The Magistrates' Association

... "Rights of Women is cautious about suggested reforms over Liability Orders and Charge Orders. We do recognise that there can be delays in seeking these orders from the courts; however, we are not convinced that the solution to this is to make such orders an administrative process within the power of the C-MEC."

Rights of Women

"It is our view that the courts should be a last resort where child maintenance issues, managed by C-MEC, are disputed and only in circumstances where C-MEC has not adequately dealt with the dispute. We welcome, therefore, the administrative focus of the new system."

Law Centre (NI)

"FNF (WM) does not support removing the requirement to apply to the courts for a liability order which is considered to be a simple and swift process if employed properly."

Families Need Fathers (West Midlands)

"If staff are to have powers to directly issue deduction from earnings orders and other deduction orders – bypassing the courts in the process – it is essential that the quality of decision-making within C-MEC is to the highest standard."

Advice NI

"Proposed steps such as altering the process for enforcement to withdraw the court's role when seeking charging orders until the last step are likely to backfire."

Tavistock Centre for Couple Relationships

- 5.9 Moreover, several respondents questioned whether child maintenance assessments were sufficiently accurate to justify this change. In particular, they made reference to a report from the National Audit Office which stated that in 65 per cent of cases where a Liability Order was sought, the maintenance assessments were inaccurate.¹⁰

"That is an unacceptable level of inaccuracy upon which to argue that judicial scrutiny should be removed and without knowing what is being proposed to be established instead."
GMB

"The NAO report of 2006 confirms that 65% of liability order applications are rejected."
National Association for Child Support Action

"The National Audit Office Report of 2006 put the level of incorrect maintenance assessments at 65%. We consider this a worryingly high figure which has caused considerable problems for enforcement by the courts."
The Magistrates' Association

"The Child Support Agency has an extremely bad record for the accuracy of their assessments and thereafter, the calculation of debts owed by a non resident parent. For example, in the National Audit Office Report 2006, it was stated that in 65% of cases, the figures stated as being outstanding in the liability order application were incorrect."
Resolution

"However, the Child Support Agency has had a very poor record in calculating accurately the debts owed by non-resident parent. In 2005, the Child Support Agency Standards Committee found that in 65 per cent of cases where a liability order was sought, the assessment was inaccurate."
One Parent Families

- 5.10 We received a mixed response to our proposal for a new form of administrative deduction order whereby C-MEC could require financial institutions to pay maintenance owed from a non-resident parent's account.

"We also particularly welcome the exploration of methods to better enforce compliance among self-employed non-resident parents including, powers to require financial institutions to pay maintenance owed from a non-resident parent's account...."
One Parent Families

"With reference to the proposal for C-MEC to authorise financial institutions such as banks etc to pay maintenance from a non resident parent's account, this raises serious issues of a person's human rights."
Resolution

How the Government will take this forward

- 5.11 We have listened carefully to the views raised on our proposal to remove the requirement to obtain a Liability Order through the courts and replace it with an administrative Liability Order. We have also noted concerns about the accuracy of cases.
- 5.12 We have decided to bring forward legislation on this matter. Recent figures show that Magistrates' Courts reject less than 1 per cent of all Liability Orders for which the Child Support Agency applies. Currently the process of securing a Liability Order through the courts takes around three months. Undertaking this process administratively would reduce this time considerably and would significantly increase the speed with which enforcement action can be taken.
- 5.13 We will also proceed with our proposal to allow banks, building societies and pension providers to pay maintenance owed from a non-resident parent's account. This will be aimed primarily at those parents for whom a Deduction from Earnings Order is not feasible. We will seek a power to be able to deduct regular payments from current accounts, excluding joint and business accounts. We will also seek legislation to allow for the deduction of arrears of maintenance from, for example, savings accounts and amounts held on a non-resident parent's behalf by solicitors and conveyancers. We have already started to work with the representatives of banks and building societies on how this will work in practice.
- 5.14 In the light of comments, we have decided not to proceed with our proposal to introduce an administrative Charging Order. We were convinced by the arguments that it is right that this remains with the courts, which are better placed to consider the interests of all parties who may be affected, such as other creditors and anyone with a beneficial interest in the property.
- 5.15 However, we plan to improve the effectiveness of Charging Orders by removing the need to obtain an order from the county court before an application for a Charging Order can be made. Currently, the Child Support Agency has to obtain an order from the county court before applying to the same court for a Charging Order or Third-party Debt Order. This additional step adds several weeks to the enforcement process and notifies the liable person of the Child Support Agency's intentions, allowing them time to sell or transfer assets before a Charging Order or Third-party Debt Order application can be made. In future, an application for a Charging Order or a Third-party Debt Order will be made on the basis of the administrative Liability Order.
- 5.16 We recognise the importance of staff having sufficient expertise to make these orders. The Child Support Agency, as part of its Operational Improvement Plan, is introducing new procedures and processes and specially trained and accredited legal caseworkers. Moreover, a new account breakdown tool will be used to obtain an accurate debt picture before enforcement action is taken. We expect C-MEC to learn from this and to train staff specifically on administrative enforcement. We will also retain the current provisions that

