



House of Commons  
Work and Pensions Committee

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**Child Support Reform**

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**Fourth Report of Session 2006–07**

*Report, together with formal minutes*

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## The Work and Pensions Committee

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## Summary

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The White Paper represents a radical shift in child support policy. We welcome the Government's attempts to reform the system of child maintenance and recognise the boldness of the proposals to seek a new solution with a move towards private agreements and away from administratively imposed arrangements. However, we have reservations. We are concerned that at this stage in the policy redesign there is insufficient detail for proper scrutiny over how the new system will work. In addition, there appear to be a number of inherent tensions and contradictions within the White Paper between the principles and the practicalities of reform.

There is a fundamental shift proposed towards private agreements. All parents with care will be free to make their own maintenance arrangements. No one knows what the behavioural responses of parents may be under the new system: will they stay with CSA assessment, move to a C-MEC assessment, come to a private agreement or make no arrangement at all for maintenance?

The key to preventing a return to the situation before the 1991 Act which introduced the Child Support Agency (CSA) is the Government's proposal for provision of advice and guidance services. These services could help to remedy the potential power imbalance of private arrangements and encourage parents with care who are no longer compelled to claim child maintenance to pursue an agreement with the non-resident parent. However, we are concerned by the lack of practical proposals in the White Paper on such a fundamental issue to the success of the reforms. There is no detail as to who will provide the information, what form it will take and how it will be funded. The evidence we received highlighted that the current providers of advice services do not have the capacity to fulfil a greater role. The Committee is doubtful about C-MEC's ability to procure and/or directly provide an independent advice service, especially when it is trying to market itself as an enforcement agency – these two roles do not sit comfortably together and will lead to questioning over the impartiality of guidance.

A key principle of reform, outlined in the White Paper, is to ensure transition is driven by child poverty considerations. Child maintenance payments currently lift 100,000 children out of poverty and the Government aims to increase this figure. However the £10 child maintenance premium, which is recognised to reduce child poverty, will not be extended to all cases until the end of 2008. In addition it will not be significantly increased until 2010/2011, missing the Government's interim child poverty target. We recommend that the Government should investigate the costs and benefits of introducing a full disregard. Additionally, child poverty rates are at risk of being inflated within non-resident parent's households by the proposal to increase the flat rate of payment a non-resident parent on means-tested social security benefit must pay from £5 to £7, a 40% increase. The Committee, although appreciating the Government's aim to help the poorest families first, believes that the transition should be planned with administrative efficiency at its heart because making the system work will reduce child poverty in the long run.

A further contradiction within the proposals is the promise of a clean break with the past and a plan to transfer existing cases onto the new scheme. The Secretary of State has

described the reforms as a clean break but it is not the clean break envisaged by Sir David Henshaw. The Committee is not convinced about C-MEC's ability to run what could ultimately amount to three systems of child support – the old old (1993-2003), the old new (2003 - 2008) and the new C-MEC assessment (expected post 2008). The difficulty of the task for the new body could be complicated further if the transition arrangements are not well thought through.

There are proposals that do not fit easily with the principle of parental responsibility. For example, the constraints on the courts in making child maintenance assessments as part of an overall package in ancillary relief proceedings are not being removed. Similarly the 12 month rule remains, enabling consent orders made by the court to be overridden by an Agency calculation after a year, which has the clear potential to undermine private agreements. Shared care, which promotes parental responsibility, is ignored in the White Paper and it would seem that C-MEC retains its monopoly on enforcement thus denying parents with care the choice to pursue arrears themselves.

Finally, we are concerned that whatever the merits of joint birth registration, this highly sensitive matter is being tagged onto child maintenance legislation when it potentially has wider ramifications through the family law system.

# 1 Introduction

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## Background to the inquiry

1. This Committee's predecessors have produced a series of reports on the failings of the Child Support Agency (CSA).<sup>1</sup> In 2005, for example, the then Work and Pensions Committee recommended:

“that consideration must be given to the option of winding up the CSA and plans made for an alternative set of policies that work, in order to provide financial support for children in future. We also recommend that our successor Committee considers alternative policies in the event of the CSA being wound up.”<sup>2</sup>

2. For many people the involvement of the state in child support arrangements over the last 14 years has not been a positive experience. The CSA was established in 1993, following the enactment of the Child Support Act 1991, to assess, collect and enforce child maintenance on a formulaic basis. This was a radical policy shift which involved considerable investment in developing an entirely new administrative agency. The move was deemed necessary due to the failings of the courts in establishing fair and consistent maintenance awards, as well as problems with keeping such orders up to date and enforced effectively. While the Agency was not able substantially to improve on what was already a poor situation, it did succeed in getting money to some parents with care who had previously received nothing. However, the problems caused by the complicated calculation process under the 1991 Act in an attempt to create “fairness” are well documented.<sup>3</sup>

3. In order to simplify the child support system, the Government brought forward proposals in 1999 which were subsequently enacted by Parliament in Part I of the Child Support, Pensions and Social Security Act 2000. These reforms included a simpler formula for calculating child support liabilities, based on a percentage of the non-resident parent's (NRP's) net income, new enforcement powers and the promise of a better service for the Agency's customers. The new scheme did not come into force until 3 March 2003, and performed badly from the start owing to chronic problems with the IT and operational systems.<sup>4</sup> In particular, old scheme cases taken on before 3 March 2003 were unable to transfer to the new scheme's simpler assessment process. This left the Agency trying to administer two different systems concurrently. Even now, in 2007, the majority of the CSA's cases are still being dealt with under the old scheme.<sup>5</sup> Moreover, across the total of

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<sup>1</sup> Social Security Committee, Fifth Report of Session 1993-94, The Operation of the Child Support Act: Proposals for Change, HC 470; Second Report of Session 1995-96, The Performance and Operation of the CSA, HC 50; Fifth Report of Session 1996-97, Child Support HC 282; and Tenth Report of Session 1998-99, The 1999 Child Support White Paper HC 798, Work and Pensions Committee, Second Report of Session 2004-05, The Performance of the CSA, HC 44

<sup>2</sup> Work and Pensions Committee, Second Report of Session 2004-05, The Performance of the CSA. HC 44, para 226

<sup>3</sup> Helena Barnes, Patricia Day and Natalie Cronin Trial and Error: a review of UK child support policy (FPSC/Nuffield Foundation, London, November 1998), Gwynn Davis, Nick Wikeley and Richard Young, Child Support in Action (Hart Publishing, Oxford, 1998) and Nick Wikeley, Child Support Law and Policy (Hart Publishing 2006), ch 5

<sup>4</sup> Work and Pensions Committee, Second Report of Session 2004-05, The Performance of the CSA, HC 44

<sup>5</sup> CSA Quarterly Summary of Statistics, December 2006 Table 1: 58% of cases are old scheme and 42% are new scheme.

1.4 million cases that the CSA currently handles, only 455,000 of the 750,000 non-resident parents liable to pay maintenance actually do so.<sup>6</sup>

4. The Secretary of State for Work and Pensions announced in February 2006 that he had commissioned Sir David Henshaw, former Chief Executive of Liverpool City Council, to lead a redesign of the child support system. Sir David's report, *Recovering child support: routes to responsibility*, was published in July 2006 along with the Government's response.<sup>7</sup> Following this the Government carried out a consultation exercise on his findings and the results of this fed into the White Paper, *A new system of child maintenance*, published in December 2006.

5. The White Paper represents another fundamental change in child support policy making. In recognition of the past failings it proposes that all parents, even those in receipt of Income Support or income-based Jobseeker's Allowance, should be encouraged to make their own private arrangements for child maintenance.<sup>8</sup> The plan is also to replace the CSA with a new body, the Child Maintenance and Enforcement Commission (C-MEC). We summarise the difference between the "old old scheme", the "old new scheme" and the White Paper proposals in a table at Annex 1.

6. The White Paper states that there should be four principles of reform, to:

- i. "help tackle child poverty by ensuring that more parents take responsibility for paying for their children and that more children benefit from this;
- ii. 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;
- iii. provide a cost-effective and professional service that gets money flowing between parents in the most efficient way for the taxpayer; and
- iv. 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."<sup>9</sup>

7. The main reforms outlined in the White Paper are to:

- a) Encourage more private agreements and remove the compulsion from parents with care claiming income support or income-based Jobseeker's Allowance to apply for formal maintenance via the CSA;

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<sup>6</sup> Department for Work and Pensions, *A new system of child maintenance*, Cm 6979, December 2006, p 4 referred to throughout this report as "White Paper".

<sup>7</sup> Sir David Henshaw's report to the Secretary of State for Work and Pensions, *Recovering child support: routes to responsibility*, July 2006 and *A fresh start: child support redesign – the Government's response to Sir David Henshaw July 2006* Cm 6895. Referred to throughout this report as "Henshaw Report" and "Government's response to the Henshaw report" respectively.

<sup>8</sup> White Paper, para 2.1

<sup>9</sup> White Paper, p 27

- b) Improve the quality and accessibility of information and guidance services to help parents reach private agreements;
- c) Change the formula for calculating child maintenance and base it on gross income tax data from HM Revenue and Customs;
- d) Move to a system of fixed-term awards of one year unless income differs by at least 25%;
- e) Increase the flat rate of maintenance paid by non-resident parents on benefit from £5 to £7 a week;
- f) Extend the child maintenance premium to all current CSA cases;
- g) Significantly increase the child maintenance premium;
- h) Focus on 'tougher' enforcement measures;
- i) Increase efforts to collect historic debts; and
- j) Promote 'joint registration' of both parents at birth of a child.

8. A 13 week public consultation process is currently under way and is due to be completed on 13 March. A series of nine questions have been set covering a range of topics including: advice and support services, a register of private agreements, principles and objectives for the new agency, the transition arrangements, the new formula, enforcement and debts.<sup>10</sup>

**9. In light of the recommendations of our previous report, we are pleased to note that the Government's proposals to reform the CSA include its eventual wind-up.**

10. We announced that we intended to inquire into the Government's proposals soon after the White Paper was published, in December 2006. We asked that submissions address the questions set out in the White Paper. Written evidence was sought and 18 submissions were received.<sup>11</sup> Given the need for our report to be published around the consultation deadline, we held three oral evidence sessions in January and early February. We would like to thank all those who contributed to the inquiry, particularly given the tight timetable we imposed, and our two advisers Professor Nick Wikeley, John Wilson Chair in Law, University of Southampton and Dr Christine Skinner, Lecturer in Social Policy, Department of Social Policy and Social Work, University of York.

11. We also had the chance to hear the opinions of those who will be affected if the Government's proposals are implemented, through a session on the Radio 4 programme "You and Yours". Listeners had the opportunity to call, email or text their comments to the programme and put their views to the Chairman. This took place shortly before we met to agree our report. The programme received a high volume of calls, and we publish a summary provided by the You and Yours team in Appendix 2 of this Report. We are very grateful to those who contacted the programme, and for the opportunity to reach a wide and diverse audience as part of our inquiry.

