



December 2006

## A new system of child maintenance



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Presented to Parliament by  
the Secretary of State for Work and Pensions  
by Command of Her Majesty  
December 2006

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# Contents

Ministerial foreword .....	XX
Executive summary .....	XX
Chapter 1: Introduction – a clean break .....	XX
Chapter 2: A new focus – encouraging parents to make their own arrangements .....	XX
Chapter 3: A fresh start – delivering child maintenance in a new way.....	XX
Chapter 4: Simplifying and improving the child maintenance assessment process.....	XX
Chapter 5: Tougher enforcement .....	XX
Chapter 6: Consultation arrangements for the White Paper .....	XX
Annex A: The Government’s response to Sir David Henshaw – stakeholder consultation .....	XX
References .....	XX

A Regulatory Impact Assessment is published alongside this document.



## Ministerial foreword



Parents whether they live together or not have a moral as well as legal responsibility to support their children.

When parents neglect these responsibilities, Government must act to safeguard the interests of children. This was the foundation on which the Child Support Agency was established.

Yet, despite the best efforts of its staff, the performance of the Child Support Agency has been and remains unacceptable. However, the problems go much wider and deeper than the Child Support Agency itself. The history of child maintenance in the UK is a case study of well intentioned policy designs that were incapable of being administered on the ground. The current system often works against parents – obstructing them from carrying out their parental responsibilities instead of supporting them to achieve the best outcomes for their children. And not enough children get the maintenance they need. The system needs root and branch reform.

That is why, earlier this year, I asked Sir David Henshaw to advise on the redesign of the child maintenance system. Building on Sir David's recommendations, this White Paper sets out the details of our proposals.

The new system will mark a fresh start for child maintenance. A new body will replace the existing Child Support Agency and make a clean break with the past.

It will be underpinned by an entirely new approach which will empower parents to take responsibility for making their own maintenance arrangements – but provide strong effective state support for when this does not happen. New enforcement powers will radically strengthen the recovery of maintenance from those who repeatedly fail to pay – including through the imposition of curfews and the suspension of passports.

The proposals in this White paper set out a comprehensive path for the delivery of a new child maintenance system. They establish and enforce clear rights and responsibilities. They offer better value for money for the taxpayer. And, above all, they will deliver a system that properly meets the needs of the parents with care and children who depend on it, helping to ensure that families and children do not slide into poverty when parents split up.

A handwritten signature in black ink, appearing to read 'John Hutton'.

Rt Hon John Hutton  
Secretary of State for Work and Pensions  
December 2006



## Executive summary

### A fresh start for child maintenance

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1. The Child Support Agency was established in 1993 to assess, collect and enforce child maintenance payments from non-resident parents. From day one, however, the Child Support Agency has not delivered anywhere near what was expected of it.
2. The system has never recovered from this poor start and the Child Support Agency continues to be weighed down by the legacy of the past. For the sake of the children concerned, there is a clear need for fundamental reform of both child maintenance policy and its delivery. This has to be achieved by a clean break with the past. This means new arrangements should be put in place that work with parents to deliver the best outcomes for their children alongside a more effective process for assessing, collecting and enforcing maintenance which provides the people working to deliver child maintenance with the tools to do the job. In addition, there needs to be a new organisation that facilitates modern and innovative approaches to delivery.
3. This White Paper sets out the Government's radical and far-reaching proposals for the wholesale reform of the child maintenance system so that much more money reaches the children who need it.

### Supporting families and tackling child poverty

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4. In a rapidly evolving society, the nature of relationships has changed significantly. In particular, an increase in the number of divorces and in the number of births to cohabiting parents whose relationship breaks down or single mothers has meant that children are now more likely to spend some point of their childhood in a lone-parent household.
5. However, even where the parents' own relationship has ended, or where there is no stable relationship, their responsibility to their children remains. Parents, whether they live together or apart, have a clear legal, moral and continuing responsibility to maintain, and do the best that they can for, their children.
6. A central part of this responsibility is to contribute to the cost of bringing up their children. For non-resident parents this means the payment of child maintenance. When received this can make a significant difference to the lives of low-income families, lift many children out of poverty and, as a result, significantly improve their prospects in later life. In many cases parents take responsibility for making their own child maintenance arrangements. Some parents, however, need help to do so. Others deliberately evade this responsibility. When they do, it is their children who suffer most from their actions, with damaging consequences for their prospects in adult life.



## Child maintenance arrangements in the UK

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7. The Child Support Agency was set up in 1993 because the system of collecting maintenance through the courts had lost the confidence of parents. The new system was designed to provide better support to children and families by making sure parental responsibilities were properly enforced. Despite these good intentions and the best efforts of its staff, the Child Support Agency struggled to administer the complex rules in the child support scheme and to handle the difficult and emotional circumstances that often surround parents when child maintenance becomes an issue. Consequently, its performance fell a long way short of expectations.
8. Reforms enacted in 2000 simplified how maintenance is calculated and, through the Child Maintenance Premium, parents with care claiming benefit were allowed to keep up to £10 a week of any maintenance received. These changes addressed some of the weaknesses of the original scheme. However, as the National Audit Office has pointed out, these reforms failed to deliver the expected improvements in client service and administrative efficiency.<sup>1</sup>
9. As a result, too many children do not receive maintenance from the non-resident parent. Even now, only a minority of cases handled by the Child Support Agency actually receive any maintenance at all – while it currently handles 1.4 million cases, in September 2006 only 750,000 non-resident parents were liable to pay maintenance and of these only 455,000 either paid through the Child Support Agency Collection Service or had a Maintenance Direct arrangement in place.
10. This is not the fault of the Child Support Agency – it has been given an impossible task. Indeed, the current system often works against parents – obstructing them from carrying out their parental responsibilities instead of supporting them to achieve the best outcomes for their children. In particular, where a parent with care is claiming benefit, a non-resident parent can be discouraged from paying because, in many cases, not all of the maintenance paid actually benefits their children. Moreover, in these cases the system sometimes needlessly overturns any arrangements that may already be in place and working well.

## Redesign of the child maintenance system

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### The Government's four principles for reform

11. In February this year, the Secretary of State for Work and Pensions asked Sir David Henshaw to consider proposals for the fundamental redesign of the child maintenance system.
12. Sir David recommended an entirely new approach, in which parents would be encouraged and enabled to take responsibility for making their own child maintenance arrangements but with strong and effective state support where this did not happen.
13. He argued that the system's existing failings reflected both policy and operational problems. But repeated attempts to improve operational performance without addressing the underlying policy issues, such as poor incentives for compliance on the part of many clients, had compounded these problems with a legacy of failure.
14. Sir David concluded that the existing Child Support Agency could not provide the administrative basis for the radical shift in approach needed and that it would be vital to make a clean break with the past.
15. The Government has accepted Sir David's principal recommendations. Based on these recommendations it has established four new principles for the reform of the child maintenance system. These are to:
  - **help tackle child poverty** by ensuring that more parents take responsibility for paying for their children and that more children benefit from this;
  - **promote parental responsibility** by encouraging and empowering parents to make their own maintenance arrangements wherever possible, but taking firm action – **through a tough and effective enforcement regime** – to enforce payment where necessary;
  - **provide a cost-effective and professional service** that gets money flowing between parents in the most efficient way for the taxpayer; and
  - **be simple and transparent**, providing an accessible, reliable and responsive service that is understood and accepted by parents and their advisers and is capable of being administered by staff.
16. These four principles refocus the child maintenance system on meeting the needs of children. They make tackling child poverty the first and most critical test for reform, and they establish and enforce clear rights and responsibilities – the right of a person to make a claim and the resulting responsibility of the non-resident parent to pay.

## Our proposals for reform – a clean break

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17. This White Paper sets out the Government's proposals to establish a new and radically different organisation to administer child maintenance. This will be underpinned by an entirely new approach that encourages parents to take responsibility for supporting their children financially but is backed up by a tough enforcement regime for cases where this does not happen.

### A fresh start – a new organisation to deliver child maintenance

18. Child maintenance has proved extremely difficult to deliver. Legislation will be brought forward to establish a new Child Maintenance and Enforcement Commission (C-MEC) – as a Non-Departmental Public Body – run by an independent board to replace the existing Child Support Agency. Operating at arms length from the Government, it will ensure the delivery of a high quality and efficient service through its commissioning role and will have the flexibility to innovate and to adapt its policies in the light of ongoing experience.
19. Its responsibilities will include:
  - the management of existing cases and outstanding debt;
  - the detailed development and implementation of the new scheme;
  - managing the transition of cases into private arrangements or between schemes; and
  - the decommissioning of the existing child maintenance schemes and the Child Support Agency.
20. C-MEC will also provide direct policy advice to Ministers on all aspects of the system that it is charged with delivering.

### A new focus – encouraging parents to make their own arrangements

21. Many parents would prefer to make their own child maintenance arrangements and could often do so amicably. The existing child maintenance system, however, does not provide a framework to facilitate this. Where parents with care make a claim for benefits, for example, the system overturns any arrangements that may already be in place. This undermines the very parental responsibility it is seeking to enforce and can be to the detriment of the children concerned. Reclaiming most of the money for the State, rather than passing it through to the children, still means that neither parent has a strong enough incentive to co-operate. This undermines the extent to which child maintenance can contribute to the eradication of child poverty.

22. Therefore:

- we will bring forward legislation to end the requirement that parents with care claiming benefit be treated as applying for child maintenance;
- in 2008 the Government will ensure that all parents with care can benefit from the £10 a week benefit disregard where maintenance is being paid, by extending this to cases on the original child maintenance scheme;
- from 2010–11 the Government will significantly increase the amount of maintenance that parents with care on benefit can keep before it affects the level of benefit they receive. In doing this, the balance between the effects on incentives to work will need to be considered alongside the impact on administrative burdens and the potential contributions of different rates to addressing poverty directly. We will undertake further analysis of these issues in the coming months; and
- the new child maintenance system will ensure parents have better access to information and guidance when they separate and link them up to quality support to enable them to make informed decisions.

### **An efficient and more streamlined child maintenance assessment process**

23. Many people who use existing child maintenance services have complex personal lives, and it can be difficult for the system to keep up with, and account for, changes in their circumstances. The reforms introduced in 2003 simplified the formula used to calculate maintenance – an approach which was widely endorsed. However, with the benefit of operational experience, it is clear that the reforms did not go far enough. The complexities that remain still undermine the performance of the system as a whole.

24. The Government therefore intends to radically simplify the maintenance assessment process to enable a faster, more accurate and transparent process to take place.

25. We therefore propose to:

- use latest tax-year information as a basis for calculating a child maintenance liability, unless current income differs by at least 25 per cent;
- move away from the current system whereby small changes in income can change maintenance awards. Instead we propose a system of fixed-term awards of one year, with some exceptions for significant change of circumstances only, with the income used to work out a liability updated each year;
- use gross weekly income, rather than net, as a basis for calculating a child maintenance liability; and
- once the future scheme starts, increase the flat rate of maintenance paid by most non-resident parents on benefit from £5 to £7 per week, and review this rate, and other formula rates, at regular intervals.

26. Together, these changes mean that only three pieces of information will be required to determine the liability of a working non-resident parent – their gross income, the number of qualifying children and whether the non-resident parent has any children living with them and, if so, how many. The key change is that the process of working out liability can no longer be held up by a non-resident parent declining to give information on earnings; that will come from HM Revenue & Customs. C-MEC will, as far as possible, be asked to run a new system designed to only ask people for information which they will want to give; in particular, the non-resident parent will want to tell C-MEC if he has a second family or has a lower income.

### **Tougher enforcement**

27. Although the new child maintenance system will do more to encourage and help non-resident parents to pay child maintenance, some non-resident parents will inevitably do everything they can to evade their responsibilities. In these circumstances, the Government has a clear responsibility to ensure that reliable collection of maintenance is established as quickly as possible and that fast, effective and firm action can be taken to enforce payment. The Government will therefore extend the range of enforcement powers that are available and streamline the framework in which they are used. Importantly, this will ensure that the people working to deliver child maintenance have the tools to do the job.
28. To this end we propose to:
- enforce the surrender of a non-resident parent's passport or impose a curfew on them if they fail to pay maintenance;
  - remove the requirement to apply to the courts for a Liability Order before proceeding with enforcement action and replace it with a swifter more effective administrative process;
  - examine the scope for further streamlining and strengthening the enforcement process by removing the requirement to apply to the courts for a Charging Order, withdrawal of a driving licence or surrender of a passport;
  - pilot withholding wages as the first means of collecting maintenance, working closely with business during the development of the pilot;
  - improve the way that information is exchanged with, and drawn from, financial institutions and credit reference agencies in order to trace non-resident parents and collect and enforce maintenance; and
  - explore the scope for introducing powers to collect maintenance directly from accounts held by financial institutions.

29. These are very strong powers that are not used to collect civil debts. But they need to be strong to break down the current culture of non-compliance and to get more money to children. Many other countries have recognised this and our proposals build upon the evidence of what works elsewhere.
30. As a final element of the overall compliance and enforcement strategy we want to do more to bring to people's attention the increasingly strong and proactive regime operating in the area of child maintenance. We plan to start bringing the outcomes of suitable cases and details of the non-resident parents concerned to wider public attention. As part of this we will publish the names of non-resident parents who are successfully prosecuted or have a successful application made against them in Court on, for example, the Child Support Agency's website, and in future that of C-MEC.

### **Increasing efforts to collect and manage debt**

31. These proposals will improve the way in which maintenance is collected and enable the new organisation to focus, more than ever before, on speedy and vigorous enforcement. There can be no question of allowing non-resident parents who are able to pay to escape their responsibilities and the tougher enforcement regime is aimed also at making significant inroads into existing debt.
32. There is more work to do to analyse our stock of historic debt and we have decided against seeking a power to write off debt that may appear to be unrecoverable. We do, however, believe that there are some very limited circumstances where it is appropriate to write off debts and that we should revalue some overstated debts. In these cases we are confident that this will enable us to manage debt more effectively and deliver better outcomes for parents with care. Where debt is due to be paid to the parent with care a decision to write it off will only be taken with the parent with care's agreement.
33. We propose to take forward Sir David Henshaw's recommendation to provide the new organisation with powers to factor (sell) debts. In doing so we will harness the expertise of specialist organisations to provide money for more children. We will clarify legislation by inserting an express provision to enable arrears to be recovered from the estate of a deceased non-resident parent. And we propose to introduce legislation to enable child maintenance liabilities to be off-set in certain circumstances, such as where there is reciprocal debt between parents.

### **Joint birth registration**

34. The changes outlined above will enable many more parents to take personal responsibility for their child maintenance arrangements. For most children, being acknowledged by both parents and having them take an active role in their lives should be of significant benefit during their upbringing. It is important to create an environment that reflects and supports parents' sense of their responsibility for the welfare of their children. One area where the Government believes that more can be done to signal this responsibility is through the registration of births. At present both parents have to consent before an unmarried father's name can appear on a birth certificate and around one in five births outside of marriage only record the mother's name.

35. The Government believes that children have a right to know that both parents are responsible for them and to be supported by a framework that encourages an ongoing relationship with their parents. Our approach in this area needs to be changed in order to develop a culture where people are clear that parenthood always comes with both rights and responsibilities.
36. The Government has concluded that the birth registration system needs to do more to actively promote joint registration and that current legislation needs to be changed to require both parents' names to be registered following the birth of their child, unless it would be unreasonable to do so. Scotland will continue to support the voluntary joint registration of births. In taking this work forward, we will consult and make sure that there are robust safeguards in place to protect the welfare of children and vulnerable mothers.

## How this meets our reform principles

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37. The Government believes that the proposals set out in this White Paper will meet its principles for reform of the child maintenance system. C-MEC will have responsibility for ensuring that the detailed development and implementation of these proposals deliver the outcomes that parents and their children deserve.

## Helping to tackle child poverty

38. We estimate that around 40,000 parents with care could benefit from extending the £10 a week disregard to all cases. Significantly increasing it further from 2010–11 will mean that more maintenance paid flows directly to parents with care and will lift many children out of poverty. Knowing that more money will flow to their children will also increase the incentive for the parent with care to seek payment and the non-resident parent to pay.

## Promoting parental responsibility

39. Our reforms emphasise the ongoing responsibility of both parents to support their child, even when a relationship ends. Removing the requirement that parents with care claiming benefit be treated as applying for child maintenance means that parents will have substantially more choice and responsibility than before about their own child maintenance arrangements.
40. Improvements to the quality and accessibility of information and guidance will help parents make an informed decision about how they can carry out their responsibilities, consistent with initiatives and services provided by other Departments in this area such as the Department for Education and Skills. Balanced alongside this, our proposals to strengthen enforcement measures send out a clear signal that non-payment of maintenance will not be tolerated.

## Providing a cost-effective service

41. Our proposals will put in place a much simpler assessment process, and will ensure that reliable collection is established as quickly as possible and that rapid and effective action can be taken to enforce payment. This means there will be a faster and more efficient process for getting money to parents with care, and better value for money for the taxpayer.

## Providing a simple and transparent service

42. The improvements that we propose to make to the assessment process will provide a simpler and more transparent basis for calculating maintenance. This, alongside a more effective collection and enforcement process, will mean that a better service for parents can be provided, and a system put in place that is easier for everyone to understand and for staff to administer. That way, parents will be left in no doubt about the basis on which decisions have been made and the amount of child maintenance that their children are entitled to.

## Moving to the new system

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43. We are putting in place clear priorities and principles to guide the approach for moving to the new system. These are built from our experience of previous reforms and acknowledge that such fundamental change needs to be delivered incrementally to ensure that it is both deliverable, and meets parents' needs.
44. Our priorities for change are driven by a commitment to extend choice and tackle child poverty. Following legislation in 2007–08, the Government will move quickly to establish C-MEC. In taking over responsibility from the existing Child Support Agency, it will focus in its first year on:
  - increasing enforcement in existing cases by applying the new powers;
  - ensuring, in conjunction with Jobcentre Plus, that all parents with care can take advantage of the £10 a week benefit disregard where maintenance is being paid by extending this to cases on the original child maintenance scheme; and
  - enabling parents to make their own child maintenance arrangements by removing the requirement that parents with care who claim benefits be treated as applying for child maintenance and helping them make an active choice by providing new information and guidance services.
45. The focus will then be on the arrangements for moving cases where parents are unable to make their own arrangements onto the new regime. Minimising disruption for parents and providing continuity of service during the transfer period is essential. Throughout non-resident parents who do not pay their child maintenance will be rigorously pursued.



46. There will be a transparent set of options for parents – existing cases will be able to either make their own maintenance arrangements, moving to the new system, or taking advantage of a new cash transfer service. The latter option recognises that, for most, moving into the simplified assessment process will mean a change to the amount of child maintenance payable. Some parents are content with the current arrangements and should not be forced onto a different assessment. The new cash transfer service, available where both parents agree, will reduce disruption by continuing to move money between parents based on their current maintenance award.
47. Parents will be actively supported in making their choice through a comprehensive communication programme to be developed by C-MEC and expected to start in 2009. The transfer of cases into a single system is then expected to start in 2010–11 and take around three years. During this period C-MEC will need the flexibility to review and adjust its plans in response to the needs of parents and demand for the new system. Until their case due to transfer parents who choose to remain in the system will be able to benefit from the improved support and enforcement being offered by C-MEC under their existing schemes.
48. C-MEC will take responsibility for designing the full details of the transfer process for existing clients. This will be based on further research of their needs. The approach will provide a seamless service – where parents want to remain, their existing assessments and arrangements will not be removed until new ones are in place.