require all discretionary decisions to consider the welfare of both the children qualifying for child maintenance and any other children living with the non-resident parent.

- 5.17 All of these provisions will have rights of appeal, but we will not allow a situation to develop where the appeals process can be used as a delaying tactic to avoid paying maintenance. Grounds for appeal in relation to Liability Orders will be closely defined, and action will proceed where those grounds are not met.

Improving the quality and amount of information available

What you said

- 5.18 The White Paper set out the Government's proposals to make much more use of information exchanged with, and drawn from, financial institutions and credit reference agencies. There were mixed reactions to this. Some stakeholders recognised that this change may help in the tracing of a non-resident parent, but others commented on the human rights implications.

"We also particularly welcome the exploration of methods to better enforce compliance among self-employed non-resident parents including, powers to require financial institutions to pay maintenance owed from a non-resident parent's account and to provide information to trace non-resident parents [and]; closer working with credit reference agencies..."

One Parent Families

"FNF (WM) does not support: the sharing of information between financial institutions and credit reference agencies."

Families Need Fathers (West Midlands)

"NACSA accept the benefits of CMEC having access to a wider range of financial institutions in which to secure relevant information about the NRP, but such searches should only be used in the case proven to involve the truly non compliant... whilst NACSA see the potential for CMEC having access to financial institutions, we would not support the proposal to place NRP information into the hands of the financial institutions for fear of misuse."

National Association for Child Support Action

How the Government will take this forward

- 5.19 The Government intends to introduce new legislation to enable limited information about non-resident parents to be passed to credit reference agencies. The aim of this proposal is to encourage compliance with child maintenance payments, as a person's payment or non-payment of maintenance could potentially positively or negatively affect their ability

to obtain credit. An evaluation to test the links between compliance with child maintenance payments and credit behaviour is being carried out.

- 5.20 Generally, a non-resident parent's details will only be shared with a credit reference agency where that person has consented to the sharing of such information. However, in circumstances where a Liability Order has been made against a person (including a new administrative Liability Order) and is in force, the person's details will be shared with or without their consent.
- 5.21 We will also include financial institutions among those who are required to provide C-MEC with the information it needs to trace non-resident parents so that it can make and enforce maintenance calculations.

Parents with care and enforcement

What you said

- 5.22 Some respondents asked whether we would be giving parents with care the power to seek their own enforcement action against non-resident parents who have not been paying child maintenance. Under existing rules, only the Secretary of State has discretion over whether or not to take enforcement action.

"...we would be interested to learn whether parents with care who decide to use C-MEC will have a right to bring private actions to enforce payment of child maintenance from a non resident parent or whether they will have to rely on the enforcement measures used by the new agency."

Law Society (NI)

"...Resolution would wish to see provisions incorporated into the new scheme, which allow a parent with care to take enforcement action where the assessment has been completed, the non resident parent has failed to pay and inadequate enforcement action has been taken."