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<sup>10</sup> See Appendix 1

<sup>11</sup> Published in Volume II of this report

## 2 Private arrangements

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12. The main emphasis of the changes outlined in the White Paper is to move away from a state-run service towards one of private arrangements. One of the principles of reform set out in the White Paper is to:

“promote parental responsibility by encouraging and empowering parents to make their own maintenance arrangements wherever possible”<sup>12</sup>

13. We received evidence on a number of issues related to this aspect of the proposals, including the sources of advice for parents under the new arrangements, the extent of the involvement of the courts, whether private arrangements should be registered and how they would be monitored, how the money would be collected and what will happen if non-resident parents do not comply.

14. There is a concern with the Government’s optimism over the numbers of parents who would want to make private arrangements. One Parent Families said:

“It remains to be seen how many parents with care, who currently are required to use the CSA because [they are] on benefit, will use C-MEC when given the choice. The indications are that a substantial proportion will still choose to do so. When parents with care using the CSA were asked in 2001 if they would continue to do so if given the choice, 48% of them said they would stick with the Agency (compared to 20% of non-resident parents).<sup>13</sup> We would warn against too optimistic a view of the reductions in caseload as a result of parents with care deciding they do not need C-MEC’s services in future.”<sup>14</sup>

Adding:

“There is a suspicion that the principle of ‘encouraging and empowering parents to make their own arrangements wherever possible’ may be based, not on what is in the best interests of parents looking after children, but because it makes business sense for the new government child support service.”<sup>15</sup>

And:

“that policy makers are in danger of making a similar mistake as happened when the CSA was established, in being over-optimistic about the extent to which non-resident parents will cooperate in attempts to persuade them to pay child maintenance – and underestimating the extent to which a culture of non-compliance exists among non-resident parents. It would be a grave mistake if a disproportionate amount of money and effort were diverted into encouraging and managing private arrangements, at the expense of running an effective and efficient statutory system

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<sup>12</sup> White Paper, para 15

<sup>13</sup> Department for Work and Pensions Research Report No 152

<sup>14</sup> Ev 73

<sup>15</sup> Ev 74

focused on delivering adequate levels of child maintenance on a regular basis to children in separated families.”<sup>16</sup>

### Power balance

15. The following table from a quantitative survey by the National Centre for Social Research (NatCen) on behalf of the DWP shows that whereas 11% of non-resident parents would move to private arrangements (through maintenance direct (MD): this involves the non-resident parent making payment direct to the parent with care based on a CSA assessment but without CSA supervision) the equivalent proportion amongst parents with care is just 4%.<sup>17</sup>

**Figure 1: Likelihood of newly assessed CS clients moving to MD, by whether PWC/NRP**

	Newly assessed PWCs using CS %	Newly assessed NRPs using CS %	All newly assessed clients using CS %
Very or fairly likely to move to MD	4	11	8
Not very or not at all likely to move to MD	93	80	86
Don't know if would move	3	10	7
All newly assessed clients who received or paid child maintenance and were using CS.			

Source: DWP Research Report 404

16. The reasons that parents with care cite for being unhappy with private arrangements are given in the same report as being:<sup>18</sup>

**Figure 2: Barriers perceived by PWCs when thinking about using MD**

	All PWCs using CS %
Wouldn't feel sure I'd get paid at all	68
Bad relationship/ don't trust ex-partner	61
Wouldn't feel sure I'd get paid the right amount of money	52
Wouldn't feel sure I'd get paid on time	52
Don't want direct contact with ex-partner	35
CSA wouldn't chase up payments	33
Wouldn't have proof of non-payment	33
Wouldn't want to cut off contact with CSA	16
Will remain on/go on to benefits	2
Happy with arrangement as it is	*
Easier to have it taken from	*

<sup>16</sup> Ev 76

<sup>17</sup> DWP Research Report, No. 404: An Investigation of CSA maintenance direct payments: Quantitative Study p127

<sup>18</sup> DWP Research Report, No. 404: An Investigation of CSA maintenance direct payments: Quantitative Study p133

wages	
Don't know where ex-partner is	1
Other	2
At least one barrier cited	96
Nothing would make it difficult	4

Source: DWP Research Report 404 Note: Percentages do not sum to 100% as respondents could give more than one reply

17. In comparison, current maintenance direct customers gave the following reasons for using private arrangements:<sup>19</sup>

**Figure 3: Reasons given for choosing MD (PWCs)**

	Newly assessed PWCs %	Newly assessed NRPs %
Seemed more straightforward	53	67
Ex-partner wanted to use this method	29	19
Didn't need CSA involvement	24	36
Similar to previous private arrangement	15	26
Didn't want CSA involvement	10	19
Wasn't given a choice	8	5
CSA suggested it	2	0
Other reason	3	1
<i>All PWCs and NRPs using MD who were aware of alternative payment method at time of assessment</i>		

Source: DWP Research Report 404

18. The qualitative report on maintenance direct by NatCen found that: the advantages to private arrangements were their flexibility: the scope for varying the level, timing and frequency of maintenance payments; the ability to decrease their payment level temporarily for example during a holiday when they looked after the children more than usual; and the potential to negotiate a balance between money paid to the ex-partner and money or items given directly to the children. The other main reasons were the simplicity of not needing to involve a third party and efficiency as there would be no delay in payments from when the non-resident parent paid them to when the parent with care received them.<sup>20</sup>

19. However, the report also found:

“Some parents had deliberately chosen to use MD so that they could set their own payment level, lower than that recommended by the CSA. Non-resident parents whose ex-partners were prepared to agree to a lower payment level had a clear financial incentive to use MD. The motivation of parents with care here was more subtle, with evidence that some were prepared to make a ‘financial sacrifice’ in order to maintain good relations within the family.”<sup>21</sup>

<sup>19</sup> DWP Research Report, No. 404: An Investigation of CSA maintenance direct payments: Quantitative Study p 60

<sup>20</sup> DWP Research Report, No. 327: An investigation of CSA maintenance direct payments: Qualitative Study para 6.2.2

<sup>21</sup> DWP Research Report, No. 327: An Investigation of CSA maintenance direct payments: Qualitative Study p 2

A similar point was made in a report on the Scottish system of private agreements which found that many people felt they had made agreements under duress and had agreed to the terms as a means of avoiding or decreasing conflict.<sup>22</sup>

20. In addition the qualitative study stated that in cases before the CSA became involved:

“non-resident parents appear to wield a disproportionate amount of power over establishing financial arrangements following a separation.”<sup>23</sup>

21. One Parent Families, commenting on the maintenance direct research, said that:

“The White Paper fails to acknowledge that what may seem advantageous to the non-resident parent about private arrangements: that they are flexible as to the level and timing of payments, and do not involve supervision from C-MEC, may be seen as potential disadvantages to the parent with care looking after the children: payments are not regular, are for lower amounts than the child support formula, and if not paid, do not result in immediate intervention by C-MEC.”<sup>24</sup>

22. The Child Poverty Action Group (CPAG) expressed concern that “The move towards private arrangements may therefore shift the power balance against parents with care (predominantly women) in favour of non-resident parents (predominantly men).”<sup>25</sup>

**23. The Government needs to recognise, in planning the provision of advice services and ensuring that these meet the needs of both parents, that parents making private arrangements may well not enjoy equal bargaining power, with the potential for such power imbalances to be reflected in the terms of financial arrangements. We also ask the Department to explain how the problems associated with the child maintenance system before the Child Support Act 1991 will not simply recur with the increased emphasis on private arrangements.**

## Advice services

24. The White Paper states that:

“the new child maintenance system will provide parents with better access to information and guidance when they separate and link them to high-quality support to enable them to make informed decisions.”<sup>26</sup>

25. Duncan Fisher from Fathers Direct said:

“One has to see support services as an integral part of this whole reform process. They are a necessary part of bringing about the outcomes for children that we want

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<sup>22</sup> The Scottish Office Legal Research Unit, Legal Studies Research Findings No. 5 (1997) Mutual Consent Written Agreements in Family Law Fran Wasoff, Ann McGuckin and Lilian Edwards

<sup>23</sup> DWP Research Report, No. 327: An Investigation of CSA maintenance direct payments: Qualitative Study para 3.21

<sup>24</sup> Ev 68

<sup>25</sup> Ev 97

<sup>26</sup> White Paper, p 31

from the system, so they are as important as the arrangements around collecting support and C-MEC.”<sup>27</sup>

26. The White Paper suggests that:

- “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. There will be a major role for the third sector who have much to offer based on their current excellent work.
- Support on maintenance is best delivered alongside information on the other key issues that arise regarding parental separation.”<sup>28</sup>

27. However, crucially, there are no details on who will provide this advice, how it will be paid for and what form it will take. When questioned on this issue the Secretary of State commented that:

“the detail of precisely who, what, how and when, that is work that is under way in the Department right now.”<sup>29</sup>

### **Target groups**

28. The advice services will need to provide support to those parents involved in the 1.4 million cases which are currently registered with the CSA as well as those making new applications to C-MEC.