## The devolved administrations

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49. This White Paper raises a number of issues which are devolved to Scotland, such as policies relating to the joint registration of births and the provision of information and guidance. It will be for Scottish Ministers and the Scottish Parliament to determine how to respond to these matters.
50. The provision of child maintenance in Northern Ireland is governed by the long-established and widely accepted policy of parity with Great Britain. The Government believes that this should remain the basis of future provision in Northern Ireland and will have regard to this in implementing any proposals set out in this White Paper.
51. Although this is a non-devolved issue to Wales, the Welsh Assembly Government and its officials have been involved during the development of the proposals.

## Conclusion – the way ahead to the new system

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52. The proposals in this White Paper set out a clear way ahead for the child maintenance system. They will help lift many more children out of poverty, enforce the rights of children and the responsibilities of parents, and provide a simplified system that offers a better service for clients and is more cost-effective for the taxpayer.
53. It is very important that the new framework is informed by the views of the public and all of our stakeholders. These proposals have benefited from a valuable consultation process, and this White Paper includes a series of further questions on which we would welcome views





## Chapter 1

## Introduction – a clean break



# Chapter 1: Introduction – a clean break

## Summary

The majority of people believe the primary responsibility for child maintenance following separation lies with the children's parents. The Government's role is to provide support, backed up by effective and firm enforcement, to enable an arrangement to be put in place. This will be of benefit to children, parents and society as a whole.

The Government's four guiding principles for the reform of the child maintenance system are to help tackle child poverty, promote parental responsibility, provide a cost-effective and professional service and be simple and transparent.

In all of these areas, the system could do much more:

- we estimate that child maintenance payments currently lift 100,000 children out of poverty. International evidence shows, however, that child maintenance can make a far more substantial difference to child poverty rates. It contributes up to 25 per cent of the reduction in child poverty in some countries but less than 3 per cent in the UK;
- although 1.4 million cases are registered with the Child Support Agency only around 450,000 cases are actually in receipt either of child maintenance through the Child Support Agency's collection service or of an amount arranged by the Child Support Agency which is then paid from one parent to another;
- the system does not provide an efficient service that is cost-effective for the taxpayer. It currently costs around 78 pence in administration costs to get each £1 of maintenance to a child; and
- many parents with care and non-resident parents still have difficulty in understanding the system.

The impact of this on children is significant, and there is a clear and obvious need for radical reform. The proposals put forward by Sir David Henshaw, which will mark a clean break with the past, will mean that the child maintenance system can meet the key objectives we have set for it, in particular lifting many more children out of poverty.

## Supporting families and tackling child poverty

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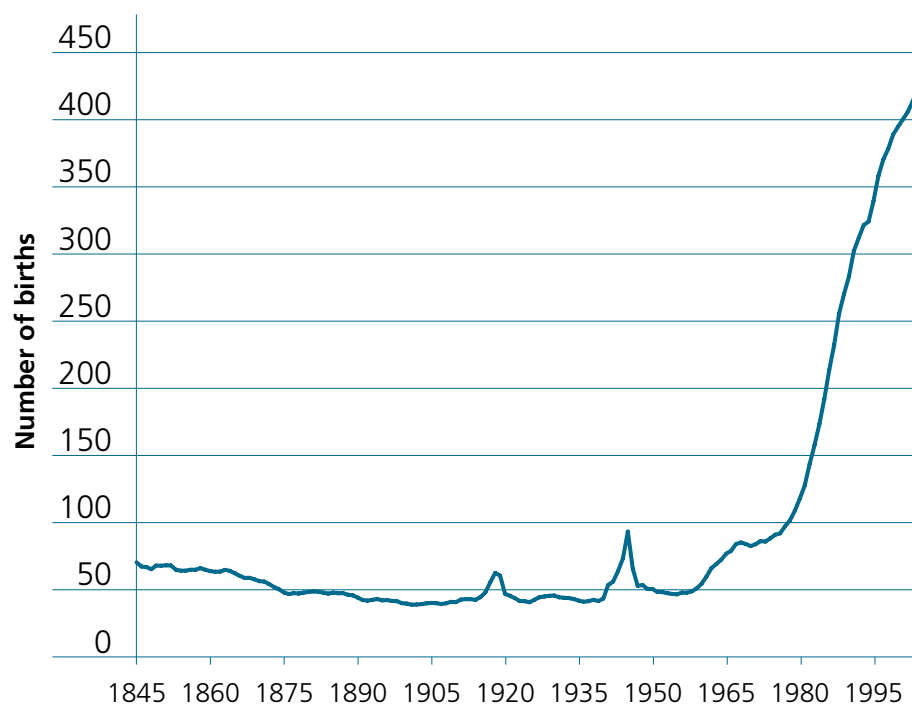
- 1.1 Since 1997 the Government's welfare reforms have been guided by its ambition to tackle poverty, provide opportunity for all and extend fairness, enabling people to prosper in a changing economy and society.
- 1.2 Opportunity must start in childhood. Every child deserves the best possible start in life: to have security and protection in their childhood and to be given the opportunity to progress and achieve their full potential as an adult.
- 1.3 Growing up in a poor household is one of the principal determinants of a child's life chances. The social and economic exclusion that poverty inevitably generates is not only bad for the child and their family but also adversely affects communities and society more generally.
- 1.4 In the mid to late 1990s, the UK had one of the highest rates of child poverty among the major industrialised nations. The proportion of children living in a relative low-income household doubled between the late 1970s and mid 1990s. Against this background, in 1999 the Government made the decision to end child poverty within a generation and to address the huge social and economic cost of child poverty to our country.
- 1.5 To this end, a wide range of policies and specific interventions have been introduced which are directed towards improving outcomes for children. These include innovative and tailored employment programmes to support and encourage people into work, improved financial support through the tax and benefit system and improvements to public services.
- 1.6 The Government has made significant progress, reversing the long-standing increase in child poverty that was apparent up to the mid 1990s. Since 1998–99 the number of children living in a relative low-income household has fallen from 3.1 million to 2.4 million. It is not, however, acceptable for any child to grow up in poverty in this country and in this day and age. The Government recognises the importance of doing more and, seven years on, remains absolutely committed to its goals of halving child poverty by 2010 and eradicating it by 2020.

### **Relationships may end. Responsibilities do not**

- 1.7 One reason for the high incidence of child poverty in the UK is that children are now more likely to spend some point of their childhood in a lone-parent household. The nature of relationships has changed significantly over recent years<sup>2</sup> – the number of marriages in the UK has fallen by around 40 per cent in the past 30 years, the number of divorces is around five times higher than in the 1950s and cohabitation has increased significantly over the previous two decades.

- 1.8 There has also been a significant increase in the number of births to cohabiting or single mothers, which has risen from around 10 per cent of all live births in the late 1970s to over 40 per cent in 2004 (Figure 1.1). Although the number of births with a sole registration has been broadly flat since the late 1980s, with around 45,000 births solely registered in 2004 in England and Wales, this is significantly higher than the late 1970s.

**Figure 1.x Births outside marriage per 1,000 live births**



Source: Office for National Statistics, birth statistics.

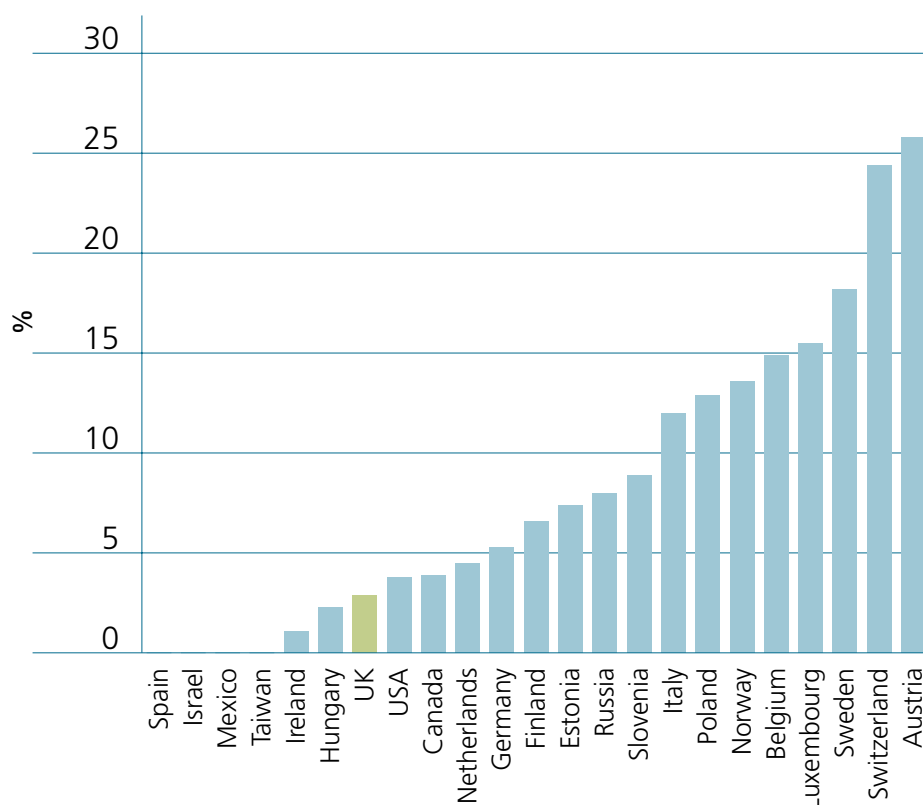
Note: Figures relate to England and Wales.

- 1.9 Where a relationship ends, parents may require access to emotional, financial and other support. What is also critical, however, is that they continue to recognise and meet their own responsibilities towards their children. A key responsibility is the payment of child maintenance – the money that a non-resident parent pays towards the cost of bringing up their children.
- 1.10 When child maintenance is received it can make a significant difference to the lives of low-income families. It is estimated that child maintenance payments currently lift 100,000 children out of poverty. Evidence shows that for around half of mothers with low incomes, the maintenance they received was substantial enough to lift them out of poverty.<sup>3</sup> By improving their lives when they are young, children will then have better opportunities to achieve their full potential in later life.



1.11 But the system could do so much more. International evidence based on data from around 2000, and as illustrated in Figure 1.4, shows that child maintenance contributes up to 25 per cent of the reduction in child poverty in some countries. In the UK it contributes less than 3 per cent – one of the smallest contributions.<sup>4</sup>

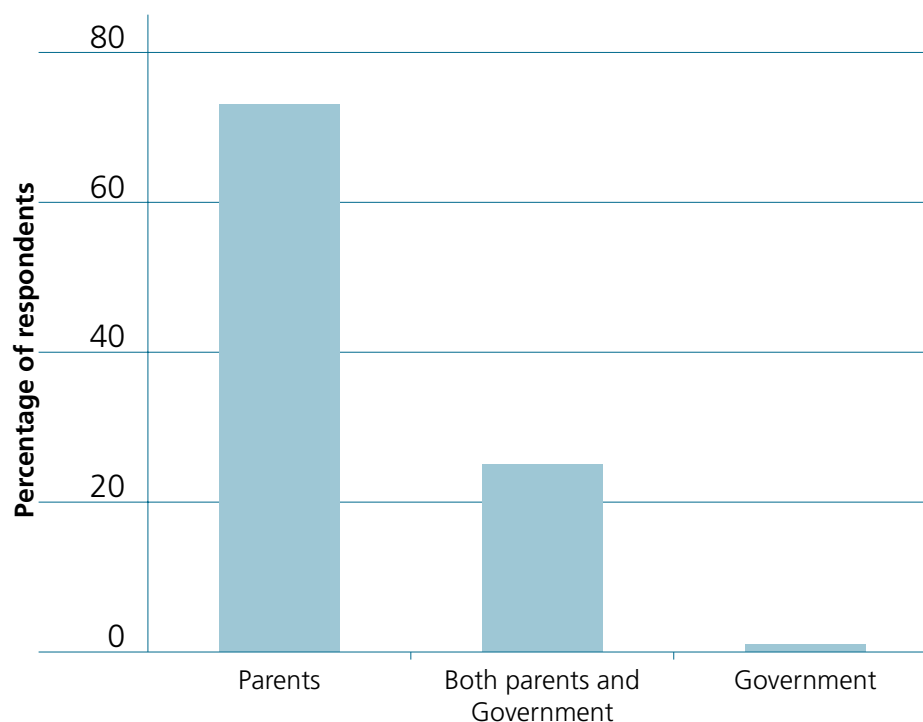
**Figure 1.x Contribution of child maintenance to reduction in child poverty**



Source: Bradshaw J, 2006, *Child Support*, Joseph Rowntree Foundation.

1.12 The majority of people believe the primary responsibility for child maintenance following separation lies with the children's parents. In one recent survey, and as illustrated in Figure 1.2, around three-quarters of respondents felt that parents alone should be responsible for child maintenance when their relationship ends. These attitudes have remained relatively stable over recent years.<sup>5</sup>

**Figure 1.x Public attitudes on the responsibility for child maintenance after separation of parents**



Source: Peacey V and Rainford L, 2004, *Attitudes towards child support and knowledge of the Child Support Agency, 2004*, Department for Work and Pensions Research Report No. 226.

1.13 Although many parents are able to take responsibility for making their own child maintenance arrangements, some need help to do so. Others deliberately do not fulfil this responsibility. The Government's role is to provide support, backed up by effective and firm enforcement, to enable an arrangement to be put in place. This will be of benefit to:

- children, because they will not suffer financially as a result of their parents' circumstances – by improving their lives when they are young, their opportunities as adults will be enhanced;
- parents, because they will be reassured that they have access to a good system of support to make arrangements so that, ultimately, they can do the best that they can for their children; and

- society as a whole, because childhood experience lays the foundations for later life. Ensuring that children receive the financial support to which they are entitled will contribute to a more socially cohesive and productive economy and reduce the burden on public services.

1.14 Currently the system does not do enough to establish and enforce clear rights and responsibilities. Many parents would prefer to make their own private arrangements and can often do so amicably. But when a parent with care makes a claim for benefit, these arrangements are automatically overturned, even if they are working perfectly well. This creates a large number of parents who do not want, and do not need, to be in the system.

### Child maintenance arrangements in the UK

1.15 The involvement of the State in the enforcement of child maintenance payments is by no means a new concept.<sup>6</sup> In recent history, and until 1993, child maintenance matters fell under the jurisdiction of the courts. Often, however, the system failed to provide effectively for children because: *'the amounts of maintenance were usually unrealistically low...[and] there was inconsistency in the amounts between courts'*.<sup>7</sup>

1.16 The Child Support Act 1991 sought to establish the principle that non-resident parents must meet their responsibility to maintain any qualifying child through the periodical payment of maintenance. It provided for a new maintenance formula in order to ensure that there was more consistency in outcomes across cases. This was to be delivered by the Child Support Agency, a new body to trace the non-resident parent, and assess, collect and enforce payments of child maintenance. However, despite the best efforts of its staff, the Child Support Agency struggled to administer the complex rules in the child maintenance scheme and its performance fell well short of expectations.<sup>8</sup> In addition, its foremost aim was to reduce the cost to the taxpayer of supporting lone parent families by recovering benefit expenditure. Directly addressing child poverty was never one of its core aims.

1.17 A more client-focused scheme was introduced in 2003 for new cases based on a radically simpler method of calculating maintenance liabilities.<sup>9</sup> It shifted the focus of child maintenance as a means of tackling child poverty. This included a new Child Maintenance Premium for parents with care claiming Income Support or income-based Jobseeker's Allowance. This enabled new child maintenance claimants to keep the first £10 a week of any maintenance received for their children before it affected their benefit entitlement.

1.18 These reforms addressed some of the weaknesses of the original scheme. However, as the National Audit Office has pointed out, these reforms failed to deliver the expected improvements in client service and administrative efficiency. The system still suffers from a complex policy framework and provides only limited incentives and tools to ensure compliance.

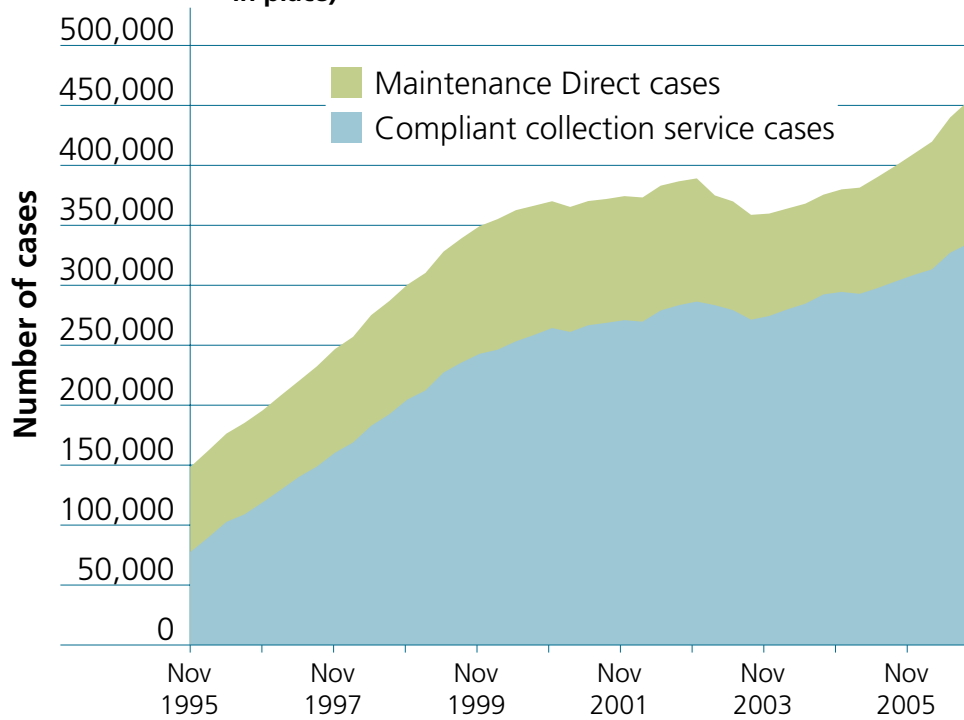
- 1.19 As a result, the system also fails to provide an efficient service that is cost-effective for the taxpayer. It currently costs around 78 pence in administration costs to get each £1 of maintenance to a child.<sup>10</sup> Although it is difficult to make international comparisons in this area, it is clear that this does not compare favourably with the cost-effectiveness of child maintenance systems in other countries.
- 1.20 A key difficulty that the child maintenance system has faced in the past is trying to achieve multiple objectives – establishing parental responsibility but also to reclaim money for the taxpayer when parents with care are on benefits. As a result a lot of the original complex policy architecture was drawn from the social security system.
- 1.21 Many parents with care and non-resident parents still have difficulty understanding the system. For instance, research shows that some parents have a limited understanding of the calculation behind their maintenance award.<sup>11</sup> Others have misconceptions regarding the interaction between child maintenance and the benefit system and, notably, limited awareness of the Child Maintenance Premium.<sup>12</sup> One previous survey of Child Support Agency clients – which will not reflect any improvements since that time – found that over 60 per cent of parents with care disagreed or strongly disagreed that the Child Support Agency acted quickly when the non-resident parent had not paid enough maintenance.<sup>13</sup>

## Reform of the child maintenance system

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- 1.22 Collecting child maintenance from non-resident parents who do not want to pay is never going to be easy and there are often difficult and emotional circumstances that surround parents when child maintenance becomes an issue. There have been improvements. At the end of September 2006 and as illustrated in Figure 1.3, around 450,000 cases either 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. This benefits around 625,000 children in total, up 16,000 since June 2006 and up 67,000 compared to September 2005.