Resolution

"One Parent Families calls for Court oversight to be strengthened in one important respect: to allow parents with care to bring their own legal action for enforcement, in circumstances where maintenance is owed and no recent enforcement action has been taken by C-MEC."

One Parent Families

How the Government will take this forward

5.23 We disagree with the view that parents with care should have the option of enforcing C-MEC-calculated child maintenance arrears through the courts. From a practical point of view, the move to administrative powers does not fit with parents with care taking on an enforcement role. Introducing a parallel set of provisions could be seen as C-MEC avoiding difficult cases, leaving parents with care, or the legal aid budget, to meet the cost of independent court cases.

New compliance measures for failing to pay child maintenance

What you said

5.24 The White Paper set out our intention to introduce two new compliance measures to help ensure that child maintenance is paid: enforcing the surrender of a non-resident parent's passport; or imposing a curfew on them. The proposals generated a large number of responses. They focused particularly on whether the imposition of such provisions would affect not only the non-resident parent but also the children concerned.

"The introduction of curfews could have an effect on contact visits with the child for example..."

Barnardo's

"...withdrawal of a passport or driving licence could be counter-productive as it could deprive the means of an income e.g. a pilot or bus driver."

Families Need Fathers (West Midlands)

"The withdrawal of a passport or driving licence may impact on either the non resident parent's capacity to work or to visit their children."

Parentline Plus

"...the withdrawal of a driving licence could adversely affect the ability to earn a living."

GMB

"To withhold a driving license, consideration would be required for the employee's work conditions."

The Institute for Payroll Professionals

"Removing driving licences may lead to loss of work and unemployment is likely to lead to child poverty."

Tavistock Centre for Couple Relationships

"The Society is not satisfied that taking away passports or imposing curfews are effective methods of enforcement."

The Law Society of England and Wales

"Fathers who must drive in order to carry out their work might even lose their jobs; the same could be true for fathers who are imprisoned."

Refuge

How the Government will take this forward

- 5.25 As we have made clear, we want to give non-resident parents the opportunity to meet their responsibility to pay child maintenance. However, where other, more direct methods of enforcement have failed, we need adequate provisions in place to encourage compliance from those who wilfully refuse to pay child maintenance. In that respect, these provisions would be imposed very much as a last resort.
- 5.26 We have noted respondents' concerns that the imposition of these provisions may affect the ability of a non-resident parent to earn a living, for example, and hence pay maintenance to their child. We set out in the White Paper that we would continue to ensure that, in deciding whether to use a power, the impact on factors such as ability to earn would be taken into account.
- 5.27 Moreover, having a wider suite of provisions to choose from would, in effect, reduce the chances of a child being adversely affected, while strengthening the message that the non-payment of maintenance is a serious matter. After reflection, therefore, we consider that the new provisions strike the right balance between the need for tough enforcement and not damaging the interests of the children concerned.
- 5.28 The Government will therefore proceed with new legislation to enable curfews (enforced by a system of electronic tagging) to be imposed against non-resident parents where a court finds that they have wilfully or culpably failed to pay child maintenance.
- 5.29 Similarly, we will bring forward legislation to enforce the surrender of a non-resident parent's passport. We will do this by an administrative decision but, in doing so, there will be a number of safeguards. C-MEC will contact the client to warn them of the intention to enforce the surrender of their passport for up to 12 months, providing a 28-day period to appeal to the Magistrates' Court (or in Scotland, the Sheriff). The courts will uphold or reject the decision and will have a discretion to increase the period over which the provisions are imposed. We are still considering whether disqualification from driving would be more effective as an administrative procedure or should remain with the courts as at present.

Publicising successful enforcement activity

What you said

5.30 The White Paper set out the Government's intention to publicise successful enforcement activity. This would include publishing the names of certain non-resident parents who were successfully prosecuted or had a successful application made against them in court on the Child Support Agency's website, and in future that of C-MEC. Many stakeholders focused on this proposal and, in particular, highlighted the importance of protecting the welfare of the child.