29. The White Paper details the breakdown of current child maintenance arrangements of eligible parents as being:

**Figure 4:**

<b>Breakdown of child maintenance arrangements of eligible parents (per cent)</b>	
CSA (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>

<sup>27</sup> Q 123

<sup>28</sup> White Paper, p 37

<sup>29</sup> Q 154

From this evidence the White Paper notes that:

“Looking at the maintenance options reported by the current stock of eligible parents, it is clear that about half report that no arrangement is in place. In addition, many of those parents being dealt with by the CSA have ended up there as a result of a benefit claim, not through their own choice.”<sup>30</sup>

30. One Parent Families told us that they supported:

“the proposal to abolish the requirement placed on parents with care to claim child support if claiming an out-of-work benefit.”<sup>31</sup>

And noted the suggestion in the White Paper that Jobcentre Plus staff had a key role:<sup>32</sup>

“to identify parents with care who are not receiving maintenance and to make the case for seeking it, by whatever method – before sign-posting them to other sources of advice and assistance.”<sup>33</sup>

However, they also made the point that not all of the lone parents who are without child maintenance are also necessarily in receipt of benefits and suggested:

“if the Government wants to increase the number of children in separated families for whom child maintenance is paid, the case for seeking child maintenance – by whatever means is most suitable - should be actively made to all lone parents whether in work or not, with advice and positive support to overcome any reservations they might have. At the same time, more needs to be done to positively engage with non-resident parents to persuade them that child maintenance matters for their children.”<sup>34</sup>

And recommended that:

“the Government takes steps to actively monitor the impact of its proposed new policies to check whether it is being successful in increasing the number of children in separated families receiving maintenance.”<sup>35</sup>

**31. The Committee agrees that Jobcentre Plus has an important role in signposting lone parents to child maintenance advice services. However, by definition Jobcentre Plus will predominantly be dealing with lone parents claiming benefits. There will be other separating parents on low incomes with a need to have a child maintenance arrangement in place who will not necessarily have contact with Jobcentre Plus. The Government needs to find ways of reaching these other groups, such as low income separating parents in paid employment, to ensure that they are not at risk of being left without adequate child maintenance arrangements.**

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<sup>30</sup> White Paper, para 2.21

<sup>31</sup> Ev 68

<sup>32</sup> White Paper, para 2.9

<sup>33</sup> Ev 76

<sup>34</sup> Ev 72

<sup>35</sup> Ev 72

### **Current capacity of advice provision**

32. As noted previously the White Paper states that:

“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.”<sup>36</sup>

33. The chart in Appendix Three, from a recent DWP research report on parents’ attitudes towards child support reform, shows the services that already exist.<sup>37</sup>

34. Relate, a key service provider, thought that “CMEC should build on, and invest in, existing provision of such services within the voluntary sector, and look at ways in which this can enable national coverage of such services.”<sup>38</sup> Parentline Plus told the Committee “a proven telephone based service already exists, it would be unwise to add yet another helpline to cater for parents facing divorce and separation.”<sup>39</sup>

35. However, the report mentioned above also found that parents thought that current provision is:

“difficult to find out about, can be hard to access, and is very unlikely to provide the emotional support that is so important.”<sup>40</sup>

36. Janet Allbeson from One Parent Families told the Committee:

“We did a report in 2004,<sup>41</sup> looking at advice services for lone parents which showed how patchy, fragmented and, really, inadequate provision is for all parents on marriage breakdown and relationship breakdown.”<sup>42</sup>

37. She also highlighted the Government projects already working on the issue of relationship breakdown:

“Looking at the models that are out there from DCA and DfES, DCA does run very small-scale projects; some of them are pilots, in particular around resolving disputes on contact. Those are useful but they are fairly small scale. DfES has been trying to work towards something called Parents Direct.[...] DfES want to move towards having an overarching phone number where you will then be referred on to one of these specialist phone lines. That is fine up to a point but, really, the issue is the capacity of the organisations, and without any real funding to support that service – and what a lot of parents say they want is face-to-face, personal advice – it is not going to work.”<sup>43</sup>

<sup>36</sup> White Paper para 2.26

<sup>37</sup> DWP Research Report No.380: Future policy options for child support: The views of parents p72-73

<sup>38</sup> Ev 67

<sup>39</sup> Ev 110 The telephone number for this service is 0808 800 2222

<sup>40</sup> DWP Research Report No.380: Future policy options for child support: The views of parents p 65

<sup>41</sup> R. Moorhead, M Sefton and G. Douglas *Advice needs of lone parent families* (One Parent Families, 2004)

<sup>42</sup> Q 123

<sup>43</sup> Q 123

38. Mavis Maclean, Senior Research Fellow in the Faculty of Law, Oxford University, was unhappy about the potential expansion of current Government mediation projects into the provision of child maintenance advice: “there has been mention of the DCA Relationship Breakdown Programme which is designed to help parents in conflict over contact to resolve their problems. These programmes are not designed to help with financial issues.”<sup>44</sup>

39. Citizens Advice were not confident that there was capacity in the current provision of conflict resolution:

“There are good examples of mediation services around the country and the voluntary sector provides some of it, but it is difficult to see the sort of expansion that is envisaged in the White Paper being achieved very easily.”<sup>45</sup>

40. It would therefore seem that there is a considerable way to go to provide a national advice service. The Secretary of State admitted that his officials “are concerned about whether there is adequate capacity.”<sup>46</sup>

### **Form of advice**

41. The White Paper acknowledges that:

“there is a preference among parents for telephone-based advice and face-to-face services.”<sup>47</sup>

42. One Parent Families believed that:

“A proper child maintenance service needs a national infrastructure of services which can offer both one-off advice, but also informed and tailored information delivered face-to-face if desired, plus guidance and support, assistance and legal help as necessary to both parents. Each parent must have access to a service they feel they can trust to understand their needs. Inevitably, when resolving financial matters on separation, including the arrangement of child maintenance, there can be differing perspectives. Any service must recognise each parent’s right to have access to their own separate adviser, so that no conflict of interest arises.”<sup>48</sup>

43. Fathers Direct stressed that the advice services should be:

“well-marketed [...] to where both men and women are – and they tend to find information in different places. The gender equality duty, which comes in in April, will impose a statutory requirement on any service that is contracted in by the state to be accessible equally to both men and women.”<sup>49</sup>

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<sup>44</sup> Ev 84

<sup>45</sup> Q 88

<sup>46</sup> Q 156

<sup>47</sup> White Paper, para 2.24

<sup>48</sup> Ev 75

<sup>49</sup> Q123

### ***A one-stop shop***

44. The DWP research report on parental attitudes to the child support reforms found that parents would prefer a one-stop shop where all services are provided:

“Parents found that there was a need for a single neutral information and support service [...] Topics that this service should deal with include finances, mental and physical health, legal issues and practical advice.”<sup>50</sup>

45. John Wheatley from Citizens Advice made the point:

“I think people will still regard the Child Maintenance and Enforcement Commission as the first port of call for advice and information. They will be a bit disappointed if they are told that they have to go somewhere else, particularly if it is only a website or a phone service to which they cannot get through.”<sup>51</sup>

46. Janet Allbeson, from One Parent Families, told the Committee that advice could be useful in areas other than maintenance calculations but that this could be signposted:

“By all means, let us encourage couples to think about [...] the options that are open to them, the amounts they could expect under C-MEC, the pros and cons, perhaps, of each one, information about what C-MEC can provide and, also, sign-posting them to other sorts of help, such as mediation. It has to be realised that on relationship breakdown there are a lot of other problems that parents have, to do with housing, to do with debt, and there is the whole issue of the legal rights arising from co-habitations and divorce.”<sup>52</sup>

47. But witnesses also expressed worries over the potential independence of advice services and its association with the assessment and enforcement arms of C-MEC. Mavis Maclean told us:

“there is always the issue that parents will perceive any state agency or C-MEC-based advice as being partisan in some way or that there is some kind of conflict of interest; it is like asking a lawyer to advise both sides.”<sup>53</sup>

48. Michelle Counley from the National Association for Child Support Action (NACSA) wanted to make sure that clients should be:

“able to approach these services without any fear that there is going to be an element of bias – ‘You have got to go this way’ or ‘We need to take you that way’. There are a lot of concerns with the public and there is a lack of confidence as to what C-MEC may or may not be able to offer. The advice services out there have to have a degree of independence so that that information can be relayed clearly and concisely to the clients.”<sup>54</sup>

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<sup>50</sup> DWP Research Report No. 380: Future policy options for child support: The views of parents p69

<sup>51</sup> Q 88

<sup>52</sup> Q 123

<sup>53</sup> Q 13

<sup>54</sup> Q 123

49. John Wheatley from Citizens Advice warned of the potential problems if the advice services were also involved in making maintenance assessments:

“If it is taking maintenance assessments, [...] that moves us into [a] different character and moves away from the perception of independence that the Government itself recognises is important in people’s minds.[...] I think you would have to have distinct organisations.”<sup>55</sup>

### **Mediation and counselling**

50. Our predecessor Committee recommended in its 2005 report that there should be closer coordination of services to help provide preventative and family support systems at an early stage of family breakdown.<sup>56</sup>

51. The Department’s quantitative and qualitative research reports on ‘maintenance direct’ make a clear correlation between relations after a relationship breakdown and the payment of maintenance concluding:

“The central importance of parental relationships for the future of direct payment also raises the question of the proper roles of both state and voluntary sectors in helping parents to improve their relationships post-separation.”<sup>57</sup>

52. Relate said:

“Most non-payments are down to the entrenched conflict between, and hurt and anger felt by, ex-partners as a result of the breakdown of their relationships. Dealing with these issues through targeted support will help parents put their children first, and develop long-lasting, flexible private agreements, without the need for expensive sanctions which will do little to improve children’s well-being.”<sup>58</sup>

53. Parentline Plus stated that:

“We understand that the DfES, working through CAFCASS, will be developing and rolling out local services and networks for separating parents. It will be really important to ensure that these connect with the C-MEC.”<sup>59</sup>

54. However, Mavis Maclean suggested that the two issues of maintenance and relationship breakdown should be kept apart:

“money is a separate issue from all the other aspects of separation and continuing parenting [...] The important thing for the CSA is not to ask it to do too much; it has

<sup>55</sup> Q 91

<sup>56</sup> Work and Pensions Committee, Second Report of Session 2004-05, The Performance of the CSA, HC 44 para 128

<sup>57</sup> DWP Research Report 404, An Investigation of CSA Maintenance Direct Payments: Quantitative Study p 4

<sup>58</sup> Ev 68

<sup>59</sup> Ev 112

got quite enough on its plate with assessment and collection and to ask the CSA to take on a more complex, welfare-supportive role is really a bit optimistic.”<sup>60</sup>

55. Citizens Advice were unsure of their ability to provide a service in this area:

“Where we would struggle is to take on any kind of mediation role. Advisers operate in the same sort of way as solicitors and they do not advise both parties in a case.”<sup>61</sup>

56. The Committee’s concerns on this issue are reinforced by the experience of the ill-fated Part II of the Family Law Act 1996, which was designed to reform the process of divorce law but has never been implemented. The Government decided to abandon the Part II reforms because the pilot programmes for the delivery of information meetings and mediation services for separating couples were not judged to be a success. In particular the information meetings “were too inflexible to provide people with information tailored to their personal needs.”<sup>62</sup>

**57. The Committee accepts that C-MEC should not be involved in questions of contact and support for parenting by separated couples, but believes that these issues are an inevitable and unavoidable part of many CSA clients’ lives. Ensuring that there is sufficient high-quality, holistic, trusted and independent advice for both men and women in all areas of the country is therefore an essential precondition of success for the Government’s proposals. It will be crucial for parents who have separated, for example, to receive timely advice on what is a reasonable settlement and how payments should be set up. The Committee recommends that whether the advice is provided by a single source or separate organisations signposted from a central body, the availability should be well known, and that the advice itself should be delivered sympathetically. We are not convinced that C-MEC will be the right organisation to deliver this advice.**

### **Funding of advice**

58. Several witnesses expressed concern as to how a system of advice services would be funded and how it would be delivered, as Janet Allbeson from One Parent Families told us:

“You need a mixture of funding for a national line and then proper funding for services on the ground that can help lone parents as well as non-resident parents to deal with the wide range of problems they face on relationship breakdown. At the moment, that funding is not there”.<sup>63</sup>

59. Citizens Advice also drew attention to the current funding climate as being:

“extremely difficult for independent advice. Funding for both Citizens Advice, the umbrella body for the CAB service, and for local Citizens Advice Bureaux, is faced with increased restrictions. The Carter review of legal aid and the Government’s subsequent White Paper may, if implemented without change, result in fewer

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<sup>60</sup> Q 3

<sup>61</sup> Q 87

<sup>62</sup> Lord Chancellor’s Department Press Notice Tuesday 16 January *Divorce Law Reform - Family Law Act 1996 – Part II Repeal*

<sup>63</sup> Q 123

Citizens Advice Bureaux offering advice and information supported by legal aid contracts.”<sup>64</sup>

60. CPAG pointed out that:

“At the same time as new calls are being made on the voluntary sector (not only in child support but through Pathways to Work and tax credits), civil legal aid is under significant threat following the review of Legal Aid threatening precisely the provision called upon to help make the new plans work.”<sup>65</sup>

**61. The Committee recommends that the Government ensures advice for separating parents is adequately funded to provide both a telephone service and face-to-face meetings. We recommend that the Government sets out its detailed plans in this area at the very latest before the Second Reading debate on the proposed Bill bringing in the child maintenance reforms.**

## The role of the courts

62. The Committee received evidence on two major issues concerning the role of the courts in the field of child maintenance agreements and orders: the powers of the courts in making child maintenance decisions in the course of ancillary relief applications; and the so-called “12 month rule”.