**Figure 1.x Child Support Agency caseload**  
(cases in receipt of maintenance or with a Maintenance Direct agreement in place)



Source: Child Support Agency administrative data.

- 1.23 But child maintenance policy and the framework for its delivery have never been of the standard required. The impact of this on children is significant, and there is a clear and obvious need for radical reform. As a result, in February 2006 the Government announced a two-stage approach to help ensure that more children receive child maintenance.
- 1.24 The first of these has already started: an Operational Improvement Plan, including new investment of up to £120 million, to stabilise and improve the short-term performance of the Child Support Agency, as set out in Box 1.1.

### Box 1.1: The Operational Improvement Plan

In February 2006 the Child Support Agency published an Operational Improvement Plan,<sup>a</sup> which set out the steps it would take to stabilise and improve its performance, and the service it provides, in the short-term. The plan focuses on four key areas:

- **gathering information and assessing applications:** including more staff to clearing new applications; introducing senior caseworkers to deal with the most complex cases; and working more closely with HM Revenue & Customs and credit reference agencies to trace non-resident parents;
- **active case management:** including increasing the use and effectiveness of existing collection methods and extending the range of payment methods available; developing the Child Support Agency's ability to identify those non-resident parents who are most at risk of not paying maintenance so that it can focus its efforts on them; and improving communications with clients so that they can better understand the progress of their case;
- **enforcing responsibilities:** including employing external debt collectors to recover outstanding debts; dedicating more staff to enforcement activities; and increasing the use of existing sanctions – such as the removal of driving licences and imprisonment – on those non-resident parents who repeatedly fail to pay maintenance; and
- **getting the best from the organisation:** including changing the way that the Child Support Agency works by putting in place dedicated specialist teams; resolving key problems with the IT systems; and publishing a client charter so that clients know what level of service they are entitled to expect.

Many of the actions that are being taken forward through the Operational Improvement Plan – such as making the assessment and collection processes more effective and taking quicker and firmer action against non-resident parents who do not meet their responsibilities – are areas that are also covered in depth in this White Paper. As such, the Operational Improvement Plan provides an important platform on which to build and implement further and more radical change to the child maintenance system.

<sup>a</sup> Child Support Agency, 2006, *Child Support Agency Operational Improvement Plan 2006–2009*.

- 1.25 The Government also asked Sir David Henshaw to develop proposals for the redesign of the child maintenance system and to assess the longer-term policy and delivery arrangements.

- 1.26 Sir David published his recommendations in July 2006 and concluded that: 'there is need for a fundamental change in the way that child support is delivered in this country.'<sup>14</sup> He recommended a clean break with the past and the introduction of a simpler system that enables and encourages parents to take responsibility for making their own arrangements for child maintenance. The Government would encourage and help parents to agree maintenance arrangements between themselves but would step in quickly, firmly and effectively when parents could not agree or when arrangements break down.
- 1.27 To underpin this approach, Sir David put forward a number of key changes to child maintenance policy and its delivery, as set out in Box 1.2.

### **Box 1.2: Sir David Henshaw's key recommendations for a clean break**

Sir David proposed a clean break with the introduction of a new system that enables and encourages parents to make their own maintenance arrangements. To achieve this he put forward the following key changes:

- ending the requirement that all parents with care claiming benefit be treated as applying for child maintenance;
- disregarding child maintenance up to a high level in calculating Income Support and entirely in Housing Benefit and Council Tax Benefit;
- reconfiguring services so that parents are guided more effectively to, and are supported by, appropriate and timely help and information;
- introducing new sanctions and managing enforcement as a distinct business function;
- simplifying and improving the detailed policy framework and processes; and
- creating a new organisation to deliver child maintenance.

## The Government's principles for reform

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- 1.28 The Government published its initial response to Sir David in July 2006.<sup>15</sup> It has accepted the vast majority of Sir David's recommendations. Based on Sir David's recommendations the Government has established four new principles for the reform of the child maintenance system. These are to:
- **help tackle child poverty** by ensuring that more parents take responsibility for paying for their children and that more children benefit from this;
  - **promote parental responsibility** by encouraging and empowering parents to make their own maintenance arrangements wherever possible, but taking firm action – through a tough and effective enforcement regime – to enforce payment where necessary;
  - **provide a cost-effective and professional service** that gets money flowing between parents in the most efficient way for the taxpayer; and
  - **be simple and transparent**, providing an accessible, reliable and responsive service that is understood and accepted by parents and their advisers and is capable of being administered by staff.
- 1.29 These four principles refocus the child maintenance system on meeting the needs of children. They make tackling child poverty the first and most critical test for reform, and they establish and enforce clear rights and responsibilities – the right of a person to make a claim and the resulting responsibility of the non-resident parent to pay.
- 1.30 The remainder of this White Paper sets out the Government's proposals in more detail. We believe that as a result of these reforms, the child maintenance system will meet, more effectively than now, the key objectives that have been set for it. It will lift many more children out of poverty, give parents more responsibility for their maintenance arrangements while being tougher on those parents who do not face up to these responsibilities, and provide a more streamlined and client-focused service.
- 1.31 The Government's response to Sir David set out a series of questions around the broad principles of the proposed system. Stakeholders strongly supported giving parents more responsibility for making their own child maintenance arrangements and allowing parents with care claiming benefit to keep more of the maintenance paid to them. There were almost 300 responses in total and a summary of them is provided at Annex A.
- 1.32 The Government will continue to work closely with all stakeholders. The White Paper sets out a series of questions on the proposals and we would welcome responses to them.







## Chapter 2

**A new focus** – encouraging parents to make their own arrangements



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

### Summary

Many parents would prefer to make their own child maintenance arrangements and can often do so amicably. The existing child maintenance system, however, does not provide the right incentives and help to enable them to do so. In the case of parents with care making a claim for benefit, the system overturns any arrangements that may already be in place, even if they are working perfectly well. This is usually to the detriment of all parties, especially the children.

This chapter sets out a series of changes that will promote a greater degree of personal responsibility and choice, by encouraging and helping parents to come to their own child maintenance arrangements and removing disincentives that may prevent them doing so. We propose:

- to 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, to 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 per week of maintenance where maintenance is being paid;
- from 2010–11 to significantly increase the amount of maintenance that all parents with care on benefit can keep before it affects the level of benefits they receive. In doing this, the balance between the effects on incentives to work will need to be considered alongside the impact on administrative burdens and the potential contributions of different rates to addressing poverty directly. We will undertake further analysis of these issues in the coming months; and
- that the new child maintenance system will provide parents with better access to information and guidance when they separate and link them up to quality support to enable them to make informed decisions.

These changes emphasise the continuing responsibility of both parents to support their child, even where a relationship ends, and create an environment where parents can better understand the options open to them. Significantly increasing the amount of money that all parents with care on benefit can keep, combined with good quality information and guidance services, will lift many more children out of poverty and promote more sustainable and durable child maintenance arrangements.

- 2.1 We want to move to a child maintenance system that promotes greater parental responsibility and enables and empowers parents to make their own arrangements for child maintenance. This chapter sets out how we will:
- **encourage parents to take responsibility** for arranging maintenance by removing the requirement that all parents with care claiming benefit be treated as applying for child maintenance;
  - **remove financial disincentives** for parents to make these arrangements by significantly increasing the amount of maintenance that parents with care on benefit can keep, thereby lifting many more children out of poverty; and
  - **help parents** in this role by improving their access to, and the quality of, information and guidance so that they can make the best decisions and arrangements for themselves and their children.
- 2.2 These changes will greatly improve the way that maintenance shapes the lives of parents and their children – families on benefit will keep substantially more of the maintenance paid and all parents will be able to make a more informed and supported choice about the arrangements that best suit them. In addition, the changes will significantly reduce the interaction between the benefits system and child maintenance, making both systems easier for clients to understand and for staff to administer.

## Encouraging parents to make their own arrangements

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- 2.3 The Child Support Agency is required, by law, to calculate the amount of child maintenance payable to a qualifying child if it receives an application and if it has jurisdiction to deal with that calculation.
- 2.4 Under existing rules, when a parent with care makes a claim for Income Support or income-based Jobseeker's Allowance, or if it is claimed in respect of them, they are also treated as applying for child maintenance via the Child Support Agency. This means that any maintenance arrangements that are already in place, for instance a Consent Order – an order made by the court with the written agreement of both parties – or a written maintenance agreement, are automatically overturned.
- 2.5 This is not what parents say they want from the child maintenance system. Many would instead prefer to make their own arrangements and can often do so amicably. Even more would probably want to do so if they were given the necessary information. In a research study commissioned by the Department for Work and Pensions the message from parents was that they want to be given the option of sorting out their child maintenance arrangements, rather than having one system that is imposed on everyone.<sup>16</sup>

2.6 Ending this rule would carry significant benefits for parents. It would:

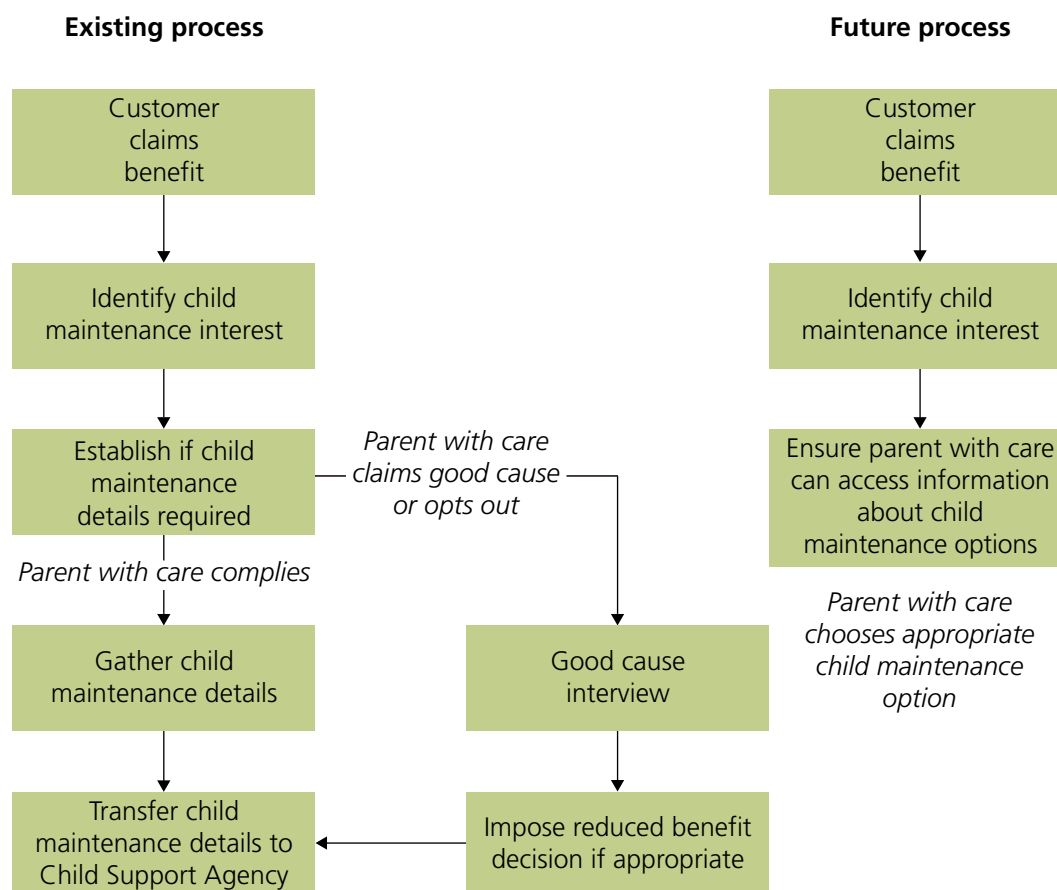
- give them more choice about making child maintenance arrangements that meet their own needs in a way that has not existed before;
- help to overcome the sometimes negative impact that the involvement of an administrative organisation is perceived to have on the parents' relationship. Evidence suggests that around 30 per cent of parents with care claiming benefit felt that the involvement of the Child Support Agency caused upset in their relationship with the other parent;<sup>17</sup> and
- help to facilitate more consensual and stable child maintenance arrangements, in view of the fact that, where parents agree maintenance between themselves, arrangements are more likely to be complied with.

2.7 It would also mean that clients who do not want and do not need to use the administrative organisation would no longer be required to do so. Resources and efforts could then be focused on providing a better service to a smaller number of parents who find that arranging maintenance without support is not a realistic option and so are most in need of help.

2.8 The role of Jobcentre Plus would also change significantly, as illustrated in Figure 2.1. Around 250,000 child maintenance applications are received by the Child Support Agency from Jobcentre Plus each year although only 80,000 of these result in a calculation being made and arrangements for the non-resident parent to pay being put in place. Around 20 per cent of 250,000 cases also require Jobcentre Plus to consider an application for good cause where the parent with care opts out of applying for child maintenance because they believe that it will put them, or any child living with them, at risk of harm or undue distress. Jobcentre Plus is also responsible for imposing a Reduced Benefit Decision if the reasons for opting out of applying for child maintenance have not been accepted.

2.9 Although Jobcentre Plus would no longer have these responsibilities, it would still continue to interact with some of the most vulnerable people in society whose children stand to gain the most from their parents having a maintenance arrangement in place. It will therefore be essential for Jobcentre Plus to play a key and proactive role in ensuring that parents claiming benefit are directed to appropriate information and guidance about the child maintenance system and that parents are fully informed about being able to keep significantly more of the maintenance paid to them.

**Figure 2.1: the role of Jobcentre Plus and child maintenance**



## Incentivising parents to make their own arrangements

2.10 In a system where parents are encouraged to make their own child maintenance arrangements, it is important that they have the right incentives to do so. Since 2003, new child maintenance clients have been able to keep the first £10 a week of any maintenance paid without it affecting their benefit entitlement.<sup>18</sup> This is known as the Child Maintenance Premium and it replaced the previous arrangements whereby each £1 of maintenance paid reduced benefit entitlement by the same amount. While many parents have benefited from the Child Maintenance Premium – as of September 2006 over 50,000 cases were in receipt – it could reach significantly more people.

- 2.11 To date, cases on the original child maintenance scheme have not been able to benefit from the Child Maintenance Premium. We have looked at the Child Support Agency applying the Child Maintenance Premium to these cases but this was not possible because the IT system for these cases was not designed to operate disregards. As such, the work would have had to be done manually, which would have had a detrimental effect on the Operational Improvement Plan. However, ending the requirement that parents with care claiming benefit be treated as applying for child maintenance will free up resource in Jobcentre Plus. This will allow Jobcentre Plus both to apply the disregard and to provide the appropriate links to the new information and guidance to parents on benefit that will support them in making their own arrangements.
- 2.12 By the end of 2008 the Government will therefore ensure that all parents with care can benefit from the £10 a week benefit disregard where maintenance is being paid, by extending this to cases on the original child maintenance scheme. We estimate that around 40,000 parents and 55,000 children could benefit from this change.
- 2.13 However, reclaiming most of the money for the State, rather than passing it through to the children, still means that neither parent has a strong enough incentive to co-operate. This undermines the extent to which child maintenance can contribute to the eradication of child poverty.
- 2.14 Increasing the disregard significantly would mean that more money would flow through to children, thereby increasing the incentive for parents with care to seek, and for non-resident parents to pay, child maintenance. Evidence from the United States shows that, where parents with care who were on benefit could keep all the maintenance paid on their behalf, non-resident parents were more likely to pay. Compliance increased by 2 to 3 percentage points for all non-resident parents, but nearer to 10 percentage points where the parent with care was new to the welfare system.<sup>19</sup>
- 2.15 It is essential that children can benefit from maintenance that parents provide. From 2010–11 the Government will therefore significantly increase the amount of maintenance that all parents with care on benefit can keep before it affects the level of benefit they receive. This will lift many more children out of poverty. For those parents with care who received maintenance payments at or below the level of the new disregard – either via private arrangements or with support from the State – there would be no reduction in benefit payments at all.
- 2.16 In doing this, the balance between the effects on incentives to work will need to be considered alongside the impact on administrative burdens and the potential contributions of different rates to addressing poverty directly. We will undertake further analysis of these issues in the coming months.



## Helping parents to make their own arrangements

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- 2.17 Significantly increasing the maintenance disregard, combined with removing the requirement that parents with care claiming benefit be treated as applying for child maintenance, should make a notable impact on reducing child poverty.
- 2.18 However, this outcome will only be realised in practice if as many parents as possible are helped to make a child maintenance arrangement. It is vital that, under the new system, parents are able to make decisions and choices about child maintenance on the basis of the best possible information.
- 2.19 In particular, the new child maintenance system needs to give all parents accessible information points if they separate, provide information and guidance on all aspects of the new system and support people to make their own maintenance arrangements wherever appropriate. It has to ensure that those parents who are most at risk of ending up with no maintenance, for example because of the complexity of their family situation, are particularly directed towards help and support.
- 2.20 Some parents will not be in a position to facilitate their own arrangements without help and it is therefore important to ensure that there is effective information available and support services are in place to help guide them. For example, if the parent with care needs help tracing the non-resident parent, information and support should direct them towards the new organisation. Once parents are there, straightforward payment arrangements can be promoted, including the Maintenance Direct service wherever appropriate.
- 2.21 There will need to be a particular focus on those parents who need help to make maintenance arrangements in the future. There are around a quarter of a million cases each year where separation or the birth of a child results in a potential child maintenance liability. We need to particularly focus on getting good quality information and guidance on options about arranging maintenance to this group, particularly those families most likely to be lifted out of poverty as a result.
- 2.22 Table 2.1 below shows how important it is for us not to simply assume that all parents in the future will make arrangements without support. Looking at the maintenance options reported by the current stock of eligible parents it is clear that over half report that no arrangement is in place or have the decision to arrange maintenance taken from them (as a result of the current legal requirement to engage with the Child Support Agency) as set out in Table 2.1.<sup>20</sup>

**Table 2.1: breakdown of child maintenance arrangements of eligible parents (per cent)**

Child Support Agency (containing benefit cases and non-benefit cases)	19
Private arrangements	23
Consent Orders at court	4
Combination of arrangements	5
No arrangements	49
<b>Total</b>	<b>100</b>

- 2.23 Our overall aim will be to ensure that wherever possible, parents do actually choose to make stable maintenance arrangements from the outset, especially those on low incomes. Alongside this we also want more parents to voluntarily come to their own maintenance arrangements. We know that where parents make their own arrangements they are more likely to succeed.
- 2.24 The Government is mindful of the major challenges in providing information and guidance on separation. There has been much research in the last couple of years which focuses on the wide-ranging needs of separating families and the shortfalls in the provision of support.<sup>21</sup> It also shows that parents with care are very likely to experience a number of legal problems, especially contact and residence, child maintenance, domestic violence and beyond. These legal problems can be compounded by a range of non-legal problems, such as loneliness, depression and childcare issues. In virtually all cases these issues were bundled up together in parents' minds.
- 2.25 The same research also consistently identifies a number of recommendations about how information and guidance should be provided if it is to be accessed and trusted. In particular there is a preference among parents for telephone-based advice and face-to-face services which deal holistically with the key issues arising on separation. Parents also state that they would rather discuss their circumstances with people who are clearly seen as independent and neutral.
- 2.26 At present there is strong evidence that these advice needs are not being met and that there is a significant shortage of skilled services for parents. Successful initiatives illustrate what can be achieved in this area. The Department for Constitutional Affairs and Department for Education and Skills' Relationship Breakdown Programme provides help with Parenting Plans post-separation and access to mediators through the Family Mediation Helpline. Other key players taking forward excellent work in this area include Parentline Plus, Relate, Scoop Aid in Sheffield, One Parent Families and Parenting Across Scotland. We are clear that a joint approach, co-ordinated across government, will be needed in order to provide a successful information and guidance service in the future.