"...we consider that any procedures for 'naming and shaming' non-paying parents should be subject to careful consideration regarding the welfare of any children involved..."

The Magistrates' Association

"...being able to view their parent on a website list of successfully prosecuted parents could risk exposing the child to unnecessary bullying and stigma."

Barnardo's

"We could not condone the 'name and shame' approach of publication of names on websites."

Parentline Plus

"Whilst it is noted that the agency would wish to consult with the parent with care before naming and shaming a liable parent, it should be noted that the parent motives for agreeing to publication might be contrary to the interests of the child."

The Justices Clerks Society

"Any scheme for publicising the identity of maintenance defaulters should consider the implications for the children of that parent."

One Parent Families Scotland

"Refuge is very much against publicly 'naming and shaming' those who do not pay..."

Refuge

How the Government will take this forward

5.31 The ideas put forward in the White Paper around publicising successful enforcement need to be seen alongside the wider package of changes we plan to introduce in this area. We genuinely wish to give non-resident parents the opportunity to comply with their responsibilities before any enforcement action is taken and to ensure that they understand the consequences of failing to do so. We therefore hope that even those who are most determined to avoid their legal responsibilities will respond positively, such that this measure is not required. We plan to start publicising names during the summer. However, in taking this work forward we will look to ensure that processes are in place to identify those cases where a child's welfare is likely to be at risk.

Increasing efforts to collect and reduce debt

What you said

5.32 The White Paper was clear that the Government would not seek a power to write off debt that may appear to be unrecoverable. It did, however, set out some very limited circumstances where we considered it to be appropriate to write off debts or revalue some overstated debts. We were particularly interested in whether stakeholders thought this was the right approach. Respondents generally appreciated that, in limited circumstances, it may be appropriate to write off debts.

"However, we appreciate that in limited circumstances, writing-off debt may be appropriate given the challenges C-MEC would face in recovering current debt levels."

End Child Poverty Network Cymru

"There will come a point when it is no longer cost effective to chase collectable debt and therefore a power to write-off debts in certain circumstances will be necessary."

Law Centre (NI)

"The writing off and offsetting debt arrangements appear to be sensible."

Parentline Plus

5.33 There were mixed responses to the Government's proposal to factor (sell) debts, with the main points concerning the need to ensure that parents with care fully understand the options available to them and are not pressured into making a decision.

"For the same reasons [domestic violence and pressure on women to agree to an offer they do not consider reasonable] Rights of Women is also concerned about 'factoring' (selling) debt where parent with care agree."

Rights of Women

"We agree that there is scope to 'clear off' debt by seeking negotiated settlements or factoring debts, but are pleased that this will only be done if the parent with care agrees."

One Parent Families

"The C-MEC clientele is likely to contain many who are financially excluded. The idea that they will fully understand the nature of factoring is unlikely, frankly."

Families Need Fathers

"It is the manner in which any debt is collected which is more important and we are not convinced that factoring debt will help."

Parentline Plus

5.34 There were also mixed responses to our proposal to recover maintenance from the estates of deceased non-resident parents.

"There is some concern about recovering money from deceased estates. It is assumed that a parent would leave a portion of his/her estate to his/her children in any event. Is it relevant whether that comes as child support rather than a bequest?"

Families Need Fathers (West Midlands)

"Resolution supports the introduction of provisions to enable recovery of arrears from a deceased non-resident parent's estate."

Resolution

5.35 There was a mixed reaction to our proposal to revalue overstated debts, where Interim Maintenance Assessments were imposed if the full details of a non-resident parent's income were not available.

"It is accepted that if debts have been overstated, then the Government has no choice but to revalue them."

Families Need Fathers (West Midlands)

"It is unclear as to how an interim maintenance assessment is to be re-valued on the basis the income details have never been given."