### *Ancillary relief packages*

63. It was put to us by Resolution (formerly the Solicitors Family Law Association) that:

“where the courts are dealing with financial applications anyway, what we call package cases – for example in divorce cases, where they are looking at lump sum and property adjustment orders – they should deal with the child maintenance provision there”.<sup>66</sup>

At the moment the courts can only make such an order if both parents agree to the amount (a “consent order”). This is because section 8 of the Child Support Act 1991 states that as a general rule only the CSA has the jurisdiction to make an order for child support except in certain circumstances, for example when the parents come to an agreement.

64. Resolution argued that the courts were in a better position to make judgements on financial circumstances because “when the court is looking at a party’s financial circumstances, it has all the financial information available to it. Unlike the CSA system, the parent with care can see the income that is being used. They can see the basis upon which the income has been calculated.”<sup>67</sup> Kim Fellowes from Resolution told the Committee that “the magic that we have now that did not exist 13 years ago is the fixed percentage formula. When the CSA was introduced, there was the anomaly all round the

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<sup>64</sup> Ev 114

<sup>65</sup> Ev 98

<sup>66</sup> Q 93

<sup>67</sup> Q 94

country about what the maintenance figure should be. Different areas of the country had different figures, whereas now there is a uniform percentage formula that works. Essentially it is accepted by the general public, by the courts and by lawyers.”<sup>68</sup>

65. However, both Sir David Henshaw and the Secretary of State rejected the argument advanced by Resolution. Sir David Henshaw said in his report:

“There have been a number of representations suggesting that the courts should have greater power to determine child support in cases where there are other financial matters to be resolved between the parents. Although this proposal has some merit, it raises the risk of significantly increasing the burden on the courts for what is a relatively simple calculation process. It is not clear that the potential benefits outweigh these risks.”<sup>69</sup>

The Secretary of State argued:

“There are issues of cost that have to be taken into account. There are questions of consistency as well. One of the principal reasons, 15 or so years ago, the then government established the Agency as the mechanism through which child support cases would be dealt with in the future was concern about the way in which child maintenance decisions were being made in the courts, the inconsistency of the courts here. We have to take these matters into account now. There is also the question of having parallel jurisdictions: one legal, one essentially administrative. We have to take a view about these. I think it would be a step backwards to create parallel jurisdictions here in relation to child maintenance.”<sup>70</sup>

66. However, the Family Justice Council stated:

“The idea that [giving the court jurisdiction to adjudicate on child support whether or not there is initial agreement] would risk significantly increasing the burden on the courts for what is a relatively simple calculation process appears to result from a misapprehension of what happens in ancillary relief proceedings.”<sup>71</sup>

**67. In our opinion, it seems that if the Government is intent on moving clients towards private agreements and away from using C-MEC then its decision not to explore the use of the courts is inconsistent. The Committee recommends that the Government reconsider the decision not to allow courts to make a maintenance order unless both parties consent.**

### **12 month rule**

68. Under the current system of child support, if a court makes a consent order for child maintenance, then neither parent may make a private application under section 4 of the 1991 Act for a period of 12 months from the date of that consent order. After that 12

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<sup>68</sup> Q 86

<sup>69</sup> Henshaw Report, para 52

<sup>70</sup> Q 157

<sup>71</sup> Ev 102

month period the court retains jurisdiction only if neither parent seeks to overturn the order by applying to the CSA.

69. Sir David Henshaw proposed in his report that the 12 month rule should be dropped:

“The ability to move between systems after a year can in itself create instability and reduce the incentive to make an initial agreement. I recommend that consent orders obtained through the courts should not be able to be overturned by the administrative system. This would remove the current 12-month break-point which enables parents to move between consent orders and the administrative system. The order from the court would be given primacy and the courts would become responsible for varying and enforcing consent orders, in effect tying such cases into the legal system.”<sup>72</sup>

70. The Government, however, disagreed with him. The White Paper states:

“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. 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.”<sup>73</sup>

On the other hand, Kim Fellowes stated that the court process is “no more cumbersome at all than the actual administrative process.”<sup>74</sup>

71. Our predecessor Social Security Committee which inquired into the original 1991 Child Support Act expressed concern over the potential for the then CSA to override agreements made in court. They were particularly aware that the Act made no provision for cases where non-resident parents had made generous capital settlements with their spouses in return for agreements to pay minimal child maintenance. Following pressure from the Committee the Act was amended in 1995 to allow for variations (then known as departures) to take into account such settlements but only for those made before 1993. For consent orders made after 1993 there are no CSA variations for capital settlements as parents came to agreements in court in light of the powers of the CSA i.e that even after a settlement has been made the CSA can become involved and enforce a new maintenance assessment.<sup>75</sup>

72. However, research from a recent DWP report *Investigating the Compliance of CSA Clients* found that many non-resident parents were still making “clean break” arrangements in the belief that it really was a “clean break” and then were frustrated when the CSA contacted them. One father commented “If I’d known this were gonna happen, I

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<sup>72</sup> Henshaw Report, paras 57-58

<sup>73</sup> White Paper, paras 2.36 – 2.37

<sup>74</sup> Q 99

<sup>75</sup> Child Support Agency Guidance Leaflet on Variations p 11

would have asked for more out of the house, [...] I would have split it down the middle, which I didn't." The report concludes that "It seems that, for some cases at least, the legal framework is not giving sufficient attention to the CSA and its approach. This is disappointing, given that the relationship between the CSA and other forms of support and property division have been established for over a decade."<sup>76</sup>

73. However, Resolution argued that the 12 month rule can also be manipulated to the benefit of some non-resident parents, in particular the self-employed as a means of lowering their child maintenance payments:

"The self-employed person knows that the level of information provided to the court has been such that his income has been very accurately assessed. However, and it is no criticism of C-MEC or the CSA, the level of information that is provided to the CSA is somewhat different. The other difficulty in that regard is that when it does go to the CSA, the non-resident parent is aware that the parent with care does not see any of that financial information, so the non-resident parent finds it a lot easier to manufacture their income when they are informing the CSA rather than the courts. The 12 month rule really does create difficult problems and there is no need for the 12 month rule to remain."<sup>77</sup>

74. There was also evidence in favour of the 12-month rule. Mavis Maclean commented:

"You talk about protecting the interests of the state; I would put it as protecting the interests of the child as if you lose the 12 month rule you are allowing parties to agree to something which does not safeguard the child's interests in that stream of income and it can be bargained away in one set of circumstances. The other absolutely crucial thing to always remember about child support is that it is not a one-off decision; it is a lifetime, on-going economic relationship between two people rearing a child. It is not agreed on day one and set in stone; it is agreed or imposed and then it has to be varied, it has to be enforced, it has to be rethought in new circumstances, rearranged as a child gets older. It is much more like a tax assessment than it is like a compensation award or a divorce financial settlement; it is an on-going financial relationship and that is why I think the 12 month rule is so important because you cannot simply reach a consent order and that is the end of the story, it is only the beginning of the story."<sup>78</sup>

75. This argument contrasts with the "set and forget" concept as described by Kim Fellowes from Resolution:

"where you have your maintenance order and unless there is a considerable change in the future, you do not need to go back. The reason you do not need to go back is because we generally have an indexation provision in the court order. All that means

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<sup>76</sup> DWP Research Report No. 285, Investigating the Compliance of CSA Clients, Para 2.3.1

<sup>77</sup> Q 96

<sup>78</sup> Q 14

is that on the 12-month anniversary, the assessment will increase in line with inflation. That is perfect.”<sup>79</sup>

**76. The Committee is concerned that the 12 month rule may not be working as intended and recommends that if the Government keeps the rule then it needs to find a way of addressing the weaknesses identified by Sir David Henshaw and highlighted in the evidence we received, in particular the confusion over the powers of the CSA to make maintenance assessments even after a “clean break” settlement and the potential manipulation of the 12 month rule by some self-employed non-resident parents to lower their child maintenance payments.**

### Registering private agreements

77. The White Paper proposes the concept of a register of private agreements for child maintenance:

“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.”<sup>80</sup>

78. Concern was expressed over the lack of further detail in the White Paper. Professor Stephen McKay commented “nowhere [does it discuss] how this is to happen. [...] how is this register supposed to work?”<sup>81</sup>

79. Some of the evidence we received commented that, if the Government is to move towards a system that encourages the use of private agreements, it is essential to the policy’s success that a register is maintained in some format and that effective monitoring is built into the system. Anne Kazimirski, from NatCen, advocated a system that incorporated “some sort of registering, some sort of monitoring that could be a regular letter that reminds them both what should be being paid, the frequency and the level of payment, perhaps a regular phone call to one or both parents.”<sup>82</sup> She also suggested that there should be clear triggers for external intervention if a private agreement does break down:

“if you want to encourage parents to go into private arrangements you have to be very clear about what would happen if they break down, and they would want a guarantee that they do not have to wait for six months without any money before anything will happen. You probably need, therefore, to establish some sort of rule as to how much non-payment will count as the private arrangement not having worked and an agency needing to step in.”<sup>83</sup>

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<sup>79</sup> Q 96

<sup>80</sup> White Paper, para 2.28

<sup>81</sup> Ev 103

<sup>82</sup> Q 22

<sup>83</sup> Q 14

80. Child Support Action Ltd stated that unless private agreements can be registered and then enforced, “it seems that no parent with care would have a real interest in negotiating an agreement”.<sup>84</sup> CPAG expanded on this, stating:

“Without the effective registration of private arrangements it is difficult to see that the breakdown of a private arrangement could be handled other than through a new application to the Commission to directly handle the case, this could take time and allow a pattern of non-compliance to set in.”<sup>85</sup>

81. CPAG also suggested that:

“to guard against parents with care ‘settling for less’ and for administrative simplicity we argue registration should be set at the level of the formula at minimum.”<sup>86</sup>

82. One Parent Families expressed concern regarding the policing of voluntary agreements:

“it would be a costly diversion for C-MEC to be drawn down the route of attempting to formalize, supervise and monitor what are, in essence, voluntary agreements with no legal enforceability.”<sup>87</sup>

83. The Secretary of State implied that the state should not be heavily involved with private agreements commenting that “I think we should try to do it in the lightest possible touch way – web-based, I suspect.”<sup>88</sup> He also added that:

“We should not legislate in these areas – that would be my first instinct – as it were, to set down a set of “must dos” or statutory criteria for these private voluntary arrangements. I think there is the benchmark of the formula for assessing liability in the child support legislation.”<sup>89</sup>

He also commented that there would be no C-MEC involvement if the agreement breaks down, unless the parent with care approaches them: “it would require a reference to the Commission from the parent with care.”<sup>90</sup>

84. One Parent Families told the Committee that:

“The best way of ensuring compliance with voluntary agreements is to have an efficient and effective government-run service in the background. That should be the priority.”<sup>91</sup>

85. A further problem with registered private agreements was highlighted in research conducted by the Scottish Office on the Scottish system of written agreements.<sup>92</sup> It found

<sup>84</sup> Ev 99

<sup>85</sup> Ev 96

<sup>86</sup> Ev 97

<sup>87</sup> Ev 75

<sup>88</sup> Q 167

<sup>89</sup> Q 169

<sup>90</sup> Q 168

<sup>91</sup> Ev 76

that three quarters of Minutes of Agreements were made by home owners. These are currently not the main cohort of the current clientele of the CSA.<sup>93</sup> As Kim Fellowes from Resolution observed:

“I think you would be surprised at the percentage of people who will make private agreements. The people who are separating and have assets and a number of other issues to consider will probably manage to do that. Where the assets are far lower, [...] in the lower asset income stream you are going to find that the private agreements will be far less likely than you believe”<sup>94</sup>

**86. The Committee believes that without any powers to set standards, monitor or enforce it is unclear what would motivate people to register private agreements and particularly how the Government would encourage separating parents, and especially those on low incomes, to do so. Parents must have confidence that C-MEC will enforce any child maintenance agreement which has been registered with it, if asked by either parent. Past experience indicates that the only way these arrangements can work is if both the parent with care and the non-resident parent believe that C-MEC will take on their case and process it speedily and efficiently if the arrangement breaks down.**

### Joint birth registration

87. At present, there is a statutory duty to register a birth within 42 days. If the parents are married to each other, either parent can register the birth; if the parents are not married then both parents need to register or the mother may register alone. The mother of a child - and the father if he is married to the mother - automatically have parental responsibility. Where the parents are not married to each other, the father will acquire parental responsibility if he acts with the mother to have his name recorded in the child's birth registration (this came into effect with births registered after 1st December 2003).<sup>95</sup>

88. Professor McKay explained the relevance of this to child support as being:

“Married couples and those couples both identified on birth certificates are assumed to be liable for child support, and the onus to disprove this is on the putative father (and this may be onerous in practice). Where the father is not named, there is more of an onus on the CSA to prove paternity (e.g. through DNA testing).”<sup>96</sup>

89. The White Paper states that:

“The birth registration system needs to do more to actively promote joint registration and current legislation should be changed to require both parents' names

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<sup>92</sup> The Scottish Office Legal Research Unit, Legal Studies Research Findings No. 5 (1997) Mutual Consent Written Agreements in Family Law Fran Wasoff, Ann McGuckin and Lilian Edwards

<sup>93</sup> In Baseline Survey only 37% of NRP's and 28% of PWC's were home owners; Wikeley et al(2001)p 19

<sup>94</sup> Q 109

<sup>95</sup> [www.gro.gov.uk/gro/content/births/](http://www.gro.gov.uk/gro/content/births/)

<sup>96</sup> Ev 103

to be registered following the birth of their child, unless it would be unreasonable to do so.”<sup>97</sup>

90. It notes that 50,000 children each year in the UK are registered without their father’s name on their birth certificates. This amounts to nearly one in five of all births outside of marriage.<sup>98</sup> The Secretary of State told us that he thought it was:

“ a fundamental issue [that] we should know the identity of both parents. The child has the right to know. As a society we have to do all we possibly can to promote the concept of parental responsibility.”<sup>99</sup>

91. However, Professor McKay expressed concern with the proposal and raised a number of practical questions:

“An immediate question is the role that fathers would play in having to confirm their paternity. If attendance is needed (currently it isn’t needed for married couples, but is needed for unmarried couples) how could this be enforced? If attendance isn’t needed, would those so named be informed about their inclusion? Well-handled, this could be a valuable change to treat married and cohabiting couples in comparable ways – badly handled this could create problems of proof and actions against incorrect assignments of paternity.”<sup>100</sup>

92. Mavis Maclean, told us:

“It is a very small minority who are not registering directly [...] it may be inertia, it may just not have occurred to people, but it is quite possible that there is a powerful reason for not seeking joint registration. There may have been issues of domestic violence, there may have been issues about abuse of earlier children of the couple”

She went on to say:

“Joint registration would, as I understand it, automatically lead to parental responsibility, and that is quite a murky legal concept. It is quite unclear still what powers and duties parental responsibility in that form confers and there are issues about whether it would require a parent with care to consult with the non-resident parent about various aspects of medical treatment or schooling or whatever.”<sup>101</sup>

93. One Parent Families argued:

“this measure is not necessary for child support purposes where use of the new Agency is voluntary, and will create enforcement difficulties for Registrars if the mother is unwilling to name the father. What punishment would be meted on unmarried mothers in this situation, and who will judge the issue of child welfare or vulnerability? We consider it would be far better to promote voluntary joint

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<sup>97</sup> White Paper, para 2.46

<sup>98</sup> White Paper, para 2.44

<sup>99</sup> Q 161

<sup>100</sup> Ev 108

<sup>101</sup> Q 27

registration of births as part of a more general strategy of positive engagement with unmarried fathers about their responsibilities towards their children.”<sup>102</sup>

94. When questioned on this point the Secretary of State explained:

“I do not think anyone is going to go to prison for this offence. We have to be clear about the importance of this as a general principle. Then I think we can work back from that, through a series of stages and steps, in exactly the same way that has been done in relation to joint birth registration now, to a point where we can put together proper legislation that deals with these issues of concern about wellbeing and welfare. I do not believe any of these technical issues will be conclusive.”<sup>103</sup>

The Department subsequently informed the Committee that current legislation provides for fines of a maximum of £200 for failure to register a child’s birth within 42 days<sup>104</sup> but that this sanction is virtually never imposed.

**95. The Committee is concerned that, whatever the merits of joint birth registration, this highly sensitive matter is being tagged onto child maintenance legislation when it potentially has wider ramifications through the family law system.**

## Collection

96. The White Paper states that C-MEC will continue the CSA function of collecting child support payments from the non-resident parent on behalf of the parent with care. The Government intends to “collect maintenance more efficiently, building on existing successful methods.”<sup>105</sup>

97. Under the White Paper proposals those currently using the CSA collection service will have the option to keep their old assessment and have the money collected through a new cash transfer service. Alternatively they can make a new assessment, effectively becoming a new C-MEC case, or come to a private agreement outside the C-MEC system entirely. New entrants to C-MEC would have the choice of an assessment using the formula but make their own private collection arrangements, or they can become a new case for C-MEC by asking for an assessment and collection service.

98. The current methods of collection used by CSA are shown below:

**Figure 5: Collection methods**

Manual (giro, cheque, cash via PO to CSA)	22%
Deduction from earnings order	21%
Maintenance direct	16%
Standing order	16%

<sup>102</sup> Ev 69

<sup>103</sup> Q 171

<sup>104</sup> Births and Deaths Registration Act 1953 (c.20), s, 36

<sup>105</sup> White Paper, para 5.4

Deduction from benefit	14%
Direct Debit	7%
Unknown	3%
This table shows that currently, 84% of payments are collected in some form by the CSA	

*DWP Quarterly Statistics December 2006 Table 9*

99. The quantitative and qualitative studies on maintenance direct payments carried out by NatCen discussed on pages 9-11 of this report indicate many reasons why parents wanted to stay with a collection service. Figure 2 on page 9 shows the reasons given by parents with care. The most common reason was that they “wouldn’t feel sure that they’d get paid at all” closely followed by “bad relationship/don’t trust ex-partner”.

100. Anne Kazimirski from NatCen, who carried out the research, explained that it was not just parents with care but also non-resident parents who

“sometimes appreciated having a third body involved [...] in order to have proof of payments because they might have had problems in the past where they have paid the money but the parent with care claims that it had not been paid and so on.”<sup>106</sup>

101. Whilst the Government is trying to encourage parents to move towards making private maintenance arrangements, Stephen Geraghty, the current Chief Executive of the CSA, made it clear that the Government would not provide a collection service in such situations:

“The plan is we offer calculation and collection or calculation but not collection, but we would not offer collection but not calculation.”<sup>107</sup>

He added that it would be difficult to use enforcement powers for a calculation which was a totally voluntary and unregulated agreement.<sup>108</sup> Therefore all parents without a CSA or C-MEC assessment will be unable to use any government collection service. This, as the evidence from the maintenance direct studies indicates, may discourage parents with care agreeing to a private arrangement as they are likely to fear they may not receive the payment.