2.27 We think our approach should be based around the following:

- both universal services, which are open to all, and targeted services, which are particularly focused on the poorest, will be required;
- services will need to be built alongside, or as part of, other relevant information and guidance services on parental separation across government and the third sector, wherever sensible;
- services need to be seen to be neutral and independent. We think there will be a major role for the third sector in delivering this part of the service;
- services need to be accessible to both parents on separation. There also needs to be a much greater degree of proactivity with parents with care on low incomes, in particular linking up with them as and when they use Jobcentre Plus services;
- there should be a focus at all times on helping people to understand what their maintenance options are and facilitating parents to come to their own agreements wherever possible. Even where parents do wish to apply to the new organisation, we still want them to actively consider Maintenance Direct in the first instance; and
- support on maintenance is best delivered alongside information on the other key issues that arise regarding parental separation.

2.28 We have started to work through a series of options for how our information and guidance services might look if we want them to be a visible entry point to the new system of child maintenance. We now want to enter into more detailed discussion with stakeholders as we believe they are ideally placed to help us deliver these services. We will therefore take this forward with third sector partners to consider the future structure of such services.

2.29 We wish to start piloting the changes we think are necessary before the new administrative body comes into effect and will do so in 2007–08. We would like to work with stakeholders that have extensive expertise in this area to develop our early thinking on a package of services that might include elements such as a national helpline for separating families, a register of private maintenance agreements made available via the helpline and a website. Piloting a service will help inform and shape an effective information and guidance service and allow us to fully take on board comments and feedback from parents who use the service.

2.30 Jobcentre Plus will play a key role in actively helping to link up benefit claimants to the package of services we create. We are working with Jobcentre Plus to develop a joined-up approach that enables benefit claimants to make informed decisions about the choices available to them.

2.31 We are also interested in taking forward plans for:

- a major marketing campaign stressing the value of maintenance and raising awareness of the new options available; and
- ensuring new information on child maintenance is built into all relevant government and third sector material accessed by parents during the separation process – for example Parenting Plans and mediation services

**Question 1:** Are the key principles and areas for detailed work that we have identified the right ones? In particular:

- How can we best encourage access by parents with care and non-resident parents?
- How can we best make a register of private maintenance agreements an attractive prospect to parents?
- How can Jobcentre Plus most effectively encourage parents claiming benefit to make an informed choice about maintenance?

## Helping parents to make their own arrangements – the role of the courts

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2.32 One route that parents will be able to access to arrange maintenance is the courts. Prior to 1993, the courts took the lead role in determining child maintenance arrangements in the UK. Child maintenance awards under this system were often small and inconsistent. The introduction of the new child maintenance formula, alongside the Child Support Agency, sought to address this issue by enabling fair and consistent levels of maintenance to be calculated based on parents' income.

2.33 Parents who are not claiming benefit can choose either to use the Child Support Agency or to agree child maintenance between themselves or through the courts by Consent Order – an order made by the court with the written agreement of both parties. In Scotland the arrangements are commonly made through Minutes of Agreements registered in the Books of Council and Session.<sup>22</sup>

2.34 Prior to 2003 the courts retained jurisdiction over the Consent Order, and any changes or enforcement issues had to be addressed through that system, unless the parent with care claimed Income Support or income-based Jobseeker's Allowance in which case the Consent Order was overturned.

- 2.35 In 2003 the system was changed so that the exclusive jurisdiction of the courts over child maintenance Consent Orders was limited to 12 months. This is known as the 12-month rule. It means that if either parent chooses to apply for a child maintenance calculation, the Child Support Agency can overturn a Consent Order if it is more than a year old. This rule was introduced so that the courts would encourage fair and consistent levels of child maintenance and, by allowing transfer from the court system to the Child Support Agency, to prevent parents from being trapped in the system if their circumstances change and child maintenance agreements break down.
- 2.36 Sir David Henshaw considered that allowing parents to move between the courts and the administrative body may create instability and reduce the incentive to agree child maintenance at the outset. As such, he recommended that the 12-month rule should be removed to prevent the new organisation from overturning Consent Orders. We have considered this proposal carefully and undertook to consider change where it was clear that this would result in a better service for clients and a lower cost to the taxpayer.
- 2.37 The removal of the requirement for parents with care to be treated as applying to the Child Support Agency if they make a claim for benefit will ensure that fewer maintenance agreements are unnecessarily torn up against the wishes of both parents. However, we have decided that the 12-month rule should remain. This rule has a very positive impact on the level of child maintenance in Consent Orders as it ensures maintenance is generally set at a substantial level that broadly reflects the child maintenance formula.
- 2.38 The decision to keep the 12-month rule was also determined by the consideration that child maintenance needs may change as circumstances change. The court process to address change can be complex and costly, particularly if agreement between parents breaks down. Children are the primary beneficiaries of maintenance, and we do not believe that their interests will be best served by locking parents into the court system indefinitely. When disputes arise parents should have the failsafe of access to the organisation to settle child maintenance in a simple and consistent manner.
- 2.39 We support Sir David's view that parents should attempt to agree child maintenance arrangements together, and the other changes that we will be making to improve information and guidance will support this. Parents will still be free to settle child maintenance through the courts by Consent Order and remain in the court system, if this is what they both want. However, if circumstances change and agreement breaks down, parents should also be free to seek help from the new organisation.
- 2.40 We do, however, want the interface between the new organisation and the courts to be as effective as possible. We will therefore consider how we might provide a more prompt and efficient exchange of information to support the court's decision-making process.

## Encouraging parental responsibility – the wider environment

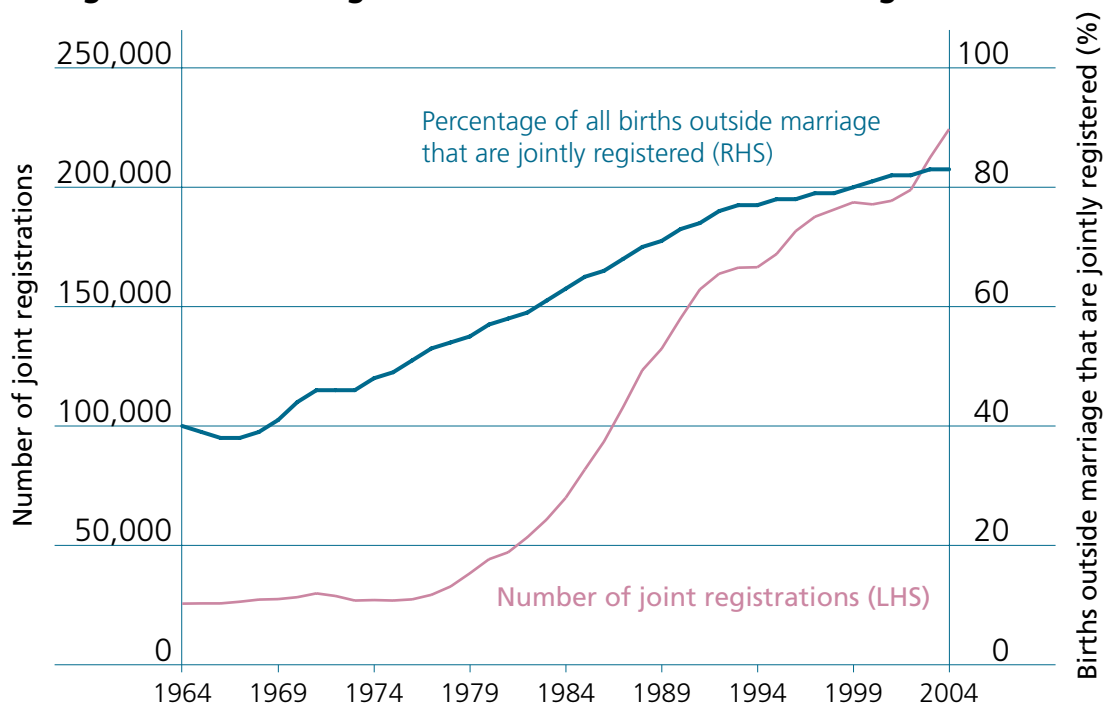
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### Personal Social and Health Education

- 2.41 The changes outlined in this chapter will enable many more separating parents to take personal responsibility for their child maintenance arrangements. But the Government also needs to make sure that the wider environment gives children a proper understanding of the role and importance of long-term stable relationships and gives parents a clear sense of responsibility for the welfare of their children.
- 2.42 One area in which the Government is trying to do more to help children gain a greater understanding of the value of stable family life and the qualities of good parenting is in its work on Personal Social and Health Education (PSHE). PSHE was introduced in 2000 and is taught at all key stages (from age 5 to 16). Its overall aim is to give children the knowledge, skills and understanding to lead confident, healthy and independent lives.
- 2.43 At the heart of the PSHE framework is exploring relationships. Pupils discuss the role and importance of marriage and long-term stable family relationships, the value of family life, the qualities of good parenting and the impact of separation and divorce on families and how best to adapt to changing circumstances. The Department for Education and Skills is working to strengthen the delivery of the PSHE by improving the quality of teaching and increasing the number of teachers trained in this area. [DN: to discuss further text with DfES]

### Joint registration of births

- 2.44 Another area in which the Government can do more to give parents a clear sense of responsibility for the welfare of their children, and in which Sir David Henshaw recommended further work, is through the registration of births.
- 2.45 In the UK, the large majority of birth certificates have both parents' names on them. Where parents are married this happens automatically, in all other cases both parents have to agree before a father's name can appear on a birth certificate. Sole registration (i.e. where an unmarried father's name does not appear on the birth certificate) accounts for around 7 per cent of the total birth registrations in England and Wales, around 6 per cent in Scotland and around 9 per cent in Northern Ireland. As the number of births outside marriage has increased over the last 40 years, there has also been a significant increase in the number of births jointly registered outside of marriage, from around 25,000 in the mid 1960s to around 225,000 in 2004 (as shown in Figure 2.2). However, there are still some 50,000 children each year in the UK who do not have their father's name on their birth certificates. This amounts to around one in five of all births outside of marriage.

**Figure 2.x Joint registration of births outside marriage**

Source: Office for National Statistics, birth statistics.

Note: Figures relate to England and Wales.

- 2.46 Children have a right to know that their parents take responsibility for them and to be supported by a framework that encourages the development of an ongoing relationship with their parents. Many unmarried fathers do not get registered but nevertheless have a close relationship with their child's mother. The Government believes that their relationship with their child could be crystallised by having their name on the birth certificate. This is backed up by evidence from the United States – which has sought to actively promote joint birth registrations for some time – which shows that getting a father to register his name on a birth certificate improves levels of contact and increases the likelihood that they will pay maintenance as a result.
- 2.47 The Government has concluded that the birth registration system needs to do more to actively promote joint registration and that current legislation needs to be changed to require both parents' names to be registered following the birth of their child, unless it would be unreasonable to do so. Scotland will continue to support the voluntary joint registration of births.

- 2.48 This is clearly a very sensitive area in which the Government must balance a number of priorities – supporting parental responsibility while protecting child welfare and the position of vulnerable women wherever necessary. In a small number of cases the mother may not know the name or whereabouts of the father or will not want his name on the birth certificate for a very good reason, for example if she was raped or subjected to a coercive relationship. On child welfare grounds, such cases must be adequately protected. Nonetheless, the Government is still determined to develop a culture in which the welfare of children is paramount and people are clear that fatherhood, as well as motherhood, always comes with both rights and responsibilities that cannot be easily avoided.
- 2.49 The Government will now come forward with proposals on joint birth registration in England, Wales and Northern Ireland, which would be subject to future consultation and legislation. The default position will be that both parents' names should be registered but, in taking this work forward, the Government will make sure there are robust safeguards in place to protect the welfare of children and vulnerable women.

## Conclusion

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- 2.50 This chapter has set out a range of proposals that are intended to enable and encourage parents to come to their own child maintenance arrangements. The existing policy framework, by overturning what may already be perfectly satisfactory arrangements and by disincentivising parents from co-operating, has not achieved this in the past.
- 2.51 We still expect, however, that some parents will need additional help, for example in determining the amount of maintenance that should be paid or in collecting and paying out maintenance that is due. Some non-resident parents will also seek to evade their responsibilities, and it is imperative that a strong and effective enforcement regime is in place so that they fulfil their obligations.
- 2.52 Parents must therefore be reassured that they have access to help if arrangements break down and that the non-payment of child maintenance will be acted upon. While the Child Support Agency was set up to carry out these functions, its performance has fallen short of expectations. This next chapter therefore sets out our plans for a fresh start by replacing the Child Support Agency with a new organisation to deliver child maintenance.







## Chapter 3

**A fresh start** – delivering child maintenance in a new way



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

### Summary

The proposals in this White Paper will fundamentally change the role of the State in the provision of child maintenance. The new child maintenance system will focus on enabling parents to meet their financial responsibilities; but in instances where parents are unable to make arrangements help and support will be available. As a result, the child maintenance system will cease to operate as an adjunct to the social security system, and will become entirely focused on meeting the needs of children and their parents.

Making a success of this system, so that parents and children can benefit fully from these changes, requires a fundamental shift in the business model, in culture and efficiency. Since its inception in 1993 the Child Support Agency has never worked as effectively as had been intended because it has been asked to deliver the impossible. The body responsible for the delivery of child maintenance must be seen, in particular, to be an effective enforcer of child maintenance. In this respect the reality is that the Child Support Agency will always suffer from the legacy of the past.

The Government believes it is vital to have a fresh start and to replace the existing Child Support Agency with a new organisation to deliver child maintenance. Our view is that this will be best achieved by creating a delivery body that operates at arm's length from government and, to this end, we propose to create a new Non-Departmental Public Body to administer child maintenance – the Child Maintenance and Enforcement Commission (C-MEC). C-MEC will have responsibility for ensuring that the detailed development and implementation of the proposals outlined in this White Paper deliver the outcomes that children and their parents deserve. It will be encouraged to commission work from other sectors in order to deliver services in the most efficient and effective way, ensuring the delivery of a high quality and efficient service through its commissioning role.

C-MEC will also take the lead in developing the detailed approach to moving existing cases over to the new system. This chapter outlines a timetable for change and the key principles for delivering the transition.

This approach will provide a more accessible, reliable and responsive service for clients. It is a fundamentally different approach to the delivery of child maintenance, marking a clean break from the past and providing the basis for more innovative and flexible approaches to service delivery in the future.

- 3.1 The changes outlined in Chapter 2 will enable and empower parents to make their own child maintenance arrangements. Some parents, however, will find this impossible and will require further support. The Government has a responsibility to help and, where necessary, require parents to fulfil their responsibilities to their children. With this in mind, we are clear that having an administrative body to which parents can turn must be a permanent feature of the child maintenance system.
- 3.2 The changes set out elsewhere in this White Paper will overcome many of the systematic failings of the existing child maintenance scheme. They will create a more focused child maintenance system, moving away from an overly ambitious and complex policy framework that has caused operational difficulties and meant that the delivery of child maintenance has never reached the standard required.
- 3.3 A simplified policy framework will put the delivery of child maintenance on a much firmer footing in the long term. As Sir David Henshaw noted, however, the legacy of the past must not be allowed to put these new arrangements at risk. His assessment was that the existing Child Support Agency could not provide the basis for the radical shift in the business model that is needed to deliver the new system.
- 3.4 Although the performance of the Child Support Agency has stabilised, reflecting the efforts of its staff and new investment through the Operational Improvement Plan, and even though 67,000 more children are receiving maintenance than a year ago, the Government agrees that the delivery of child maintenance needs a fresh start. The body responsible for the delivery of child maintenance must be perceived to be an efficient organisation and an effective enforcer of child maintenance. The Child Support Agency will always suffer from the legacy of the past, and therefore a clean break is necessary for lasting and meaningful change to be effected.
- 3.5 This chapter, therefore, sets out our proposals for the creation of a new organisation to deliver child maintenance – the Child Maintenance and Enforcement Commission (C-MEC). During the period when the new organisation is being set up, the Child Support Agency will continue to deliver services and operate the existing child maintenance schemes. The additional investment in the Operational Improvement Plan will enable a renewed focus on efforts to ensure that parents fulfil their responsibilities, and will provide a solid foundation for making the transition to the new arrangements.

## A clean break – a new body to administer a new system of child maintenance

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- 3.6 Removing the requirement that a parent with care claiming benefit be treated as applying for child maintenance eliminates a large overlap between child maintenance and the benefits system. This change means that the child maintenance system will recognise that the financial responsibility for children lies, first and foremost, with the parents concerned. Where such an arrangement is not possible, the State should have a role that informs and helps parents and, where necessary, requires them to meet their obligations.
- 3.7 In some respects there is a regulatory aspect to this role – informing parents of their rights and responsibilities and stepping in to enforce them where necessary. Many regulators in other spheres are constituted as Non-Departmental Public Bodies, thus gaining the dual benefits of independence and the support of a statutory framework within which to regulate essentially private transactions – between the consumer and their energy provider, between viewers and broadcasters or between employees and their employer in health and safety or pensions matters.
- 3.8 In considering the future administration of child maintenance we believe that a Non-Departmental Public Body – which would operate at arm's length from the Government – is the most appropriate model. It is an approach that has been used successfully in the delivery of other public services and will provide a sole focus on the successful delivery of child maintenance, ensuring the delivery of a high quality and efficient service through its commissioning role. The new arrangements will facilitate innovative approaches to delivery, including harnessing the expertise of the public, private and third sectors, and will provide the new organisation with the flexibility to shape its services and adapt its policies in the light of ongoing experience. The independence afforded to such bodies could also help to instil public confidence in the delivery of child maintenance services.