Resolution

How the Government will take this forward

- 5.36 The Government welcomes the generally positive response to our proposals to increase efforts to collect and reduce debts.
- 5.37 We will proceed with our proposal for C-MEC to accept reasonable offers from non-resident parents to pay an amount that is less than the total debt in full and final settlement of the entire debt. Decisions to accept such offers will be taken in consultation with the parent with care and will take account of such factors as the reasonableness of the offer, the non-resident parent's current and prospective circumstances, and the costs and risks of other courses of action. And where the debt is due to the parent with care, we will only accept a lesser amount with the parent with care's agreement.
- 5.38 We will also proceed to seek powers to tidy up historic debt by writing it off in very limited circumstances. This includes: debt arising from unpaid fees and interest that were charged under regulations which were abolished in 1995; debts where the parent with care is deceased, or the non-resident parent is deceased and the debt cannot be recovered from the estate; and debts where the parents are reconciled or in other circumstances where the parent with care has asked for the cessation of recovery activity. We will also bring forward legislation to enable the off-setting of child maintenance liabilities and to recover arrears from the estate of a deceased non-resident parent.
- 5.39 We have considered stakeholders' comments on the revaluation of punitive Interim Maintenance Assessments. Having looked again at this issue, we believe there is a different way in which we can achieve our aim of producing a more realistic figure that represents the maintenance that is due. Subject to consultation with the National Audit Office, we propose to take a non-legislative approach to the problem of overstated debt by revaluing punitive Interim Maintenance Assessment debt to a more realistic level in the Child Support Agency's accounts. In order to recover Interim Maintenance Assessment debts more effectively, we intend to use the proposed power in relation to negotiated debt settlements.
- 5.40 As the White Paper states, we will explore how factoring might work in practice. To that end we have recruited external consultants to carry out a commercial evaluation of the debt, and we will consider the policy in the light of the consultants' report.

Charging as a means of encouraging compliance

What you said

- 5.41 In the White Paper we said that we considered there to be important reasons why C-MEC should be given the power to charge non-resident parents for the use of its services. Stakeholders questioned whether this approach would dissuade parents, and in particular

those in vulnerable situations, from using C-MEC, and whether it would put additional pressure on the parent with care to come to a private arrangement.

"Rights of Women is very concerned at the impact this would have on vulnerable and marginalised groups, as for example those on low incomes."

Rights of Women

"We firmly believe this should be free of charge to the service user. Parents who cannot, for whatever reasons reach an amicable agreement privately, should have recourse to access a service, as a safety net to ensure that their children are receiving child maintenance payments in line with their entitlement and needs."

End Child Poverty Network Cymru

"Whilst NACSA can accept the argument for introducing fees, in so much that there is a need to avoid parents looking to use a 'free' CMEC as opposed to a consent order where court fees will be applicable; but we feel it totally unjustified to place the onus of these charges on the shoulders of the NRP [non-resident parent]"

National Association for Child Support Action

"The IPP would support C-MEC in charging if all other avenues and support had been exhausted."

The Institute of Payroll Professionals

"We would caution against the use of a charging regime, at least until it is clear that the level of service provided by the new agency would warrant the enforcement of a charge for service as this may adversely affect people's willingness to use the system."

Law Centre (NI)

"At this stage CPAG does not see how charging could work without conflicting with other objectives and we urge fees be remitted."

Child Poverty Action Group

"We raise our grave concerns about this potential charge to use the C-MEC..."

Jewish Unity for Multiple Parenting

"However, Refuge is concerned that charges might serve to deter those on benefits or low income from using the service, even when it is in their interests to do so."

Refuge

"Barnardo's also does not support the concept of charging the non-resident parent for access to C-MEC as an enforcement measure aimed at encouraging parents to come to voluntary arrangements."

Barnardo's

How the Government will take this forward

5.42 We believe that giving C-MEC the power to charge for its services is important and, within the new system, this would be one of several mechanisms to incentivise non-resident parents to meet their responsibilities. We therefore intend to proceed with our proposal to give C-MEC a power to charge for its services.

5.43 The Secretary of State will be responsible for laying regulations on the specific arrangements for any charging scheme and will rely on advice from C-MEC in the process of doing so. When providing such advice, C-MEC must be mindful of its statutory objective – to maximise the number of effective maintenance arrangements – and of any targets set by the Secretary of State. We are confident that this will ensure that any charging scheme will not dissuade vulnerable or low-income parents with care from seeking maintenance.