**102. The Committee is not convinced by the Government's argument that it is inappropriate for C-MEC to collect maintenance calculated through voluntary arrangements. The Committee believes that Government should be doing all it can to facilitate private arrangements. In appropriate cases this will mean enabling parents to come to private agreements but providing an official collection service which provides both payer and payee with an authoritative account of payments of child maintenance made and received.**

<sup>106</sup> Q 10

<sup>107</sup> Q 193

<sup>108</sup> Q 194

### ***Deduction from Earnings Order***

103. The White Paper considers the use of a Deduction from Earnings Order (DEO) as a collection method for C-MEC:

“The use of a Deduction from Earnings Order is the automatic collection method favoured by many 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.”<sup>109</sup>

104. A report by the DWP on the compliance of CSA clients found that their reactions to DEOs were varied:

“Some respondents felt it was really no different from a direct debit and appreciated the ease with which they could then make payments. Others felt that the DEO was an intrusion, that the Agency should not have the right to allow the parent with care first call on their money. The third point of view was that it was an inevitability, and the only way in which the CSA was going to get any money from them.”<sup>110</sup>

105. Resolution commented:

“The proposed Deductions of Earnings Order pilot is welcomed, although it must be seen as a processing application, rather than a default mechanism for securing payment.”<sup>111</sup>

106. Anne Kazirmiski said:

“if you go straight to deduction from earnings [...] you are going to antagonise many fathers, which I think we should care about because it will affect their compliance. Even if deduction from earnings makes it less likely for them to be possible to be non-compliant, it is still an issue and, of course, it affects their relationship with the parent with care and with the children. If you end up going straight for a deduction from earnings, you are not actually tailoring anything to the non-resident parent and you are not taking into account their circumstances or their past payment record at all. It ignores continued relationships and circumstances.”<sup>112</sup>

**107. The Committee recognise that Deduction from Earnings Orders are a useful tool to receive payments from non compliant non-resident parents. We note that the DWP intends to test them as a first means of collecting maintenance, even if the non-resident parent would be willing to pay by another method. Although this proposal could have merits, it would be a significant step and we ask the Department to set out when and where it will “test” this and what steps it will take to avoid antagonising non-resident**

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<sup>109</sup> White Paper, para 5.12

<sup>110</sup> DWP Research Report No. 285, Investigating the Compliance of CSA Clients p 62

<sup>111</sup> Ev 61

<sup>112</sup> Q 53

parents with good payment records who are asked to participate. We ask that the lessons learned from this exercise be reported to the Committee.

## 3 The new assessment process

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### Gross income assessments

108. The two child support assessment schemes currently in operation both work on the basis of net income, which is used as it most closely relates to the income that non-resident parents have to live on. It means gross income less tax, National Insurance and private pension contributions (although the detail of the last deduction differs between the schemes). Sir David Henshaw noted in his report that the calculation of net income is time consuming as it involves numerous pieces of information which can change regularly.<sup>113</sup> The White Paper therefore proposes the use of gross income information that will come directly from HM Revenue and Customs (HMRC).<sup>114</sup>

109. However, Sir David Henshaw noted that any shift from net to gross income would have to be accompanied by a change to the percentages used to calculate maintenance.<sup>115</sup> Specifically addressing this point, the White Paper states that:

“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% respectively, the rates will be 10, 15 and 20%. Appropriate adjustments will be made to the reduced-rate regime for those non-resident parents whose income is between £100 and £200 a week.”<sup>116</sup>

Reductions will also be made for ‘second families’. The parent with care’s income is not considered in the formula.

110. Concern was expressed by Professor Stephen McKay regarding the basis on which these new percentages were calculated, and in particular whether they were based on the full cost of raising a child as is the case in Australia and some States in the USA.<sup>117</sup>

“The White Paper does not mention how the level of proposed maintenance was calculated, and if it is intended to reflect the costs of raising children or some other criterion [...] This contrasts markedly with the recent reform process in Australia, where issues of fairness in meeting the costs of children were paramount. This led to key changes – such as taking account of the higher costs of teenage children, and including both non-resident parent and parent with care income.”<sup>118</sup>

111. Notably, the basis for the 15/20/25 rates was discussed in the Social Security Committee’s inquiry into the 1999 Child Support White Paper. The Committee’s report

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<sup>113</sup> Henshaw Report

<sup>114</sup> White Paper, para 4.15

<sup>115</sup> Henshaw Report, paras 113-114

<sup>116</sup> White Paper, para 4.16

<sup>117</sup> Ev 109

<sup>118</sup> Ev 104

noted that the percentages were based on the perceived cost of a child. When giving evidence, Baroness Hollis told the Committee that “the proposed percentage rates were not out of line with the proportions of income which [non-resident parents] are required to pay in other jurisdictions.”<sup>119</sup>

112. Evidence provided by Stephen Geraghty, confirmed that the new proportions were “broadly comparable” with the proportions for assessments based on net income (and therefore, by inference, the perceived cost of a child).<sup>120</sup> However, further concerns were expressed in some of the written evidence received that the new proportions had the potential both to increase the burden on the non-resident parent,<sup>121</sup> and also reduce the levels of maintenance received by the parent with care in some cases.<sup>122</sup>

113. Supplementary written evidence from the Secretary of State suggested the overall effect on non-resident parents child maintenance payments from the move to gross income would be as follows:

“Initial analysis shows that of those non-resident parents with a new scheme calculation who are currently on benefit or where HMRC income data is available, half should be paying more and half should be paying less under the new assessment process compared to their current assessment. Over 60% will have a change in their liability of less than £10 per week.”

9% of non-resident parents have an increase in their liability of £20 per week or more – the majority of these people earn in excess of £450 per week.”<sup>123</sup>

**114. We request further statistical information on the likely actual impact of the move from net to gross income on different categories of parents.**

### ***Parent with care's income***

115. Professor Stephen McKay commented on the fact that the assessment process under the new scheme for cases since 3 March 2003 does not take account of the parent with care's income (in contrast to the Australian system and that used in three-quarters of US states<sup>124</sup>). He added that:

“70% of the public think you should look at both people's incomes. The Australian formula, for example, spoke very clearly to the idea if this family was intact how much money would they be spending on their children? They are no longer intact; they would still expect to spend a certain amount on their children, let us apportion that fairly to them on the basis of their incomes. As I say, under the current system the formula is mostly designed for parents on benefit who have no income so it is very clearly just using the non-resident parent income, but since most intact families

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<sup>119</sup> Social Security Committee, Tenth Report of Session 1998-99, The 1999 Child Support White Paper, HC 798, para 16

<sup>120</sup> Q 177

<sup>121</sup> Notably from NACSA and Child Support Action LTD.

<sup>122</sup> Ev 106

<sup>123</sup> Ev 121

<sup>124</sup> Q 34

have two earners it speaks to fairness to be looking at both their incomes. Certainly, the people I spoke to were very much of the idea that both parents are financially responsible, therefore they should both be included in this.”<sup>125</sup>

116. However, Mavis Maclean countered this by contrasting the conceptual directions of the UK and Australian systems:

“The example you have given, of the Australians moving in the direction of making their formula more complicated while we are moving in the direction of making ours more simple, just points out very clearly that this is an extremely difficult area and, however you do it, it is difficult and there are going to be problems. In Australia they have been suffering a lot of criticism for the lack of sensitivity in their formula, and that is why they are becoming more sensitive; our criticism is about the over-complexity of our formula, so we are becoming more simple.”<sup>126</sup>

**117. The Committee recommends that legislation should continue to provide for the Secretary of State to have the power to make regulations, subject to parliamentary approval, to adjust the standard percentage rates in the new formula; and in addition that the rates should be reviewed every five years. The Committee recognises that taking account of the income of the parent with care would introduce unwanted complexity into a child support system that is trying to be simpler.**

### **Self employed**

118. One of the key questions surrounding the proposed move to gross income is how this will impact on the self-employed. Self-employed non-resident parents currently make up 7% of the CSA’s overall caseload.<sup>127</sup> Resolution noted that there was likely to be a significant impact on the C-MEC workload from self-employed non-resident parents contesting their new assessments:

“The self-employed, who traditionally have been the most difficult for the Agency to deal with, are likely to substantially increase the reviews and appeals workload, as they will argue the information used is wholly out of date, sometimes by 1 or 2 years. Substantial additional resources will therefore be required to deal with the increased workload. This potential problem must not be underestimated.”<sup>128</sup>

119. Citizens Advice expressed concern that self-employed non-resident parents would still be able to minimise their taxable income.<sup>129</sup> A particular issue surrounds whether gross income means income before or after the deduction of capital allowances. A capital allowance is a tax allowance self-employed workers can claim on the purchase of ‘plant and machinery’, or equipment used in their business. It can also be claimed on the purchase of

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<sup>125</sup> Q 34

<sup>126</sup> Q 33

<sup>127</sup> DWP, CSA Quarterly Summary Statistics: December 2006, Table 27

<sup>128</sup> Ev 61

<sup>129</sup> Ev 112

agricultural or industrial buildings and on the cost of converting space above shops or other commercial premises for renting out as flats.<sup>130</sup>

120. A recent ruling by the House of Lords<sup>131</sup> posed this exact question in relation to the calculation of child maintenance. The case (commonly known as the Smith case) involved the proper interpretation of the expression “total taxable profits” in paragraph 2A of Schedule 1 to the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (SI 1992/1815) (as amended by SI 1999/977).

121. The House of Lords, by a 3-2 majority, reversed the decision of the Court of Appeal<sup>132</sup> and restored the decision of the Child Support Commissioner.<sup>133</sup> The result was that, for child support purposes, the non-resident parent was not entitled to any such deduction in respect of capital allowances.

122. Stephen Geraghty stated that it was the Government’s intention to define, within legislation, gross income in this context as total income less capital allowances; this being in contrast to the House of Lords ruling:

“At the moment we have the House of Lords’ very recent ruling in the Smith case which said that we could not take capital allowances from his income in working out how much child support he should pay. We need to respond to that with or without this system. It applies to net income too. Once that legal process is worked through, we will come up with drafting which gets back to the policy intention, which is that capital allowances should have been taken into account, they should have been deducted, before we have had the income.”<sup>134</sup>

123. The primary argument for such a decision appears to be that excluding capital allowances from the maintenance calculation will avoid endless work for C-MEC in appeals from self-employed non-resident parents.<sup>135</sup> Additionally, including capital allowances would also lead to the potentially anomalous situation whereby HMRC are taxing a self-employed individual on a gross income figure that is completely different from the figure on the basis of which their child maintenance is paid.<sup>136</sup> However, it will also mean that the onus will be on the parent with care to challenge any low assessments through a variation application (as noted by Stephen Geraghty during oral evidence).<sup>137</sup>

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<sup>130</sup> For details see [www.businesslink.gov.uk](http://www.businesslink.gov.uk), “Capital Allowances: the basics”

<sup>131</sup> *Smith v Secretary of State for Work and Pensions* [2006] UKHL 35

<sup>132</sup> [2004] EWCA Civ 1318; [2005] 1 FLR 606

<sup>133</sup> in decision CCS/2858/2002

<sup>134</sup> Q 175

<sup>135</sup> See, for example, Q 101

<sup>136</sup> Resolution provided the following example (Q 101): “... if you have somebody who has a total gross self-employed income of £25,000 but they have various capital allowances that are taken into account by the Inland Revenue of, say, £15,000, they are going to be taxed on a net income of £10,000. That is the same as the self-employed person. The difficulty you are going to have is that if the capital allowances are not deducted, then the person who is receiving £10,000 gross income and is being taxed by the Inland Revenue on that, would effectively end up having to pay 25% of that income figure for one child. If the CSA are using the figure of £25,000 but the Inland Revenue are using £10,000, then the correlation of the actual child maintenance that they will have to pay will be far in excess of what a normal self-employed person will have to pay, purely because of the capital allowances not being deducted”.