- 3.9 C-MEC will have responsibility for delivering all aspects of the child maintenance system which will include:
- the management of existing cases, with a focus on resolving current issues, such as making full use of the tools available to manage outstanding debt more effectively and taking full advantage of the changes in the enforcement regime;
  - the detailed development and implementation of the new assessment, collection and enforcement measures outlined in chapters 4 and 5;
  - providing parents with information and guidance, to enable them to make informed decisions about whether and how to make their own child maintenance arrangements or to move to the new scheme;
  - managing the transition of cases into private arrangements or between schemes; and
  - the closure of the existing child maintenance schemes and the Child Support Agency.
- 3.10 C-MEC will also provide direct policy advice to Ministers on all aspects of the system that it is charged with delivering. The Department for Work and Pensions will be responsible for giving Ministers strategic advice on the overall child maintenance system and on the performance of the new organisation against its objectives.
- 3.11 The people employed in the Child Support Agency are its biggest asset, and they will be critical in developing the modern, innovative service that needs to be put in place. We recognise that the transfer of responsibility to a Non-Departmental Public Body will have implications for them and we will be working closely with trade unions on this important issue. Staff will be given the full protection required by the Transfer of Undertakings (Protection of Employment) Regulations or the Cabinet Office's statement of practice on staff transfers in the public sector. This will ensure that staff can enjoy the same terms and conditions as they currently do with continuity of employment. Staff will continue to have access to the Principal Civil Service Pension Scheme.

## Governance, leadership and accountability

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- 3.12 We recognise the importance of putting in place effective governance arrangements, including a strong leadership framework and clear lines of accountability between C-MEC, the Government and the general public. While the new arrangements will enable the body to develop services in a way that it considers most appropriate, it will be accountable to Parliament, through the Secretary of State for Work and Pensions for its overall effectiveness and efficiency. Thus the Secretary of State will agree its high-level performance targets and yearly funding.

- 3.13 C-MEC will be run by an independent board, led by a Chairman and Chief Executive. The board will consist of people with relevant professional expertise and experience. The Secretary of State for Work and Pensions will appoint the Chair and the first Chief Executive in line with the requirements of the Office of the Commissioner for Public Appointments and will approve all other appointments to the board, including the appointment of subsequent Chief Executives.
- 3.14 C-MEC will contribute to wider departmental and Government objectives, in particular our ambition to abolish child poverty by 2020. It will operate within a framework of objectives and principles, which we expect to be set out in legislation. This will aim to ensure that C-MEC:
- is focused on ensuring that parents meet their responsibility to support their children financially, thereby helping to reduce child poverty and improve the welfare of children;
  - encourages and empowers parents in their role and, where necessary, requires them to meet their obligations; and
  - ensures the delivery of a high-quality and efficient service through its commissioning role.
- 3.15 It will be crucial that C-MEC engages actively with external stakeholders including organisations of and for its clients, representative and advisory groups and those with a wider interest in children and their families.
- 3.16 C-MEC will be required to produce a comprehensive annual report, approved by the Secretary of State for Work and Pensions, who will then lay it before Parliament and make it available publicly. Accounts, audited by the National Audit Office, will also be laid before Parliament on an annual basis.

**Question 2:** Paragraph 3.14 sets out what we hope to achieve through a framework of objectives and principles for the new body: do you think these three aims are appropriate?

## Moving to the new system

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- 3.17 The changes we intend to put in place, particularly concerning the treatment of parents with care who are on benefit, mean that there will be an entirely new focus for the child maintenance system. It is a fundamentally different approach with choice at its heart and where parents are encouraged and enabled to make their own arrangements in a way that suits them.



- 3.18 When such arrangements are not possible, C-MEC will be available to parents, in particular by enforcing payments in a tough and effective manner. Ensuring that the new choices and services available are offered to the 1.4 million cases that currently use the Child Support Agency will be the first challenge for C-MEC. If these parents wish to transfer to the future scheme, the transition must take place seamlessly, ensuring that payments are continuous even though the assessment may change. A key consideration is making sure that parents fully understand what is going to happen, when and how.
- 3.19 We do not underestimate the challenge of moving to a single system and previous attempts to move clients between schemes have highlighted the complexity and risks involved. This experience has shown that it is simply not possible to move all cases to the new system in bulk. We will therefore need to introduce change incrementally and move cases into the new system over time. We consider that the policy and delivery changes we have – and will – put in place provide a more robust platform for moving people to the new arrangements:
- § our investment in the Operational Improvement Plan, which is stabilising the performance of the Child Support Agency, provides a solid foundation for longer-term change;
  - § removing the requirement that parents with care claiming benefit be treated as applying for child maintenance will create a more focused system and will mean that parents who do not want, or need, the services of the new organisation do not have to move to the new arrangements; and
  - § the improvements to the assessment and calculation process will make it easier to recalculate liabilities and keep them up to date.

## Our principles for moving forward

- 3.20 C-MEC should develop the detailed proposals for moving existing cases forward. In doing so it will have the opportunity to work with stakeholders. It will need to ensure that the interests of parents and children are safeguarded during the transition. This will include creating simpler ways of dealing with changes to maintenance liabilities when parents move from one set of rules to another and supporting parents who have multiple cases under different sets of rules. The approaches for dealing with the issue of multiple cases include co-ordinating the transfer of all linked cases or applying a simple flat-rate assessment until all cases are under a single set of rules. These options will be explored further, as C-MEC develops its plans.

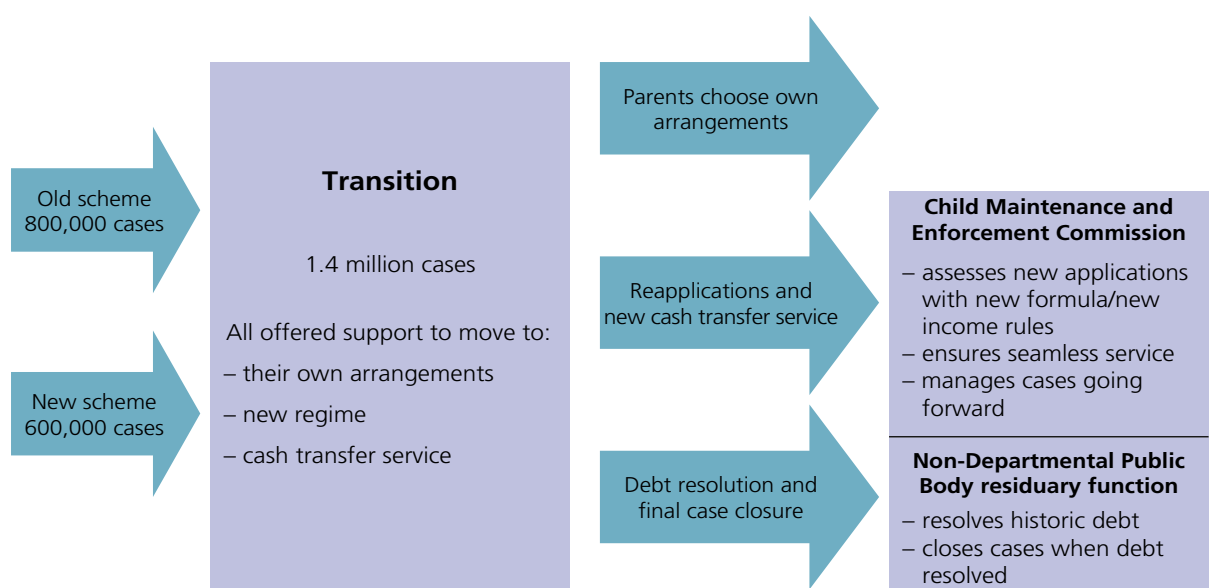
3.21 The principles guiding the approach to transition will be to:

- ensure that the transition to the new regime is driven by child poverty considerations – focusing on support for the poorest families first;
- meet parents' needs by empowering them to make informed choices and fulfil their responsibilities;
- minimise disruption for parents through clear and effective communication that recognises their needs and concerns and that provides a seamless service for the move to the new regime; and
- ensure that the approach is practical and achievable – learning from past experience by reducing the complexity that stalled the implementation of previous reforms.

3.22 We will support the design and development of the overall approach by undertaking research of client needs. This will enable information and guidance to be tailored in an appropriate manner, so that parents are provided with a transparent set of options that recognise their concerns and that allow them easily to understand the choices available to them.

**Question 3:** Do the principles for moving forward set out at paragraph 3.21 provide the right approach?

**Figure 3.1: moving to the new system**



## Timing

- 3.23 The sequencing of our proposed changes is set out in Box 3.1. This covers the key milestones that shape how the new child maintenance system will be delivered. The Government will keep this timetable under review to ensure that progress is made as fast as is consistent with affordability and with the robust development of supporting IT and other systems.
- 3.24 Following the enactment of legislation, we will establish C-MEC and improve services for parents. During its first year, C-MEC will focus on increasing enforcement and enabling all parents to have the opportunity to make their own maintenance arrangements. From late 2008, the £10 a week benefit disregard will be extended to all parents with care claiming benefit where maintenance is being paid.
- 3.25 C-MEC will be responsible for supporting parents into their own arrangements or into the new scheme. While it will plan very carefully for this process, it will clearly want to start it at the earliest opportunity. We expect this process will take around three years. During the transfer period, C-MEC will need the flexibility to review and adjust its plans in response to the demand for the new system, and to ensure that parents receive the seamless service they deserve.
- 3.26 In deciding which cases should move first, C-MEC should have regard to the principles set out earlier. This may mean focussing efforts on parents with care who have a nil assessment on the old child maintenance scheme thereby ensuring that these parents have the opportunity for the first time to secure a flow of maintenance.

### Box 3.1: expected timetable for change

#### 2007–08

- a Bill will be introduced to Parliament to reform the child maintenance system;
- key appointments will be made on a provisional basis pending Royal Assent, to ensure that C-MEC's prospective board members can input into the preparatory work necessary to launch the new organisation;
- investment in the Child Support Agency's Operational Improvement Plan will continue, improving performance for parents using the existing arrangements; and
- piloting will take place to inform C-MEC's decisions on how to structure information and guidance services.

**Box 3.1: expected timetable for change (continued)****2008–09**

C-MEC will be in place with statutory authority. Its priorities will be to:

- take responsibility for existing Child Support Agency operations and starting the procurement of new services;
- use the new powers for enforcement and collection (set out in Chapter 5) to ensure more non-resident parents pay maintenance – delivering money for more children;
- put in place new information and guidance services to support parents in making an informed choice;
- enable parents to make an active choice by removing the requirement that parents with care who claim benefits be treated as applying for child maintenance. At the same time it will extend, by the end of 2008 and in conjunction with Jobcentre Plus, the current benefit disregard to cases on the original child maintenance scheme where maintenance is in payment, thereby ensuring that all parents with care claiming benefit can keep the first £10 a week of maintenance paid.

**2009–10**

- parents will be supported to make choices – existing clients will have the options available outlined to them, be that support in making private arrangements; or where both parents agree, continuing with their current arrangements supported by a simple cash transfer service; or becoming a client of the new system.

**2010–11**

- new applications will be accepted under the new assessment regime, as set out in Chapter 4;
- the significantly higher disregard for all parents with care claiming benefits will be introduced; and
- the transfer process for existing clients will begin – the transfer period is expected to take around three years.

In **2012–13**, all clients will be on a single set of rules managed by a single organisation.

## Supporting parents with a seamless service

- 3.27 For those parents who currently use the services of the Child Support Agency, and who choose to receive the support of C-MEC rather than make their own arrangements, there are two choices.
- 3.28 The first is to move forward onto the new and simplified assessment scheme. Until their transfer, parents will continue to receive support under their existing scheme rules and maintenance will be enforced throughout. We will ensure that where parents want to remain in the system their existing assessments and arrangements will not be removed until the new ones are in place. We expect these transfer arrangements to be seamless and, throughout, parents who do not pay will be rigorously pursued.
- 3.29 The first is to move forward onto the new and simplified assessment scheme. Until their transfer, parents will continue to receive support under their existing scheme rules and maintenance will be enforced throughout. These transfer arrangements will be seamless and, throughout, parents who do not pay will be rigorously pursued.
- 3.30 The second option recognises that, for some parents, current maintenance arrangements are working perfectly well. We know that in moving to the simplified assessment process set out in Chapter 4 many parents with existing cases will face a change in the child maintenance amount for their children. C-MEC will put in place a comprehensive communication programme to assist parents' understanding of these changes. Where parents agree that the existing arrangements are satisfactory then they should not be forced onto a different assessment. To support this, C-MEC will therefore provide a new cash transfer service that moves money between parents based on their current maintenance award. There will be no ability to enforce or change the amounts involved but where arrangements break down parents will be able to move into the new system to obtain a full assessment and enforcement service.

## Conclusion

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- 3.31 The new arrangements set out in this chapter provide a fresh start for the delivery of child maintenance and a clean break with the past. Parents will now have more choice than ever before about their maintenance arrangements, against the backdrop of a more effective delivery organisation that will be better placed to enforce their responsibilities.
- 3.32 To fully realise the benefits that C-MEC will bring for clients, the policy framework needs to be more streamlined and simpler than is currently the case and provide the people working to deliver child maintenance with the tools to do the job. The following two chapters therefore set out our proposals for improving the child maintenance assessment, collection and enforcement processes.



## Chapter 4

# Simplifying and improving the child maintenance assessment process



## Chapter 4: Simplifying and improving the child maintenance assessment process

### Summary

We want there to be a faster, more accurate and transparent process for assessing child maintenance payments. Many people who use child maintenance services have complex personal lives and it can be difficult for the system to keep up, and account for, changes in their circumstances. The assessment process was significantly simplified for new cases in 2003. However, with the benefit of operational experience, it is clear that the reforms did not go far enough. The complexities that remain still undermine the performance of the system as a whole. The scheme is difficult for parents to understand and for staff to administer, and this affects the quality of service that can be offered.

This chapter sets out a comprehensive set of proposals, which we believe will provide for a much simpler assessment process for new claims. We propose:

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

These changes will contribute to the Government's principles for the reform of the child maintenance system by providing a simpler and more transparent process for calculating maintenance where there is a new application. They will make it possible to assess a non-resident parent's liability more efficiently and thereby ensure that maintenance flows more quickly to children.

- 4.1 Many people who use existing child maintenance services have complex personal lives, and it can be difficult for the system to keep up with, and account for, changes in their circumstances. In March 2003, an improved child maintenance scheme was introduced that established a new formula for clients coming to the Child Support Agency. This change significantly reduced the amount of information that is required to make a maintenance calculation. But this only went so far, and the complexities that remain still undermine the effectiveness of the child maintenance system as a whole, making it difficult to explain and costly to administer.



- 4.2 Evidence suggests that both parents with care and non-resident parents can sometimes find it difficult to understand and complete application forms for child maintenance.<sup>23</sup> Some non-resident parents, for example, do not, or find it difficult to, provide detailed financial information that allows a calculation to be put in place. This adds to what, for many, can be a slow process from the initial application for child maintenance through to a calculation being set up.
- 4.3 The Government believes that the assessment process must be improved. Doing so will mean that a better service for parents can be provided, and a system put in place that is easier for everyone to understand and for staff to administer. That way, parents will be left in no doubt about the basis on which decisions have been made and the amount of child maintenance that their children are entitled to.
- 4.4 The reforms we propose will:
- reduce the amount of information required from the non-resident parent to make an assessment;
  - speed up the assessment process so that arrears do not build up; and
  - ensure that cases are kept up to date and that there is regular and accurate communication with parents about their assessment.
- 4.5 Simplifying the assessment process will inevitably mean that there will be some changes in the amounts of child maintenance to be paid. It is critical for us that we strike the right balance between designing a simple scheme and recognising that any scheme must meet basic standards of fairness. To achieve this, our approach has been to make the basic assessment formula as simple as possible, while having an exceptional cases regime that will be largely unchanged from that for the scheme introduced in 2003.
- 4.6 Either a non-resident parent or a parent with care can apply for a variation to have the maintenance calculation reduced or increased to take account of a range of exceptional circumstances. These cover family situations (for example, the cost to a non-resident parent of contacting a qualifying child or children when more than a certain cost) and financial ones (for example, where the non-resident parent has more than a certain level of assets, which could justify an increase in maintenance). Variations will be a key part of the child maintenance scheme. C-MEC will ensure that parents are aware of their availability, treating the area as an important part of their responsibilities.

- 4.7 The variations scheme has already been extended to cope with avoidance measures involving taking income in a manner not taken into account in a normal calculation. C-MEC will monitor what happens in the scheme which it will administer and act as necessary, including use of amending regulations, to ensure that child support liabilities are based on a fair assessment of a person's income.

**Question 4:** Is our approach of combining a simpler assessment formula with an exceptions regime the right one?

## Improving the assessment process

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### Treatment of income

- 4.8 In his report, Sir David Henshaw recommended much closer links between the body responsible for administering child maintenance and HM Revenue & Customs.
- 4.9 We propose that the child maintenance liability of a non-resident parent who is in employment or self-employment be based on historical information from the latest tax year for which HM Revenue & Customs has full details. This would replace the existing arrangements whereby the non-resident parent is approached for their financial information, which they are often unable or unwilling to provide. Discussions between the Department for Work and Pensions and HM Revenue & Customs about the precise configuration of the data gateways to support the necessary movement of information to C-MEC are under way.
- 4.10 Using information from a single known source could significantly reduce the time it takes to make a maintenance calculation. For parents, this increases the prospect that they will receive child maintenance shortly after the initial application. For the body responsible for administering child maintenance, it offers the prospects of clearing initial applications much more swiftly, so that a backlog of applications does not build up.
- 4.11 We believe that historic tax income information is close enough to the current financial position of most non-resident parents at the time to be an acceptable and sufficiently robust basis for assessment. We recognise, however, that we will need to introduce appropriate safeguards for circumstances where, at the time that a liability is being worked out, current income differs from the relevant tax year by more than a certain amount – we propose to set this level at plus or minus 25 per cent.

## Fixed term awards

- 4.12 One failing of the existing system is that small changes in income can lead to a change in a maintenance award: any change in income of at least 5 per cent means that the maintenance award has to be recalculated, with consequent changes to payments. Such instability can create uncertainty for parents about their income. Moreover, because staff also have to review a maintenance award, it diverts their time and effort away from keeping money flowing to children. Using tax-year data, which are updated on a regular basis, provides an opportunity to fix maintenance awards for a period of time, thereby reducing the number of occasions on which changes of circumstance are reported to the administrative organisation.
- 4.13 We recognise that the system needs to be sufficiently flexible to deal with unexpected events or a major change in circumstances. In some instances, therefore, awards would be altered to reflect a significant change of circumstance, such as a move into or out of employment or the death of a qualifying child. In addition, if income changes in the year, so that it differs by 25 per cent from the figure produced by tax-year data, then the maintenance liability will reflect the new income figure.
- 4.14 The use of HM Revenue & Customs data, in combination with awards of one year, will lead to an annual readjustment in the income used to determine the liability of a non-resident parent, as the income from one tax year is replaced by the income from the next tax year.