Chapter 6

Next steps

Chapter 6: Next steps

Our commitment to working together

- 6.1 We do not underestimate the challenges involved in reforming the child maintenance system on such a scale. Much remains to be done in the development and delivery of the proposals. It is vital that we can put in place an effective system that is trusted by parents and is genuinely helpful to them. We are all motivated to implement a system that works, and we will continue to work closely with stakeholders on an ongoing basis to ensure that the proposals work and deliver the outcomes we want for children.

Legislative process

- 6.2 Some of the proposals in the White Paper require primary legislation, and our intention, subject to the availability of parliamentary time, is to introduce a Bill in the current session. We are also considering the possibility of a consolidation of relevant legislation in due course.

The Operational Improvement Plan

- 6.3 In the meantime, the Child Support Agency continues to operate with the full support of the Government. February 2006 saw the publication of the Child Support Agency's Operational Improvement Plan to stabilise and improve its performance over a three-year period. The plan is designed to enable the Child Support Agency to provide a better service to parents, increase the amount of maintenance collected, and ensure that more parents meet their responsibilities.
- 6.4 The performance of the Child Support Agency has already improved in some areas as the plan has been put in place. For instance, at the end of March 2007:
- compared with a year earlier, around 45,000 more children had maintenance collected by the Child Support Agency or had an amount arranged by the Child Support Agency which was then paid from one parent to the other;
 - compared with March 2006, the number of uncleared applications was down by 31 per cent across both schemes; and

- client service had improved, with the Child Support Agency answering 97 per cent of telephone calls available to answer in the previous year, up from 91 per cent between April 2005 and March 2006.
- 6.5 The Child Support Agency will continue to deliver improved services to clients through the Operational Improvement Plan. This will provide a solid foundation for moving to the new child maintenance arrangements in the future.

Annex A

**List of organisations that
responded to the White Paper
consultation**

Annex A: List of organisations that responded to the White Paper consultation

A.1 The following organisations provided responses to the consultation:

Advice NI

Association of British Insurers

Barnardo's

BT

Child Poverty Action Group

End Child Poverty Network Cymru

Equal Parenting Alliance Party

Families Need Fathers

Families Need Fathers (West Midlands)

FDA

GMB

Jewish Unity for Multiple Parenting

Law Centre (NI)

National Association for Child Support Action

National Family Mediation

One Parent Families

One Parent Families Scotland

Parentline Plus

Public and Commercial Services Union and Northern Ireland Public Service Alliance

Refuge

Resolution

Rights of Women

Royal Mail

Tavistock Centre for Couple Relationships

The British Computer Society

The Centre for Separated Families

The Institute of Payroll Professionals

The Justices Clerks Society

The Law Society of England and Wales

The Law Society of Scotland

The Magistrates' Association

Welsh Assembly Government

Welsh Language Board

Annex B

Research

Annex B: Research

- B.1 The Department for Work and Pensions is committed to developing its policies on the basis of robust and reliable evidence and high-quality research. Our economic and social research programme enables the Department to collect and interpret information through a variety of channels, for example by understanding the behaviour and views of clients and reviewing existing evidence.
- B.2 The proposals in the White Paper were informed by research commissioned and published by the Department that was directly related to child maintenance policy and its delivery. Further information about these reports is provided at Annex A of the Regulatory Impact Assessment, published alongside the White Paper.¹¹
- B.3 Since the publication of the White Paper, the Department has published three further reports, which have improved our knowledge and understanding of the effective design and delivery of the new system.