<sup>137</sup> Q 174

But as Kim Fellowes from Resolution pointed out, within the existing system the parent with care does not get easy access to financial information on which income figures are based.<sup>138</sup>

**124. We agree with the Government’s intention to reverse the decision in the Smith case and define gross income as being total income after the deduction of capital allowances. However, we note this will leave the issue open of how the parent with care can obtain sufficient information to challenge low assessments, and ask the Government to set out how it will address this problem.**

## 25% income change and the annual income variation review

125. The White Paper proposes to use latest available tax-year information from HMRC as the basis for calculating a fixed-term award of one year for child maintenance liability, unless current income differs by at least 25%; this will then be updated each year.<sup>139</sup> In the White Paper the Government states that:

“...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.”<sup>140</sup>

126. The rationale for fixed term awards appears to be the fact that, with the current system, a small change in income can lead to a change in maintenance award. Consequently, fixed awards will be beneficial both in terms of stability for parents, and for administrative ease.<sup>141</sup> In oral evidence, Stephen Geraghty stated:

“It [the 25% figure] was set against the number of reworks that we would have to do in the course of the programme and also the actual amount of maintenance which on average it would affect [...] We are trying to get it to the level where we are not spending all our effort recalculating maintenance rather than enforcing collection [...] It means that people who have lost their job or in a totally different income position are covered but people who are doing less overtime or it is more hours because it is summer and so on and we do not have to redo the assessment.”<sup>142</sup>

127. Evidence from One Parent Families highlighted the potential administrative burden that an annual income variation review would place on C-MEC when they receive all non-resident parents’ gross income information from HMRC at the same time:

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<sup>138</sup> Qq 94, 96

<sup>139</sup> White Paper, para 4.13

<sup>140</sup> White Paper, p 27

<sup>141</sup> See for example Ev 112

<sup>142</sup> Qq 241, 243

“Another question is the extent to which C-MEC would have to go through an annual assessment review exercise at the same point each year, when HMRC tax-year data becomes available. Again, this would pose serious administrative challenges.”<sup>143</sup>

128. We received evidence from CPAG that parents with care who are used to awards increasing regularly upwards would be disadvantaged if this only occurred once a year.<sup>144</sup> CPAG expressed concern that, depending on the direction of the change in income, fixed awards could significantly disadvantage either the parent with care or the non-resident parent (and second families). It therefore emphasised the need for “close monitoring of the impact that fixed awards have on both ‘first’ and ‘second’ families.”<sup>145</sup>

129. Resolution expressed concern that the 25% figure was too high:

“To state that last year’s income will be used, unless a person can show that their income has changed by 25%, is extremely worrying. This percentage figure is far too high and will create substantial financial hardship to a considerable number of families [...] a realistic percentage figure has to be considered, if the aim is to restrict repeated review applications where there is minimal change.”<sup>146</sup>

130. In the appendix to its submission, Resolution provided an example of a non-resident parent’s gross income changing downwards by 24% from £20,000 to £15,200.<sup>147</sup> As a proportion of the non-resident parent’s net income maintenance payments would change from 29.2% to 42.4% under this scenario; this would clearly have significant effects on the non-resident parent. While the submission does not provide a specific example, the converse would also be true, and an increase in the non-resident parent’s gross income by 24% would mean a significant delay before that increase benefited the children.

131. Janet Allbeson from One Parent Families pointed out that there were a number of issues surrounding the 25% income change which were not addressed by the White Paper:

“[It] is not only income changes that will affect the assessment. What happens if there is a new child living with a non-resident parent, or if a child changes household? There is also scope for manipulation. The White Paper does suggest that where someone leaves a job that will cause adjustment. You can see a situation where someone leaves a job and then goes back into work, having got the lower assessment. We do not know whether there will be a duty to report a change of circumstances which is advantageous – at the moment there is not”.<sup>148</sup>

132. The key issue here, in our view, is where the line is drawn between balancing operational efficiency and responsiveness to individual hardship. In Australia, for example, a non-resident parent can apply for a change in maintenance payments if their income falls by at least 15%. The Secretary of State commented that:

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<sup>143</sup> Ev 77

<sup>144</sup> Ev 97

<sup>145</sup> Ev 97

<sup>146</sup> Ev 61

<sup>147</sup> Ev 63

<sup>148</sup> Q 127

“We think probably on the modelling which could be done this would mean maybe a quarter or a third of cases might involve some reassessment during the year whereas at the moment the figure is very significant. We are trying to be fair and strike a sensible balance but it is one of those aspects of the new system, I think, that we will obviously have to monitor very closely as we go forward.”<sup>149</sup>

133. The written response to the Committee from the Secretary of State shows the proportion of employed non-resident parents who would be eligible for an adjustment based on varying changes in gross income:

Figure 6:

Threshold (size of income change)	Proportion of employed NRPs eligible for adjustment because income is lower than previous year	Proportion of employed NRPs eligible for adjustment because income is higher than previous year
10%	16%	33%
15%	12%	24%
20%	10%	19%
25%	9%	15%

*DWP written submission. Note NRPs who have had a benefit spell or have a recorded income of zero in either of the tax years in question are excluded from this analysis.*

**134. We recommend that more research should be carried out into the appropriate level of income variation to balance operational efficiency and responsiveness to individual hardship. There should be a legal duty placed upon those non-resident parents who are involved in C-MEC cases to report to C-MEC any change in income greater than or equal to the set proportion. The Department should closely monitor how effective C-MEC is in dealing with these cases promptly.**

## HMRC

135. The proposal to use the previous year’s tax data direct from HMRC (updated annually) results from Sir David Henshaw’s recommendation that there should be much closer links between the body responsible for child maintenance and HMRC.<sup>150</sup>

136. During oral evidence the Committee sought information on whether these two bodies will be sufficiently compatible to ensure an efficient transfer of information. Dr Paul Dornan from CPAG commented:

“One of the justifications for why they are talking up using gross income [is] to improve that link [between HMRC and C-MEC]. I think it has clearly been a significant problem in the process thus far. We have expressed concerns in relation certainly to the tax credit experience, but in terms of the pressure that that clearly indicates that HMRC was under and therefore its capacity to do other things. I think expecting a lot from it is difficult. If that link is not made to work, then you get back

<sup>149</sup> Q 243

<sup>150</sup> Henshaw Report para 126

into the problem of assessing income from which we are trying to get away. Making that link work speedily is very important.”<sup>151</sup>

137. However, in contrast to the tax credit system, the fixed-term awards that will be part of the new assessment process will mean no retrospective readjustment will occur to take account of actual income received in the previous year. As John Wheatley from Citizens Advice stated:

“What the Government is trying to do with child support is move to a system of fixed awards. In that respect, it is different from the current tax credit system, which is not fixed. You can adjust for changes in the circumstance.”<sup>152</sup>

138. Citizens Advice also highlighted the fact that, in places, the White Paper talks of using the previous year’s income to assess child maintenance but elsewhere states that it will be based on “... historical information from the latest tax year for which HM Revenue & Customs has full details.”<sup>153</sup> While it would be reasonable to assume that this will generally be one year out of date (i.e. previous tax year information), it became apparent during oral evidence that there are circumstances where assessments may be based on gross income data that is two years old:

**Chairman:** So 5 April 2007, end of the tax year. What is the relevant year for maintenance?

**Mr Geraghty:** That is again not something which we have a firm view on. It could be the anniversary or it could be a date around the P14 date which is where the Revenue get all the written employer returns in, which is in January. Whether we want to have everybody reviewed at the same on the anniversary of when we did the assessment I think is a leading option.

**Chairman:** But for some people it could be two years old.

**Mr Geraghty:** Approaching, but over the life of the case, which is an average, I think, of about 11 years, the figures will be right.”<sup>154</sup>

**139. The success of the new assessment system will depend, in considerable part, on the operational system for the transfer of information between HMRC and C-MEC. We ask the Government to make it clear how the process of data sharing will work in practice and to report the evidence from any pilots that have taken place in testing the systems to exchange information.**

### **Verification of income and misreporting by non-resident parents**

140. Concern was expressed by One Parent Families regarding the opportunity for non-resident parents to misreport their gross income:

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<sup>151</sup> Q 104

<sup>152</sup> Q 104

<sup>153</sup> White Paper, para 4.16

<sup>154</sup> Qq 239-40

“Disputes will continue to arise. For example, where the parent with care disputes the non-resident parent’s contention that his current income is significantly lower than the historic tax-year figure, or she disputes that the HMRC figure is accurate (for example, because the non-resident parent is working in a family business and there is collusion in presenting a low earnings figure). It must be recognised that income concealment and manipulation by non-resident parents are a real issue, whereby some non-resident parents seek to minimise their liabilities for child maintenance.”<sup>155</sup>

141. Stephen Lawson highlighted another problem that leads to misreporting within the existing system:

“A non-resident parent who gives false or misleading information is most unlikely to be prosecuted – indeed most of the requests for information from the CSA are either made verbally or without the appropriate warning. This means that a non-resident parent can give whatever untruthful response to questions without any fear of prosecution.”<sup>156</sup>

142. Janet Allbeson from One Parent Families also pointed out that:

“When the system changed in 2003 there were a couple of anti-avoidance measures that were dropped. One was being able to treat someone as though they have income which they have not got if they have deliberately deprived themselves of it. Another one was a very similar rule, designed to stop people concealing income, or giving away money, or manipulating their affairs deliberately. Those provisions have been dropped and we would like them reinstated.”<sup>157</sup>

143. In some US states, if somebody takes a job at a lower level than the one that they had previously they are assessed at the previous job; in other words the assessment is on their earning capacity rather than what they are actually earning if they deliberately downsize.<sup>158</sup>

144. However, Professor Stephen McKay pointed out that gross income is “less subject to some of the manipulations you can do to get from gross to net.”<sup>159</sup>

**145. The Committee recommends that there should be a clear, robust process of dealing with well-founded applications for variations and appeals against maintenance calculations where the parent with care believes that the non-resident parent’s maintenance assessment is based on incorrect or misleading income data.**

## Shared care

146. At present, a non-resident parent’s child support liability is reduced where the number of overnight stays exceeds a certain threshold. In old scheme cases the threshold is

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<sup>155</sup> Ev 78

<sup>156</sup> Ev 64

<sup>157</sup> Q 128

<sup>158</sup> Q 128

<sup>159</sup> Q 31

104 nights a year. This was reduced under the 2000 Act to 52 nights a year, but for new scheme cases only. Under the current scheme, in broad terms, every extra night a week that the child stays with the non-resident parent that parent's child support liability reduces by 1/7. So, calculations may be reduced by 14%, 29% and 43% if care is shared for 1, 2 or 3 nights a week.