## Using gross income as a basis for assessment

- 4.15 We also intend to base a non-resident parent's liability on their gross, rather than net, weekly income. This means that deductions of income tax and National Insurance contributions will no longer need to be made as part of a maintenance assessment.
- 4.16 Because gross income is higher than net income, we will reduce the percentage rates of income that are payable for each qualifying child in cases where the gross weekly income of a non-resident parent exceeds £200 per week. It is anticipated that, where there are one, two or three or more qualifying children, instead of rates of 15, 20 and 25 per cent, respectively, the rates will be 10, 15 and 20 per cent. Appropriate adjustments will be made to the reduced-rate regime for those non-resident parents whose income is between £100 and £200 a week.
- 4.17 One important consequence of moving to previous tax-year information is that tax credits will no longer be taken into account as income for the non-resident parent. It would not be appropriate for a liability to be based on a combination of tax credits that are currently being received and income from a previous period. Including tax credits from the previous year would complicate, rather than simplify, the way in which maintenance is assessed. Accordingly, and to reduce the complexity of administrative arrangements, we have concluded that tax credits should no longer be included as income.

- 4.18 Further detailed work will be undertaken on how the system of assessing liability will treat pension contributions, because of the differences in the handling of pension contributions within the tax system; the aim will be to secure equal treatment of pension contributions in the determination of a child maintenance liability.
- 4.19 We are determined to set up a system of assessment that can work as quickly as possible. Together, these changes mean that only three pieces of information will be required to determine the liability of a working non-resident parent – their gross income, the number of qualifying children and whether the non-resident parent has any children living with them and, if so, how many. The key change is that the process of working out liability can no longer be held up by a non-resident parent declining to give information on earnings; that will come from HM Revenue & Customs. C-MEC will, as far as possible, be asked to run a new system designed to only ask people for information which they will want to give; in particular, the non-resident parent will want to tell C-MEC if he has a second family or has a lower income.

#### Case study 4.1

A non-resident parent has two qualifying children, but also has one child in their new family. The non-resident parent's gross income is £500 per week – a net income of £371.93 each week from employment with £10.48 in tax credits.

Under the current scheme, the income on which the child maintenance liability is based is £382.41 a week, less 15 per cent of that income to reflect that the non-resident parent has a child in their new family. The income taken into account is £325.04 giving rise to a child maintenance liability of £65 per week, based on 20 per cent of net income for two children.

The Child Support Agency must collect information on income from employment from the non-resident parent, in addition to information from the parent with care.

Under our proposals, maintenance would only be based on the gross income of the non-resident parent of £500 per week, adjusted downwards to take account of the child in their new family, to a figure on which liability is based of £450 a week. The maintenance liability would rise slightly to £68 per week, based on 15 per cent of gross income for two children. The non-resident parent would no longer be required to provide information on their earnings from employment.

## The structure of the basic formula

4.20 We propose that the basic structure of the new child maintenance scheme should remain the same as that introduced in 2003. This means we would maintain:

- **a basic rate:** this would apply to non-resident parents whose gross income is £200 a week or more, with new rates of 10, 15 and 20 per cent where there are one, two or three or more qualifying children;
- **a reduced rate:** this would apply if the non-resident parent has gross income of more than £100 a week but less than £200 a week. We will maintain a series of tapers, so that a child maintenance liability steadily increases up to the basic rate threshold;
- **a flat rate:** this would continue to apply to non-resident parents whose income is £100 a week or less, or who are in receipt of certain prescribed benefits. We believe that it is essential to embed the principle that all non-resident parents, except for a few who fall into certain categories, should be financially responsible for their children. In recognition of the importance we attach to this principle, we propose to set the level of the flat rate at £7 a week, compared with the current level of £5 a week in the scheme introduced in 2003; and
- **a nil rate:** this would apply to non-resident parents who fall into certain categories, such as a student in full-time education or where their income is less than £7 a week.

4.21 We intend to review these rates during the course of each Parliament;

4.22 As is the case under the existing scheme for new claimants, a non-resident parent will pay less child maintenance if they have children living with them in their current family. The non-resident parent's income will be cut by 10 per cent if there is one relevant other child, 15 per cent for two relevant other children, and 20 per cent if there are three or more relevant other children. The corresponding percentages in the scheme introduced in 2003 are 15 per cent, 20 per cent and 25 per cent respectively.

## Split care

4.23 Split care applies where a couple has more than one child together and at least one is living with each parent. In such cases, full maintenance calculations are made in respect of each child and maintenance schedules are set up for both non-resident parents. We consider that this is an inefficient exercise and that it would be more effective for a balancing payment to be made, with the lower liability offsetting part of the higher one, as described in case study 4.2.

### Case study 4.2

A separating couple split the care of two children between them. A full calculation is made in respect of each child, with one child maintenance liability set at £45 per week and the other at £25 per week. Under the existing child maintenance scheme, maintenance schedules would be set up for both non-resident parents.

Under our proposals, a full assessment would also be made in respect of each child. The lower liability would, however, offset part of the higher one. Therefore, for the parent with the higher liability, the amount of maintenance they would be required to pay would be set at the difference between the two liabilities, in this example £20 per week. The liability of the other parent would be set at nil.

## Non-resident parents with child maintenance responsibilities to a family outside the new scheme

- 4.24 In Chapter 2 we set out proposals to encourage and assist parents who wish to make their own arrangements for child maintenance. It is likely that more people recognised as non-resident parents by the new child maintenance scheme will also be supporting children under such arrangements. There is a question of whether, and how, maintenance assessments should take account of such additional responsibilities.
- 4.25 The simplest method would be for the assessment to take no account of children supported under alternative arrangements. This would make the assessment easier for parents to understand. But it might impose an unfair burden on a non-resident parent, who may not be able to pay all the child maintenance. It may be more appropriate for the new scheme to recognise additional children for whom the non-resident parent is liable.
- 4.26 This could be achieved in one of two ways. One approach would be to deduct from the income used to work out their liability the amount that the non-resident parent is paying in a private arrangement or under a court order. However, the method used by the parents to arrive at the amount agreed under a private agreement could be different from that used to assess child maintenance.
- 4.27 The other way could be to count all children supported by a non-resident parent, whether under the child support scheme or under other arrangements, in some form of overall assessment. The liability calculated for all the children would then be apportioned either directly, according to the number of children with each parent with care, or using an alternative formula. For any parent with care who had applied for child maintenance, this proportion would represent the amount of child maintenance due to them. For the remaining parents with care, the amounts would be purely notional – any amounts agreed by the parents under private arrangements could continue to apply.

**Question 5:** Which of the three approaches outlined in paragraphs 4.25 to 4.27 is the one that should be employed to determine child maintenance liabilities in a case of this kind?

## Definition of a child

4.28 The definition of a child in child maintenance law has differed from that in Child Benefit, income-related benefits and Child Tax Credit since the Child Benefit Act 2005 came into force on 10 April 2006. We believe that, if it is right for benefit to be payable in respect of a dependent child or young person, it is also proper that child maintenance should be payable. We shall therefore be taking steps in legislation to extend the definition of 'child' in child maintenance law, so that, for groups for whom Child Benefit, income-related benefits and Child Tax Credit are now payable, child maintenance will be payable as well. We shall amend existing regulations to mirror changes to Child Benefit terminal dates and extension periods for 16/17 year olds and bring forward legislation to widen the definition to include 18/19 year olds in unwaged training, and to 19 year olds in full-time non-advanced education.

## Conclusion

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4.29 The improvements that we propose to make to the assessment process will provide a simpler and more transparent basis for calculating maintenance and will allow maintenance to flow through more quickly to children.

4.30 The assessment of maintenance is inextricably linked to the processes for collecting and enforcing payment – for instance, the more accurate the assessment, the more effective enforcement activity is likely to be.

4.31 It is important, therefore, that we move forward on all three fronts. The next chapter sets out our proposals for improving the ways in which child maintenance payments are collected and enforced.





## Chapter 5

## Tougher enforcement





## Chapter 5: Tougher enforcement

### Summary

Although the new child maintenance system will do more to encourage and help non-resident parents to pay child maintenance, some will inevitably do everything they can to evade their responsibilities. The Government wants to put in place a policy framework that provides the people working to deliver child maintenance with the tools to establish reliable collection as quickly as possible and to take firm enforcement action against non-resident parents at the earliest possible opportunity. This chapter sets out how we will encourage ongoing compliance, by extending the range of enforcement powers that are available and streamlining the framework in which they are used, including:

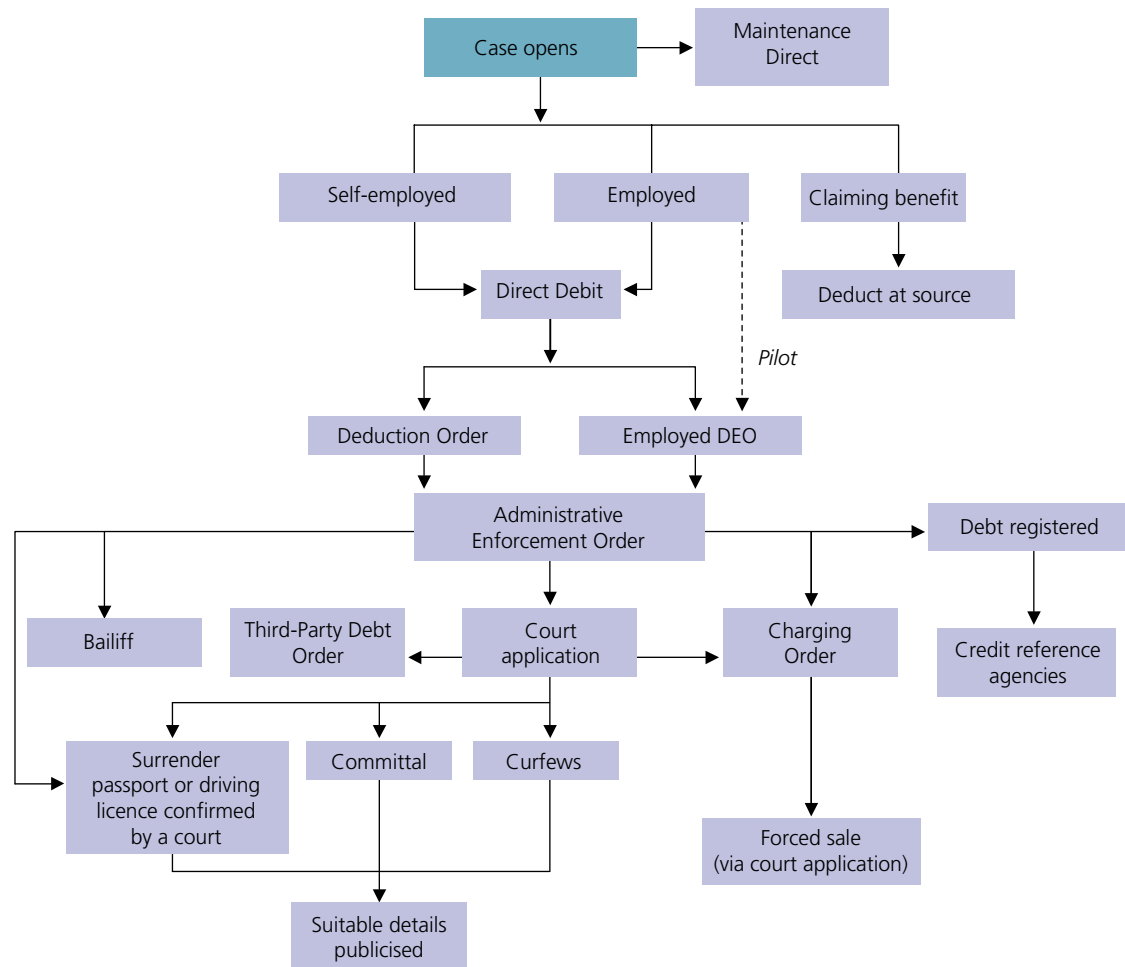
- strengthening the available powers by enforcing the surrender of a non-resident parent's passport or imposing a curfew on them if they fail to pay maintenance;
- removing the requirement to apply to the courts for a Liability Order before proceeding with enforcement action and replacing it with a swifter and more effective administrative process;
- examining the scope for removing the requirement to apply to the courts for a Charging Order, withdrawal of a driving licence or the surrender of a passport;
- bringing forward legislation to pilot withholding wages as the first means of collecting maintenance, working closely with business during the development of the pilot;
- improving the way that information is exchanged with, and drawn from, financial institutions and credit reference agencies in order to trace non-resident parents and collect and enforce maintenance;
- exploring the scope for introducing powers to collect directly from accounts with financial institutions; 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.

These are very strong powers that are not used to collect civil debts. But they need to be strong to break down the current culture of non-compliance and to get more money to children. Many other countries have recognised this and our proposals build upon the evidence of what works elsewhere.

These proposals will improve the way in which maintenance is collected, and will provide a new focus on speedy and vigorous enforcement. They will also be used to recover debt that has accumulated. There is more work to do to analyse our stock of historic debt and we have decided against seeking a power to write off debt that may appear to be unrecoverable. We do, however, believe that there are some very limited circumstances where it is appropriate to write off debts and that we should revalue some overstated debts. In these cases we are confident that this will enable us to manage debt more effectively and deliver better outcomes for parents with care. This chapter sets out our proposals in this area.

- 5.1 The changes outlined in Chapter 2 will give parents significantly more choice and help over their child maintenance arrangements. This does not, however, mean that non-resident parents can choose to evade their responsibility to pay child maintenance altogether – their ongoing responsibility to support their children financially clearly remains.
- 5.2 Although many non-resident parents do make regular maintenance payments to their children, a significant minority do not accept this responsibility and do everything they can to evade it. By being denied a decent start in life, it is their children who suffer most from their actions. It is important that appropriate and tailored action is taken in response to different attitudes to compliance.
- 5.3 This chapter sets out the steps we will take so that non-resident parents fulfil their responsibilities by ensuring that reliable collection is established as quickly as possible, and that fast, effective and firm action is taken to enforce when parents do not pay.
- 5.4 The changes we propose would put in place a more comprehensive and efficient framework, as illustrated in Figure 5.1, and enable us to:
  - collect maintenance more efficiently, building on existing successful methods;
  - streamline the enforcement process so that we can take swifter action against non-resident parents who do not meet their responsibilities; and
  - strengthen our enforcement powers further to ensure that non-resident parents comply with their responsibility to pay child maintenance.

**Figure 5.1: Our proposed framework for collecting and enforcing child maintenance**



## Collecting child maintenance

- 5.5 Parents who need help in calculating the amount of child maintenance do not necessarily also need help in collecting it. Having been given a maintenance assessment, they may prefer instead to make their own arrangements for payment. This enables the non-resident parent, for example, to demonstrate their willingness to support their children and allows some additional flexibility in the method and frequency of payment.

- 5.6 Parents have always had the opportunity to make their own payment arrangements and, over the past two years, the Child Support Agency has positively and actively encouraged those not claiming Income Support or income-based Jobseeker's Allowance to do so. Around 16 per cent of parents currently have a Maintenance Direct arrangement in place, where the Child Support Agency calculates the amount of maintenance, which is then paid by the non-resident parent direct to the parent with care.
- 5.7 It is expected that even more parents will make use of this method of payment, once the requirement that any claim for Income Support or income-based Jobseeker's Allowance is automatically treated as an application for child maintenance is removed. As part of our wider reforms to improve the quality and accessibility of information available to parents, we will ensure that guidance services encourage as many parents as possible to use this method of payment and inform them how to do so with confidence, by setting out clearly the help that is available should arrangements break down.

## Enforcing the payment of child maintenance

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- 5.8 Routine methods of collection, however, do not always work. They rely on the active co-operation of non-resident parents who, in some instances, may refuse to respond to requests from the Child Support Agency or will not authorise payments through these channels. This is not an issue that is unique to child maintenance in the UK. It is a challenge faced by other countries too. Like us, they recognise that, where routine collection methods fail, swift and effective enforcement is needed to prevent arrears building up.
- 5.9 We want to send out a clear message that we will not tolerate non-payment of maintenance. It is vitally important to have a strong and visible enforcement regime in place to encourage non-resident parents to comply. The proposals set out below will ensure this happens. The powers are stronger than those used to collect civil debts. But they need to be strong to break down the current culture of non-compliance and to get more money to children. In future, we expect frontline staff to use these and existing powers more quickly and vigorously than ever before.

### Deduction from Earnings Orders

- 5.10 Deduction from Earnings Orders require a non-resident parent's employer to make deductions for maintenance – either the current liability or an amount towards any outstanding arrears, or both – direct from their earnings and to send the money to the Child Support Agency.

- 5.11 A Deduction from Earnings Order can be imposed when a non-resident parent indicates that they will not comply with another method of collection, for example by failing to complete a direct debit mandate, or when a payment arrangement breaks down. Currently around 22 per cent of the Child Support Agency's caseload has such an order in place with a compliance rate of 76 per cent. As part of its Operational Improvement Plan, the Child Support Agency will be applying a Deduction from Earnings Order far more swiftly and frequently.
- 5.12 The use of a Deduction from Earnings Order is the automatic collection method favoured by most American states. Evidence suggests that this has helped to increase the extent to which non-resident parents comply with their maintenance obligations. We believe there may be merits in withholding wages as the first means of collecting maintenance, even if the non-resident parent would be willing to pay by another method such as a direct debit. We intend to test whether, in the UK context, it leads to an increase in overall compliance. At the same time we will explore ways to use HM Revenue & Customs data to help track non-resident parents who change jobs. We will work closely with business, including Small- and Medium-sized Enterprises, during the development of the pilot, and will use the evidence to inform the shape of future change in this area.

### **A new form of administrative deduction order**

- 5.13 We propose to explore the scope for legislation to enable the collecting body to authorise financial institutions, such as banks, building societies and pension providers, to pay maintenance owed from a non-resident parent's account. Such a measure would be aimed at the self-employed and those non-resident parents for whom a Deduction from Earnings Order is either ineffective or inapplicable. We will analyse, in consultation with the Financial Services sector the potential costs and benefits of this proposal and alternative options.

### **Removing the requirement to apply for a Liability Order**

- 5.14 Under the existing child maintenance scheme, in cases where it is inappropriate for money to be deducted from earnings, or where the process has proved ineffective, the Child Support Agency can enforce payments through the courts, up to and including forcing the sale of properties. To begin this process, and before any enforcement action can take place, the Child Support Agency must apply to the Magistrates' Court for a Liability Order, which is a legal recognition of the arrears of maintenance.
- 5.15 The Child Support Agency obtained nearly 12,000 liability orders in the year to September 2006, an increase of 6,000 on 2004–05. This is, however, a slow process that takes on average more than 100 days to complete. We will, therefore, remove the requirement to obtain a Liability Order through the courts and replace it with an Enforcement Order, which will be an administrative acknowledgement of the debt and will provide the basis on which immediate enforcement action can be taken.

- 5.16 This will significantly increase the speed with which enforcement action can be taken. We will introduce appropriate safeguards for non-resident parents by adopting an appeal right that covers ground similar to the current jurisdiction of the Magistrates' Court's in deciding an application for a liability order.