Maintenance Direct

- B.4 We published a quantitative study that explored the views and experiences of a nationally representative study of more than 2,000 parents paying or receiving child maintenance as clients of the Child Support Agency.¹² Its aim was to investigate the potential suitability of Maintenance Direct payments for existing Collection Service clients, and it profiled both groups across factors such as the nature of parental relationships, levels of parent–child contact, nature of maintenance arrangements, payment levels, and degrees of non-resident parent compliance.
- B.5 In particular, the study indicated that a successful promotional strategy for Maintenance Direct would be likely to emphasise elements such as its potential ‘straightforwardness’ and flexibility, its scope to bypass administrative delays that may occur and its capacity for providing successful reassurance for clients, particularly parents with care, about the kinds of support and enforcement measures available if private maintenance arrangements were to break down.

Child maintenance and work incentives

- B.6 We published a report that reviewed and examined the literature in the UK and overseas on whether increasing the amount of maintenance that parents with care on benefit can keep will affect their decision to work.¹³ The report found that there is very little evidence

on the impact of changes in child maintenance on work incentives that can be applied directly to the UK, but suggests that a £20 a week disregard in Income Support and a full disregard in Housing Benefit would have a neutral impact on employment rates.

International comparisons

- B.7 In March, the Department published an international comparator profile that compared and contrasted the UK's child maintenance system with the regimes operated in Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, The Netherlands, New Zealand, Norway, Sweden and the USA.¹⁴
- B.8 The report illustrated how the UK's child maintenance system performs in an international context and drew out potential lessons and policy implications across areas such as private maintenance arrangements, enforcement, administration, and the disregard of child maintenance payments in benefit calculations.

Future research

- B.9 As set out throughout this document, the Department has a range of current research programmes under way in order to inform the design and delivery of our proposals. These include the following:
- **Child Support Agency client survey:** this is a sizeable survey (approximately 1,200 telephone interviews) across the Child Support Agency's client base. It will enable us to gather evidence on the likely behavioural responses to the new proposals. This research is likely to be published in summer 2007.
 - **'Relationship separation' survey:** this is a large (approximately 2,500 face-to-face interviews), statistically representative survey. It will capture both Child Support Agency and non-Child Support Agency customer groups, in order to profile the child maintenance 'population' and further inform estimates with regard to likely customer flows and where support services could be tailored to meet the needs of specific customer groups. This is due to be published in spring 2008.
 - **Joint birth registration research:** this is a research project to examine factors that may lie behind sole birth registration and to identify barriers to joint birth registration. This is likely to be published during summer 2007.

- **Disregards and work incentives research:** this will provide modelling and analysis to assess the potential impact of different maintenance disregard levels on work incentives. It is likely to be published during autumn 2007.
- **Information and support needs research:** this is designed to examine and understand information and support needs, how information and support may be tailored to the needs of specific client groups, and the types of delivery mechanisms that may be most appropriate. It is likely to be published in autumn 2007.

Endnotes

Endnotes

- 1 Department for Work and Pensions, 2006, *A new system of child maintenance*, Cm 6979.
- 2 Henshaw D, 2006, *Recovering child support: routes to responsibility*, Cm 6894.
- 3 Department for Work and Pensions, 2006, *A fresh start: child support redesign – the Government’s response to Sir David Henshaw*, Cm 6895.
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- 5 Department for Work and Pensions, 2007, *Report on the child maintenance White Paper A new system of child maintenance: Reply by the Government to the Fourth Report of the Work and Pensions Select Committee: Child Support Reform: Session 2006-07 [HC 219-I]*, Cm 7062.
- 6 This is set out in Annex 3 of Sir David Henshaw’s report.
- 7 Bell A, Bryson C, Southwood H and Butt S, 2007, *An investigation of CSA Maintenance Direct Payments: Quantitative study*, Department for Work and Pensions Research Report No 404.
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- 10 National Audit Office, 2006, *Child Support Agency – Implementation of the Child Support Reforms*, HC 1174, Session 2005/06.
- 11 Department for Work and Pensions, 2006, *A new system of child maintenance: Regulatory Impact Assessment*.
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Child Maintenance Redesign Programme

5th Floor

The Adelphi

1-11 John Adam Street

London

WC2N 6HT

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Department for Work and Pensions

15 May 2007

www.dwp.gov.uk

ISBN 978-0-10-170612-4



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