### **Removing the requirement to apply for a Charging Order**

- 5.17 In cases where a non-resident parent fails to make regular payments of child maintenance, and enforcement proceedings prove to be ineffective, the Child Support Agency can apply to the court for a Charging Order against the non-resident parent's property. If a charge is registered, and the property is sold, the child support debt can be recovered from the proceeds of the sale.
- 5.18 We propose to examine the scope to take powers to allow the collecting body to issue the administrative equivalent of a Charging Order in relation to land, which is most likely to be residential property. These make up the vast majority of Charging Orders that are sought by the Child Support Agency. The collecting body will still have to apply to the court, as it does now, for a charge against stocks and shares, or any interest a non-resident parent may have in a trust, owing to the fact that they entail more complicated searches and enquiries. Moreover, as now, the collecting body will need to apply to the court for an order for the sale of any assets. In order to safeguard the non-resident parent we will explore appropriate appeal provisions.
- 5.19 There are two main drivers for introducing administrative Charging Orders; the increase in volume of applications, which rose by around 125 per cent in the year ending March 2006 to over 1,600 applications; and the desire to move faster than is currently possible by removing the need to involve the courts in Charging Orders relating to land.

### **Improving the quality and amount of information available**

- 5.20 Since July 2006, legislation has enabled the Child Support Agency to access information held by credit reference agencies in order to improve its ability to trace non-resident parents and to develop risk profiles to identify those unlikely to pay. The Child Support Agency is taking this forward as part of its Operational Improvement Plan, and initial evidence suggests that a number of previously untraceable non-residents parents have been found as a result.
- 5.21 We propose to enhance the relationship with credit reference agencies and extend the purposes to which the information they hold can be used to include enforcement. This would put C-MEC in a stronger position to collect or negotiate faster payment of arrears and assist in the process of obtaining a deduction order described in paragraph [5.X].
- 5.22 Information about whether maintenance is being paid or not is not currently used to help other organisations make financial decisions about that party. We intend to enable information on a non-resident parent's liabilities and payment record to be made available to credit reference agencies so that other organisations, such as lenders, can assess the value of this information and see whether it should be taken into account when making

decisions. We believe that this would be a useful mechanism to encourage compliance among non-resident parents: for those who pay, there would be an advantage, although we anticipate that compliant non-resident parents would have the opportunity to opt out if they chose.

- 5.23 Those non-resident parents who do not pay, however, would be identified and potentially, if the data proved to be predictive, could find it more difficult to obtain access to other services, such as credit. In line with current practice for Liability Orders, it is proposed that all enforcement orders would be registered as a debt with the organisation responsible for compiling the list of all county court registered debts, the Registry Trust Limited. This information will be available to credit reference agencies, who can then supply the data to others who use the information to build up the financial picture of an individual. We will work more closely with these agencies and their other clients to encourage them to make more use of these data.
- 5.24 We consider that C-MEC would benefit from greater financial information about its clients. We propose to explore, in consultation with the Financial Services sector, the opportunities to enhance the effectiveness of the collection of child maintenance payments. As part of this, we would like to examine the costs and benefits of extending the existing regulations to 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.

### **New sanctions for failing to pay child maintenance**

- 5.25 Where other forms of enforcement are ineffective, the Child Support Agency can apply, as a last resort, to the Magistrates' Court to:
- issue a warrant for the non-resident parent to be committed to prison for up to six weeks; or
  - withdraw the non-resident parent's driving licence, or to stop them from obtaining one, for up to two years.
- 5.26 In addition to sanctioning non-resident parents who repeatedly fail to pay maintenance, the existence of these powers can discourage non-compliance from the outset and change the behaviour of non-resident parents. While the success of these powers should not, therefore, be judged solely by how frequently they are applied, historically the Child Support Agency has not used them to their fullest effect, and many non-resident parents perceive that non-compliance will not be acted upon.<sup>24</sup> The figures in Table 5.1 present a gradually improving picture in terms of the number of sanctions imposed, but we recognise that further work is needed to change client perceptions.



**Table 5.1: Sanctions imposed on non-resident parents\***

	2003–04	2004–05	2005–06
Total number of cases prepared for court with the initial hearing date set	485	866	1007
Total number of cases withdrawn from court	165	273	299
Total number of cases dismissed from court	2	10	50
Total number of cases where no sentence was passed but an order to pay was made	24	52	81
Total number of cases receiving suspended committal sentences	162	308	393
Total number of cases where a non-resident parent received a committal sentence	6	14	34
Total number of cases receiving a suspended driving licence sentence	18	27	36
Number of driving disqualification sentences passed	2	7	3

\* Figures cover the period October to September i.e. figures for 2003–04 relate to October 2003 to September 2004. The figures contained within the table are based only on 'outcomes', i.e. where the court hearing has taken place – unless earlier withdrawn – and that the Magistrate has subsequently reached a decision. There are some cases which have not yet received a hearing or where the case has been adjourned – these are not included within the numbers quoted.

Source: Child Support Agency.

5.27 As was set out in the Government's response to Sir David Henshaw, in order to strengthen the message that non-payment of maintenance is a serious matter, we will extend the range of available sanctions. We will bring forward legislation to allow Magistrates' Courts to impose curfews on non-resident parents, to be generally enforced via a system of electronic tagging. Breaching the curfew order would normally result in the non-resident parent facing a prison sentence.

- 5.28 We will also bring forward legislation providing for the surrender of a non-resident parent's passport. We will explore two options in relation to the withdrawal of driving licences and the surrender of passports, providing a power for the collecting body either to:
- apply to the Magistrates' Court, as is currently the case with driving licences; or
  - administratively issue an interim order to withdraw a driving licence or enforce the surrender of a passport at the same time as making an application to a court for a final order.
- 5.29 As at present, even after a sanction is applied, any maintenance that remains outstanding will still be owed and payable.
- 5.30 We recognise the importance of considering the needs of the children concerned before enforcement powers are used. The court system currently has the power to take into account in its decision making whether the removal of a driving licence would adversely affect the ability of the non-resident parent to earn a living. Such power will exist in future.

**Question 6:** Are there other approaches to enforcement that we should consider?

**Question 7:** Is the shift from a predominantly court-based enforcement system to an administrative approach the right way to make enforcement more effective?

### Publicising successful enforcement activity

- 5.31 As a final element of our overall compliance and enforcement strategy, we want to do more to bring to people's attention the increasingly strong and proactive regime operating in the area of child maintenance. We have looked at different methods of publicising successful prosecutions and applications for sanctions on child maintenance matters. We plan to start bringing the outcomes of suitable cases and details of the non-resident parents concerned to wider public attention. As part of this we will publish the names of non-resident parents who are successfully prosecuted or have a successful application made against them in court on the Child Support Agency's website, and in future that of C-MEC. We will look to use other means as well. This measure, along with the others outlined in this chapter, should further discourage non-compliance from the outset and help shift the behaviour of some non-resident parents.

## Increasing efforts to collect and manage debt

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- 5.32 Since its inception in 1993, the Child Support Agency has collected over £5 billion in maintenance. At the same time, however, around £3.5 billion of debt has accumulated. Around half of the outstanding debt is owed to parents with care, and around half to the State. The Government has a responsibility, therefore, both to parents with care and to the taxpayer to collect maintenance where it can.
- 5.33 The refinements we propose to make to the assessment process will enable maintenance liabilities to be established more efficiently and reduce the prospect of debt accumulating before the non-resident parent has even had their liability calculated. Allied to this, the changes set out in this chapter will put in place a much stronger focus on speedy, vigorous and firm enforcement. While stronger enforcement powers will prevent debt building at the rate it has in the past, they will also be used wherever possible to recover debt that has accumulated.
- 5.34 As part of its Operational Improvement Plan, the Child Support Agency is already taking significant steps to improve its ability to collect debt. This includes using private sector debt collectors to recover outstanding payments as well as intensifying its own efforts by dedicating more trained staff to enforcement activity, taking immediate action to chase up defaulters and making more use of information from HMRC and credit reference agencies.
- 5.35 There can be no question of allowing non-resident parents who are able to pay to escape their responsibilities. Sir David Henshaw suggested that powers to write off debt should be used where there is no possibility of getting any money back and recommended that we should take legislative powers to manage down existing debts and conduct further work on the nature of historic debts.
- 5.36 We have considered this issue carefully and have decided against seeking power to write-off debt that may appear to be unrecoverable. There is, as Sir David noted, more work to be done to understand our very large stock of historic debt and the extent to which it can be recovered. This work will include analysis of the outcomes of the private sector debt collection activity that is now under way and the success of the Child Support Agency's increased activity. It will also explore how we can work more effectively with parents with care to recover the money that is due to them.
- 5.37 We do, however, believe that there are some very limited circumstances where it is appropriate to write off debts and that we should revalue some overstated debts. In these cases we are confident that this will enable us to manage debt more effectively and deliver better outcomes for parents with care.

## Negotiated settlements

5.38 In some instances, the non-resident parent, often in negotiation with the parent with care, makes a reasonable offer to pay an amount that is less than the total debt on the understanding that this is accepted as a 'full and final settlement' of the entire debt. If, in consultation with the parent with care, C-MEC considers that such an offer is acceptable we intend to provide the power to accept it. The decision will be taken in the light of the reasonableness of the offer, given the non-resident parent's current and prospective financial circumstances and the costs and risks of other courses of action. Where the debt is due to be paid to the parent with care, the decision to accept a lesser amount will only be taken with the parent with care's agreement.

## Tidying up historic debt

5.39 The only other instances where we will write off debt are aimed at "tidying up" historic debt that cannot be recovered. These include debts:

- arising from unpaid fees and interest that were charged under Regulations which were abolished in 1995;
- where the parent with care is deceased, or the non-resident parent is deceased and the debt cannot be recovered from the estate; and
- where the parents are reconciled or in other circumstances where the parent with care has asked for the cessation of recovery activity.

## Revaluing historic debt to get more money to children

5.40 In the child maintenance scheme that operated between 1993 and 2003, Interim Maintenance Assessments were imposed if the full details of a non-resident parent's income were not available. In those cases where the rate was set at a punitive level, they acted as a penalty for any non-resident parent who failed to provide the information about their circumstances that was necessary to carry out a Full Maintenance Assessment. As such, they were intended to encourage a non-resident parent to comply and co-operate with the Child Support Agency.

5.41 In practice, however, this was rarely achieved: the penalty did not have the desired effect and many non-resident parents continued to evade their responsibilities. The total value of Interim Maintenance Assessment debt is around £1.3 billion. We propose to revalue the existing punitive Interim Maintenance Assessments. This change is intended to produce a more realistic figure that reflects the amount of maintenance that would have been due had the Child Support Agency been able to complete a Full Maintenance Assessment. We believe that this will result in an assessment that is more collectable and will therefore get more money to the parents with care.

### Factoring child support debt

5.42 Sir David Henshaw recommended that the new body should be provided with powers to factor (sell) debts. We propose to take this recommendation forward and, in doing so, to harness the expertise of specialist organisations in order to provide money for more children. We will need to explore further how this will work in practice and we will undertake a commercial evaluation of the debt during 2007. But where the debt is due to be paid to the parent with care it will only be factored with the parent with care's agreement.

### Recovery of arrears from the estate of a deceased non-resident parent

5.43 We consider it to be in the interests of children that, where arrears of maintenance are owed and the non-resident parent has died, the arrears should be recovered from the estate of the deceased non-resident parent. We intend to clarify the legislation by inserting an express provision to enable recovery of arrears in these circumstances.

### Off-setting child maintenance liabilities

5.44 During their upbringing, and where parents are no longer living together, a child may move from the care of one parent to another. We intend to introduce legislation so that, if maintenance arrears exist from the previous arrangement, C-MEC will be able to offset the debt against the new liability. Similarly, in split-care cases, where liability shifts from one parent to the other, if the previously liable parent owes maintenance arrears, again we propose to offset the debt against the new liability.

5.45 Parents may also agree between themselves that ongoing maintenance or arrears may sometimes be paid 'in kind' rather than as a direct payment to the parent with care. This may occur, for example, if a non-resident parent agrees to pay an urgent utility bill on behalf of the parent with care. We also propose to introduce legislation that would enable us to take such payments into account against the maintenance liability.

**Question 8:** Are we right to give more focus to chasing collectable debt?

**Question 9:** Is our approach in seeking write-off powers in strictly limited circumstances the right one?

## Charging as a means of encouraging compliance

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- 5.46 The Government's response to Sir David Henshaw said that we would explore options for charging in the new organisation. We think there are important reasons why the new organisation should be given the power to charge some clients. Charging can have a useful role to play in incentivising non-resident parents to keep up-to-date with their maintenance payments. The new organisation will also be a professional, effective business where the services provided warrant charging.
- 5.47 We recognise the importance of having a charging regime that does not dissuade vulnerable people, and in particular low-income parents with care, from seeking maintenance in the first place. That is the balance we will need to strike and we believe that the most effective way to achieve this will be to focus charges on cases where the new organisation needs to act to keep maintenance from the non-resident parent up and running.
- 5.48 We will be ensuring that the primary legislation that already exists to enable charges to be imposed gives us sufficient flexibility for the future. Clearly, final decisions on how exactly to implement charges and their level will need to be made nearer the time but the current intention is to charge from the earliest possible opportunity, in order to ensure that the incentives for non-resident parents to meet their responsibilities are in place.

## Conclusion

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- 5.49 Combined with the proposals in earlier chapters, these changes will mean that parents can make an informed choice about their maintenance arrangements, safe in the knowledge that there is a framework in place to enable firm and effective action by the State should arrangements break down.
- 5.50 We consider that our proposals for establishing a new policy and delivery framework in which parents fulfil their financial responsibilities will significantly improve the way that child maintenance shapes the lives of parents and their children. This approach is fundamentally different, marks a clean break with the past, and will ensure that more child maintenance is paid to support more children.





## Chapter 6

## Consultation arrangements for the White Paper





# Chapter 6: Consultation arrangements for the White Paper

## Our commitment to working together

- 6.1 We are committed to maintaining an open approach and listening to people's views. For that reason, the proposals outlined in this White Paper have been informed by a continuing consultation process with stakeholders.
- 6.2 While considering his proposals for the redesign of the child maintenance system, Sir David Henshaw invited stakeholders to contribute their views. Annex 3 of his report sets out the details of his consultation process. In our response to Sir David, we set out a number of questions around the broad principles of the new child maintenance system. This kick-started a period of ongoing consultation with stakeholders around the new policy and delivery framework. Annex A of this White Paper summarises the comments that we have received.
- 6.3 A Regulatory Impact Assessment is published alongside this document.
- 6.4 The publication of this White Paper signals the start of our formal consultation period in line with the Cabinet Office's Code of Practice on Consultation. A copy of the Code can be found at [www.cabinetoffice.gov.uk/regulation/consultation](http://www.cabinetoffice.gov.uk/regulation/consultation). The six consultation criteria set out by the Cabinet Office are to:
  - consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy;
  - be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses;
  - ensure that your consultation is clear, concise and widely accessible;
  - give feedback regarding the response received and how the consultation process influenced the policy;
  - monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator; and
  - ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

## How to respond

6.5 To facilitate the consultation process, a series of questions have been posed throughout the White Paper. These are listed again at the end of this chapter along with a page reference for where they appear in the main body of the document.

6.6 The consultation period covers [x] weeks from [date] to [date]. Please ensure that your response reaches us by the closing date of [date]. Your response can be submitted by letter, fax or e-mail to:

Child Maintenance Redesign team  
Department for Work and Pensions  
5th Floor  
The Adelphi  
1–11 John Adam Street  
London  
WC2N 6HT

By internet: **[www.dwp.gov.uk/childsupport](http://www.dwp.gov.uk/childsupport)**

By e-mail: [adelphi.cs-redesign@dwp.gsi.gov.uk](mailto:adelphi.cs-redesign@dwp.gsi.gov.uk)

By telephone: 020 7962 8128

By textphone: 020 7712 2707

By fax: 020 7962 8545

6.7 When responding please state whether you are responding as an individual or are representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents, and, where applicable, how the views of members were assembled.

6.8 We will produce a summary of the responses that we receive, along with a response from the Government on how we intend to proceed, within three months of the close of this consultation. The report will be available at: **[www.dwp.gov.uk/childsupport](http://www.dwp.gov.uk/childsupport)**

## Additional copies and alternative formats

6.9 Additional printed copies of this document can be ordered from:

TSO (The Stationery Office)  
PO Box 29  
Norwich  
NR3 1GN

By telephone: 0870 600 5522

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6.10 The Welsh version of this document is available free from the Child Maintenance Redesign team at the address in paragraph 6.6. It can also be found online at:

**[www.dwp.gov.uk/childsupport](http://www.dwp.gov.uk/childsupport)**

6.11 The Executive Summary of this document is available in English, Welsh, Braille, and in both English and Welsh in large-print format and on audio cassette. These are free of charge and can be ordered by contacting the Child Maintenance Redesign team at the address in paragraph 6.6.

## Confidentiality

6.12 The information you send us may need to be passed to colleagues within the Department for Work and Pensions and may be published in a summary of responses to the consultation, along with a response from the Government.

6.13 Under the Freedom of Information Act (2000), all information contained in your response, including personal information may be subject to publication or disclosure. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information that is provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically. The contact point to discuss Freedom of Information Act issues is:

Charles Cushing  
Department for Work and Pensions  
Adjudication and Constitutional Issues Information Policy Division  
Freedom of Information Unit  
1–11 John Adam Street  
London  
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Telephone 0207 962 8581

e-mail [Charles.Cushing@dwp.gsi.gov.uk](mailto:Charles.Cushing@dwp.gsi.gov.uk)

6.14 Departmental guidance on the Freedom of Information Act can be found at [www.dwp.gov.uk/pub\\_scheme/](http://www.dwp.gov.uk/pub_scheme/) Further information about the Freedom of Information Act can be found on the website of the Department for Constitutional Affairs at: [www.dca.gov.uk/foi/guidance/exguide/index.htm](http://www.dca.gov.uk/foi/guidance/exguide/index.htm)

## Feedback on our consultation

6.15 The Department for Work and Pensions values feedback on how well it consults. If you have any comments on the process of this consultation (as opposed to the issues raised), please contact the Department for Work and Pensions' Consultation C-ordinator. In particular, please tell us if you feel that the consultation does not satisfy the criteria set out at paragraph 6.4. Please also make any suggestions as to how the process of consultation could be improved. Please contact:

Roger Pugh  
Department for Work and Pensions' Consultation Coordinator  
Room 2A, Britannia House  
2, Ferensway  
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HU2 8NF

Telephone 01482 609571

e-mail [Roger.Pugh@dwp.gsi.gov.uk](mailto:Roger.Pugh@dwp.gsi.gov.uk)

## Consultation questions

6.16 The following questions have been raised in this White Paper.

- **Question 1 (page X):** Are the key principles and areas for detailed work that we have identified the right ones? In particular:
  - How can we best encourage access by parents with care and non-resident parents?
  - How can we best make a register of private maintenance agreements an attractive prospect to parents?
  - How can Jobcentre Plus most effectively encourage parents claiming benefit to make an informed choice about maintenance?
- **Question 2 (page X):** Paragraph 3.14 sets out what we hope to achieve through a framework of objectives and principles for the new body: do you think these three aims are appropriate?
- **Question 3 (page X):** Do the principles for moving forward set out at paragraph 3.21 provide the right approach?

- **Question 4 (page X):** Is our approach of combining a simpler assessment formula with an exceptions regime the right one?
- **Question 5 (page X):** Which of the three approaches outlined in paragraphs 4.22 to 4.24 above is the one that should be employed to determine child maintenance liabilities in a case of this kind?
- **Question 6 (page X):** Are there other approaches to enforcement that we should consider?
- **Question 7 (page X):** Is the shift from a predominantly court-based enforcement system to an administrative approach the right way to make enforcement more effective?
- **Question 8 (page X):** Are we right to give more focus to chasing collectable debt?
- **Question 9 (page X):** Is our approach in seeking write-off powers in strictly limited circumstances the right one?





Annex A

**The Government's response  
to Sir David Henshaw –  
stakeholder consultation**





# Annex A: The Government's response to Sir David Henshaw – stakeholder consultation

## Consultation: background and duration

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- A.1 The Government's response to Sir David Henshaw *A fresh start: child support redesign – the Government's response to Sir David Henshaw* was published on 24 July. The response set out a number of questions around the broad principles of the proposed system. The consultation period ran from Monday 24 July through to Monday 18 September 2006. We did, however, receive some late responses, which we have accepted.
- A.2 This Annex provides a summary of the responses we received to the questions, and sets out how the feedback has impacted on the proposals in this White Paper. We have not been able to include every point raised or every quotation. But we have considered every contribution to ensure that this Annex provides a fair representation of the responses.
- A.3 There were three ways for people to respond to our questions: by post, by telephone, via a dedicated phone line, and by e-mail, through a dedicated e-mail address that could also be accessed via the Department for Work and Pensions' website.
- A.4 The Government's response was available in a variety of formats: standard, audio, Braille, Welsh, large print and Easy-Read. The standard, Welsh, large print and Easy-Read versions were available to be downloaded directly from our website at [www.dwp.gov.uk/childsupport](http://www.dwp.gov.uk/childsupport)
- A.5 In addition, we held a number of bilateral meetings with external organisations to discuss their thoughts in more detail. As is described in Box A1.1, departmental officials and Ministers also actively participated in a series of seminars, organised by One Parent Families, where organisations and individuals with an interest in the redesign could put forward their views.

### Box A1.1: stakeholder seminars on child maintenance redesign

Text to come

*Lord Hunt of Kings Heath addresses attendees*

A.6 We asked seven questions in our response to Sir David. Below we provide a reminder of what we proposed and what questions we asked, followed by what you said in response.

#### Question 1

##### Our proposals

In our response to Sir David Henshaw, we said that we would:

- remove the requirement that parents with care claiming benefit be treated as applying for child maintenance;
- significantly increase the amount of maintenance that could be kept by parents with care who are on benefit;
- provide better information and guidance, so that parents can make informed decisions about their child maintenance arrangements;
- strengthen our enforcement powers further by bringing forward legislation to suspend the passports of, and impose curfews on, parents who repeatedly fail to pay maintenance; and
- consider further measures to support more lone parents into work.

**We asked: Is this the correct balance of support to ensure that parents fulfil their responsibilities?**

## Responses

- There was strong support both for removing the requirement that parents with care claiming benefit be treated as applying for child maintenance and for increasing the amount of maintenance that benefit claimants can keep.

*"An incentive to sort out maintenance is more than fair, I would pay to my daughters mother direct without any incentive but the csa would not allow me to because she is on benifits [sic]." Parent*

*"We welcome the proposals to remove the requirement to co-operate from benefit clients and also the proposal to substantially raise the amount of maintenance which parents with care receiving income support will be allowed to keep." Citizens Advice*

*"One Parent Families supports the proposal to abolish the requirement placed on parents with care to claim child support if claiming benefit...we would urge that child maintenance payments be disregarded completely, both to maximise the potential financial benefits to children in poor families and on the pragmatic basis of administrative simplicity." One Parent Families*

*"NACSA are particularly encouraged by the proposals to allow benefit claiming PWCs [parents with care] the opportunity to make their own arrangements for child support, and by allowing a greater disregard to those who will require the services of the Admin system." National Association for Child Support Action*

*"It is probably fair to say that, given a viable alternative, a majority of parents would elect to remain outside of the current system." Academic*

- The importance of effective information and guidance was widely recognised, as was the importance of joining this up effectively across government. Some organisations put forward policy proposals, such as establishing a helpline to support separating parents. We are very keen to further develop a number of the ideas raised by stakeholders and will test out some of the measures to assess their effectiveness.

*"The whole process needs to be far more streamlined and make use of the internet/ email to improve service and reduce cost."* Parent

*"Sensible advice and mediators would help".* Parent

*"We welcome the Government's recognition of the importance of information and advice on financial matters during the process of separation."* Citizens Advice

*"Advice NI agrees that the Government should consider how to improve the content of, and access to, information and advice."* Advice NI

*"We also suggest that in order to maximise the chances of parents reaching agreement, more could be done by the DfES to provide information and signposting."* Parentline Plus

*"The unions welcome the recognition of the need for greater help and guidance for parents at what can be a very difficult time."* Public and Commercial Services Union and the Northern Ireland Public Services Alliance

- Respondents generally supported our proposals to strengthen our enforcement powers, but many people said that better use needs to be made of existing enforcement powers and that it can be difficult to get maintenance from those parents who do not want to pay.

*"There is no incentive you can give to someone that doesn't want to pay."* Parent

*"Increasing enforcement powers has merit but there needs to be a balance between ensuring that non resident parents fulfil their responsibilities and ensuring that sanctions are correctly applied and are based on the facts of each individual case."* Advice NI

*"OPF has no objection to further new sanctions against non-resident parents who wilfully refuse to pay child maintenance".* One Parent Families

*Unfortunately, promises of stronger enforcement seem hollow when the CSA already refuses to use the powers it already has. Lack of powers isn't the problem, it's the unwillingness to use them."* Member of the public

## Question 2

### Our proposals

Our response to Sir David set out how having both parents' names on the birth certificate might facilitate the payment of maintenance as well as bringing wider benefits for parents and their children. We said that we wanted to look more closely at policy in this area.

We asked: **Do you agree that parents should jointly register the birth of their children? What steps could the Government take to support this outcome?**

### Responses

- Most stakeholders recognised the importance of getting as many parents as possible to jointly register births. If the Government wished to move to a position of compulsory joint registration then stakeholders expressed significant concern about the risks to vulnerable women and children and to protect against any risk of stigmatising, for example, same sex families.

*"Register birth yes, where possible. Government can't do more than to provide the facility."*  
Parent

*"We wholeheartedly endorse the idea of targeting messages to parent around the time of birth, underpinned by the symbolic idea of encouraging more fathers to sign the birth certificate."* Fathers Direct

*"We agree that parents should jointly register the birth of their children in line with existing Government policy and legislation."* Legal Services Commission

*"We would be against going down the road of compulsory registration of both parents on the birth certificate. Firstly, it would be difficult for Registrars to enforce, if the mother was unwilling to name the father. Secondly, the mother may have a good reason, for example violence or harassment, as to why automatic parental responsibility would not be a good idea."* One Parent Families

## Question 3

### Our proposals

Our response described the role that the courts currently play in the child maintenance system. We said that we wanted to give more thought to Sir David Henshaw's proposals and would consider a change where a case could be made that this would result in a better service for clients and a lower cost to government.

We asked: **What role should the courts have in a model where parents are encouraged to reach their own child support arrangements?**

### Responses

- Respondents did not support the idea of transferring child maintenance fully to the courts. Some organisations, however, did consider that there is scope for change in this area, for instance, by considering child maintenance as part of an ancillary relief package.

*"I think going through the courts would cost the mother and the country far too much money which could be spent on the already needy child."* Parent

*"It is our view that for any child support system to work and provide a service to all clients, the Court must take the role of dealing with child maintenance in cases where other financial provision is being considered."* Resolution

*"We agree that child maintenance should not be referred to the courts as a universal arrangement."* Legal Services Commission

*"The Council still maintains its strong support for giving the court jurisdiction to adjudicate on child support when it is in the process of adjudicating on other ancillary relief matters."*  
The Family Justice Council

## Question 4

### Our proposals

In our response we said that we would take forward a piece of work on simplifying the child maintenance assessment, collection and enforcement processes. This included looking at how we treat changes of circumstances, the basis for calculating maintenance awards, how we treat non-resident parents on benefit and how we treat shared care.

We asked: **Do you agree that these are the right areas to focus on in order to simplify the system further? What changes would you make in the areas identified above?**

### Responses

- Most respondents agreed with the need for further simplification. There was support for working more closely with HM Revenue & Customs but there were questions over how it would operate in practice. There was some scepticism about changes to the shared-care regime and concern that using gross income, as opposed to net income, for calculations would cause hardship for non-resident parents and their second families. We have considered this and believe that historic tax income information is close enough to the current financial position of most non-resident parents at the time to be an acceptable and sufficiently robust basis for assessment. Some respondents asked for a further opportunity to comment once options were more fully developed – we have therefore included a further consultation question on the simplification proposals in this White Paper.

*"It is important to keep the government system as simple as possible and avoid 'millimetre justice'."* One Parent Families

*"We agree that it is important for the system to be simplified and improved."*  
Legal Services Commission

*"We support the desire to keep the system as simple as possible – though not at the expense of its ability to adequately protect children."* Child Poverty Action Group

*"The NET/gross income is however a concern."* Parent

*"NACSA believe that a child support system should have a better working relationship with the HMRC to ensure that income details of parents are readily available and up to date."*  
National Association for Child Support Action

*"A simplified system is needed to provide an effective child support system in the future."*  
Resolution

*"The provisions for shared care, while imperfect, should not be altered."*  
The Law Society of Scotland



## Question 5

### Our proposals

Our response set out how charging could provide an effective mechanism to offset, at least in part, the costs to the taxpayer of parents using the administrative system, while, at the same time, incentivising parents to make their own child maintenance arrangements. We said that we wanted to explore the most appropriate, simple and cost-effective arrangements for doing this.

We asked: **How can we best construct a charging regime that will incentivise parents to make their own arrangements?**

### Responses

- Some respondents noted that charging clients may simply serve to discourage low income parents with care from seeking maintenance in the first place and that, should it be imposed, a charge should not target vulnerable groups. We agree with these concerns. Respondents had mixed views on charging and several respondents were unsupportive of introducing a charging regime at least until the new system had proved itself. However, we believe charging is an important element to establish in the new regime in order to ensure that the incentives for non-resident parents to meet their responsibilities are in place from the outset.

*"It is obvious that those parents who can make their own arrangements do so already. No-one would use the CSA if they could reach a fair and amicable settlement."* Parent

*"The idea of charging people to use the new system in order to encourage them to make private arrangements is a good one, but will only be supported if the cost of this is shared fairly – if the PWC [parent with care] is at liberty to insist on using a service that the NRP [non-resident parent] must then pay for that will obviously not be well met."* Member of public

*"The imposition of a charging regime risks alienating the public from the new government support system before it starts. At the very least, charging should not be considered until the new organisation has proved itself efficient and effective."* One Parent Families

*"The Sub-Committee concedes that it may be justifiable to levy a charge upon an NRP in respect of whom enforcement procedures have been necessary...there should certainly be no charge at all for any PWC in receipt of income support."* The Law Society of Scotland

*"We doubt that a charging regime is the best method of 'incentivising' parents to make their own arrangements, and have serious worries about the impact on low income families."* One Parent Families Scotland

*"NACSA acknowledge the basis of the proposal to charge clients for using the Admin service."* National Association for Child Support Action

## Question 6

### Our proposal

Our response set out how we would create a new body to deliver child maintenance arrangements. We said that we saw considerable merit in Sir David Henshaw's recommendation to close down the existing child maintenance schemes and ask people to reapply to the new system, but that we wanted to undertake more analysis to assess the most appropriate way forward.

We asked: **What would be the most appropriate way to enable existing clients to either move to private arrangements or make a claim under the new system?**

### Responses

- There were mixed responses on whether to ask parents to reapply to the new organisation. Some respondents asked for a further opportunity to comment, once our proposals were more developed – we have therefore included a further consultation question on the transition to the new system in this White Paper.

*"I don't agree that existing clients should have to reapply, they should be transferred in date order of application."* Parent

*"Close all the old csa cases and let parents start afresh through mediation."* Parent

*"We also have strong reservations about the equity of introducing a 'clean break' between the current child support schemes and the proposed new scheme."* Citizens Advice

*"Advice NI believes that the decision to close down all existing schemes may not be without difficulty."* Advice NI

*"The proposal to have a clean break with the past is commended however running two systems at the same time has the potential for chaos."* Justices' Clerks' Society

*"NACSA support the views that any replacement system has to be a completely fresh start."*  
National Association for Child Support Action

## Question 7

### Our proposals

Our response to Sir David said that we needed to consider how to deal with the legacy of debt. We said that we need to look closely at what to do when efforts to collect are exhausted and the costs and benefits of the options available. We said that, in such circumstances, it may be appropriate for us to bring forward legislation to write off debts.

We asked: **Under what circumstances should we take powers to write off debts?**

### Responses

- Respondents were cautious about writing off debts although there was some acknowledgement that it may be appropriate where it is no longer cost effective or possible to pursue the debt. We are clear that debts will not be written off unless all reasonable enforcement actions have been taken and further efforts to recover are unlikely to be successful, but we do consider that there are strictly limited circumstances where it may well be appropriate to write off debts and revalue some overstated debts.

*"None, all debts should be enforced. I have paid my way why should someone elsenot [sic] pay theirs?"* Parent

*"One Parent Families is cautious of any proposals to write-off child support debts considered uncollectible by the Agency."* One Parent Families

*"Every effort should be made to collect old debt. Powers to write off debt should really be a last resort."* Public and Commercial Services Union and the Northern Ireland Public Services Alliance

*"Debt should only be recovered when it is cost effective to do so."*  
One Parent Families Scotland

*"We agree that powers should be given to the residual body of the CSA to allow them to remove debt that is uncollectible for whatever reason."*  
National Association for Child Support Action

## Breakdown of responses

A.7 We received nearly 300 responses from a wide variety of stakeholders, parents MPs and staff (both directly and through team-talk sessions held at the Child Support Agency). A breakdown is provided in Table A1.1.

	MP	Lords	Interest Group	Parent with care	Non-resident parent	Non-resident parent's new partner	Client (not known)	Child Support Agency staff	Department for Work and Pensions staff	Public
Phone			3	2	3					
Writing	1		12	8	10	1		1		5
e-mail			9	64	71	18	1	18	3	65

A.8 The organisations that provided responses were:

Advice NI  
 Care Group for Aggrieved Partners  
 Child Poverty Action Group  
 Citizens Advice  
 Citizens Advice Bureaux (Northern Ireland)  
 Families Need Fathers  
 The Family Justice Council  
 Fathers Direct  
 Gingerbread  
 Justices' Clerks' Society  
 The Law Society of Scotland  
 Law Centre (Northern Ireland)  
 Legal Services Commission  
 The National Association of Community Family Trusts  
 National Association for Child Support Action  
 National Family Mediation (x2)  
 One Parent Families  
 One Parent Families Scotland  
 Parentline Plus  
 Public and Commercial Services Union and the Northern Ireland Public Services Alliance  
 Relate  
 Resolution  
 Scoop Aid

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- 1 National Audit Office, 2006, *Child Support Agency – Implementation of the Child Support Reforms*, HC 1174 Session 2005/06, 30 June.
- 2 See, for example, Ermisch J and Murphy M, 2006, *Changing household and family structures and complex living arrangements*, Economic and Social Research Council.
- 3 Skinner, C and Meyer, DR, 2006, After all the policy reform, is child support actually helping low income mothers?, *Benefits*, Vol. 14, No 3, pp 209–222.
- 4 Bradshaw J, 2006, Child support and child poverty, *Benefits*, Vol. 14, No 3, pp 199–208. This chart shows the proportion of children in poverty, after tax but before other income transfers, who are lifted out of poverty due to receipt of child support. It does not reflect the overall reduction in child poverty.
- 5 Peacey V and Rainford L, 2004, *Attitudes towards child support and knowledge of the Child Support Agency, 2004*, Department for Work and Pensions Research Report No 226.
- 6 For an authoritative account of the evolution of child support arrangements in the UK see Wikeley N, 2006, *Child Support: Law and Policy*, Hart Publishing.
- 7 Jacobs E and Douglas G, 2005, *Child Support: The Legislation*, Sweet & Maxwell.
- 8 National Audit Office, 2006, *Child Support Agency – Implementation of the Child Support Reforms*, HC 1174 Session 2005/06, 30 June.
- 9 As set out in Department for Social Security, 1999, *A new contract for welfare: children's rights and parents' responsibilities*, Cm 4349.
- 10 The administrative costs used to calculate this figure include the cost of programmes such as the Operational Improvement Plan. This figure only includes money paid to the Child Support Agency Collection Service - it does not include amounts arranged by the Child Support Agency but paid directly to the parent with care by the non-resident parent.
- 11 Bell A, Kazimirski A and La Valle I, 2006, *An investigation of CSA Maintenance Direct Payments: Qualitative study*, Department for Work and Pensions Research Report No 327.
- 12 Atkinson A and McKay S, 2005, *Child Support Reform: The views and experiences of CSA staff and new clients*, Department for Work and Pensions Research Report No 232.
- 13 Wikeley N, Barnett S, Brown J, *et al.*, 2001, *National Survey of Child Support Agency Clients*, Department for Work and Pensions Research Report No 152.

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- 15 Department for Work and Pensions, 2006, *A fresh start: child support redesign – the Government’s response to Sir David Henshaw*, Cm 6895.
- 16 Atkinson A, McKay, S and Dominy N, 2006, *Future policy options for child support: The views of parents*, Department for Work and Pensions Research Report No 380.
- 17 Wikeley N, Barnett S, Brown J, *et al.*, 2001, *National Survey of Child Support Agency Clients*, Department for Work and Pensions Research Report No 152.
- 18 The relevant benefits are Income Support or income-based Jobseeker’s Allowance.
- 19 Miller C, Farrell M, Cancian M and Meyer D R, 2005, *The Interaction of Child Support and TANF: Evidence from Samples of Current and Former Welfare Recipients*, Manpower Demonstration Research Corporation (MDRC) online, available at: [www.mdrc.org/publications/397/full.pdf](http://www.mdrc.org/publications/397/full.pdf)
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- 21 See for example, Moorhead R, Sefton, M and Douglas, G, 2004, *The Advice Needs of Lone Parents, One Parent Families*; Atkinson A, McKay, S and Dominy N, 2006, *Future policy options for child support: The views of parents*, Department for Work and Pensions Research Report No 380; Tennant R, Taylor J and Lewis J, 2006, *Separating from cohabitation: making arrangements for finances and parenting*, Department for Constitutional Affairs Research Series 7/06.
- 22 All further references to Consent Orders should be taken as references to Consent Orders and Scottish Minutes of Agreement.
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- 24 Atkinson A and McKay S, 2005, *Investigating the compliance of Child Support Agency clients*, Department for Work and Pensions Research Report No 285.

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