147. The White Paper is silent on how these arrangements would be treated under the new system. This could mean one of three things: that the situation will remain the same; that there will be no amendment for overnight stays; or that there will be some adjustment, the nature of which the Government has yet to decide. The Secretary of State when questioned on this issue said "I do not want to pre-empt the outcome of the consultation."<sup>160</sup> However, he also commented:

"I think we should try to approach shared care cases with genuine sympathy and to recognise the role of both parents in bringing up a child, but for us to take the view that they should be automatically excluded from the maintenance assessment process would create a problem."<sup>161</sup>

148. Resolution said that shared care liabilities:

"encourage parents to associate the level of child maintenance with the amount of staying contact a child should have with the other parent. Joint parenting is discouraged, as contact costs money to the deemed parent with care, who effectively is given a financial incentive to restrict contact."<sup>162</sup>

149. Stephen Geraghty, when questioned by the Committee on the problem described above by Resolution, acknowledged that "it is a real issue and we do get cases where it looks as if somebody is either denying or demanding shared care in order to manipulate the amount of payment."<sup>163</sup>

150. The Committee also received evidence relating to how costs were allocated. It was noted by Anne Kazimirski from NatCen that "the way that it has worked in the past where an overnight stay reduces the payment, [is that] some parents with care will say, 'It should not because I actually still feed the child before they go to the non-resident parent'."<sup>164</sup>

151. Michelle Counley from NACSA argued that if:

"the non-resident parent wants to take an active role in sharing the care, he, too, has those costs; he does not need a one-bedroom, bed-sit flat, because if he wants to have his children stay there he needs to have a home that is adequately providing a good, safe environment for that child. It would be unfair to use an analogy to say that because the child only stays overnight there is no cost to him and the parent with care still has the costs, because that is not necessarily so. There are a lot of parents

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<sup>160</sup> Q 178

<sup>161</sup> Q 178

<sup>162</sup> Ev 60

<sup>163</sup> Q 182

<sup>164</sup> Q 46

out there where he will have the child three or four days and he will collect from school, provide meals and take to school, but because it is not overnight contact he does not get any recognition for that. There has to be some recognition of shared care.”<sup>165</sup>

152. Professor Stephen McKay warned that if the Government ignores the situation of shared care:

“A parent with 51% care could go to C-MEC and would receive the same level of maintenance as a parent with 100% care. These are rare, but not wholly exceptional, cases, and easily seized upon as examples of unfairness by those seeking to challenge the system.”<sup>166</sup>

153. He also argued:

“I think when the Government talks about this, it tends to down-play the amount of shared care that there is, because it bases it upon current clients of the CSA, and the number of current clients of the CSA who have to put up significant overnight stays is quite small, whereas if you were to generalise this to the wider population, then there is more sharing of care among the rest of the population than there is for the CSA group. I think there is good evidence that, where people do have some kind of shared care, they are more likely to pay child support, they are more likely to take an interest, so there is a kind of incentive argument for having some kind of production.”<sup>167</sup>

154. One Parent Families pointed out:

“The present system also creates administrative complexity, with assessments having to be altered and re-altered, depending on the contact arrangements which take place.”<sup>168</sup>

155. Stephen Geraghty agreed that: “If we could get to a longer agreement rather than keeping a diary for each week and recalculating, that would make it much easier for us to administer.”<sup>169</sup>

156. One Parent Families suggested:

“in future, a high threshold should be set for altering assessments where there is shared care. A reasonable amount of shared care – at least two nights per week – should be assumed in the basic assessment.”<sup>170</sup>

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<sup>165</sup> Q 135

<sup>166</sup> Ev 105

<sup>167</sup> Q 46

<sup>168</sup> Ev 80

<sup>169</sup> Q 182

<sup>170</sup> Ev 80

### 50:50 shared care

157. Although not confronting the general issue of shared care Sir David Henshaw did comment on the situation where care is roughly equally shared. He recommended that:

“Given that cases of equal, or near equal, shared care involve both parents taking financial responsibility for their children, I believe that these cases should be exempt from third-party involvement, with no provisions within the child support formula for transferring funds between parents.”<sup>171</sup>

158. However, One Parent Families stated that they:

“do not accept the proposal that where a child lives equally with both parents there should be no child maintenance. Where there is considerable inequality of income, the parent with care may still need financial support to help with [...] costs both direct and indirect to ensure a reasonably consistent living standard for the child. ‘Care’ is not necessarily equivalent to the provision of financial support.”<sup>172</sup>

159. A new comparative research project on child support policies funded by DWP has just been completed. The report will be published in March 2007 and it included evidence on child support policy from 14 countries: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Netherlands, New Zealand, Norway, Sweden, the UK and the USA.

160. The results showed that without exception all countries would take account of the contact time children spent with the non-resident parent. In the event of shared care (defined as when the child spent roughly equal amounts of time living with each parent), the obligation to pay would be reduced to nil in the majority of countries (10) and could be annulled completely in some countries irrespective of disparities in the parents’ incomes. Data on the prevalence of shared care arrangements was however inconsistent and partial, with these caveats the levels reported across countries varied between about 7-15%.<sup>173</sup>

161. This argument relates to the founding aims of child support. Mavis Maclean told the Committee that the original formula was the work of Irwin Garfinkel in Wisconsin, USA and that it was based on the belief “that parents have a duty to share their resources with their children, in the same way after separation as they shared with them while the household was intact.”<sup>174</sup> If this is the case then it could be argued that the child is sharing in the living standards of both parents by living equally between both households.

**162. The Committee recommends that the statutory child support system moves away from the current system of overnight liabilities which causes day counting and diary keeping by parents and constant readjustments. In the Committee’s view the ideal solution is that there should be an initial agreement between the parents and C-MEC on the approximate amount of time the children spend between the two households.**

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<sup>171</sup> Henshaw Report, para 117

<sup>172</sup> Ev 80

<sup>173</sup> DWP Research Report: Child Support Policy: An International Perspective (Forthcoming March 2007)

<sup>174</sup> Q 2

**This should govern the assessment for the remainder of the year and not be adjusted unless there are major contact changes. For arrangements with close to 50:50 shared care the Government should consider the case put by Sir David Henshaw for having no child support liability at all between parents.**

## Informal payments

163. The White Paper states that:

“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 such payments to be taken into account against the maintenance liability.”<sup>175</sup>

164. Concerns regarding the workability of any informal payment system were outlined in much of the oral evidence the Committee received. Mavis Maclean expressed the view that any system of taking into account informal payments would be extremely difficult to regulate formally:

“In an ideal world people would sort those things out for themselves; they are not matters for regulation or law or state control, they are personal, individual and cannot be regulated in my view. How can the state enquire into that level of detail, and not only detail but variability? Informal arrangements are characterised by being very variable and impossible to regulate.”<sup>176</sup>

165. Both the National Association for Child Support Action and One Parent Families commented that ideally informal payments would be incorporated into a child maintenance system, but there would need to be restrictions on what could be considered and a clear advice and monitoring system (that incorporated proof of payment).<sup>177</sup>

166. In Australia, informal payments which account for up to 30% of any ongoing liability may be included. The types of payments that can be credited in this way are prescribed by regulation, so only certain types of informal payments are recognised. They are:

- Amounts payable for uniforms and books prescribed by a school or preschool for that child.
- Fees for essential medical and dental services for that child.
- The payee's share of amounts payable for rent or a security bond for the payee's home.
- The payee's share of amounts payable for utilities, rates or body corporate charges for the payee's home.

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<sup>175</sup> White Paper, para 5.46

<sup>176</sup> Q 35

<sup>177</sup> Qq 131-33

- The payee's share of repayments on a loan that financed the payee's home.
- Costs to the payee of obtaining and running a motor vehicle, including repairs and standing costs.
- Child care costs for the child who is the subject of the enforceable maintenance liability fees charged by a school or preschool for that child.<sup>178</sup>

167. If one of the principles of these reforms is to make the process of child maintenance assessments simpler, then the inclusion, through legislation, of provision covering informal payments seems directly contradictory. The only place that informal payments would have an obvious place in the new system would be where parents make private arrangements outside of C-MEC. Therefore, **the Committee recommends that informal payments should not be included in any C-MEC maintenance calculations. However, if, as the Government has stated, they are to be taken into account then there should be clear advice on procedural matters and an unambiguous list, prescribed in legislation, defining what counts as an informal payment.**

## Charging

168. In the White Paper and in its response to Sir David Henshaw's report, the Government stated that it would explore options to charge for the use of C-MEC's services as a means of encouraging compliance and in order to "offset, at least in part, the costs to the taxpayer of parents using the administrative service while, at the same, incentivising parents to make their own child support arrangements."<sup>179</sup> Notably, the response emphasised that any charging structure should not penalise the parent with care, instead placing any burden on the non-resident parent.<sup>180</sup>

169. In contrast, Sir David Henshaw suggested that charging the parent with care as well as the non-resident parent would dissuade them from using C-MEC as a tactic to put pressure on the non-resident parent, as he perceived was the case with the CSA.<sup>181</sup> The White Paper confirmed that any future charging structure would be directed at the non-resident parent and would be based on three clear principles:

"First, that the charging structure should incentivise non-resident parents to meet their responsibilities. Second, that the clear burden of charging should fall on the non-resident parent and not the parent with care. Third, that cost recovery for C-MEC should never be prioritised above payment of outstanding debt for the parent with care."<sup>182</sup>

170. Sir David Henshaw noted that other countries use a charging scheme – in the USA, for example, parents with care not on benefits can be charged an annual fee of \$25.<sup>183</sup> The

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<sup>178</sup> Australian CSA website: [http://www.csa.gov.au/guide/5\\_3\\_1.htm](http://www.csa.gov.au/guide/5_3_1.htm)

<sup>179</sup> White Paper p 81

<sup>180</sup> Government's Response to the Henshaw Report, para 51

<sup>181</sup> Henshaw Report, paras 131-36

<sup>182</sup> White Paper, para 5.48

<sup>183</sup> Henshaw Report, para 132

Henshaw Report also highlighted the fact that charging has, in the past, been a feature of the UK system; up until 1995 an initial assessment fee of £44 was charged.”<sup>184</sup>

171. Concern was expressed to us over these proposals. CPAG stated:

“Despite these reassurances [the three principles above], little detail is offered as to practically how these protections would work with this to be left to future ministerial decision [...] We would welcome much more detail for how it is expected charging protections/or exemptions would operate. Alongside the Government’s principle that charging should not prevent parents seeking maintenance [...] we argue that it should not disincentivise parents from using the apparatus of C-MEC if it is needed to achieve this outcome.”<sup>185</sup>

172. Professor Stephen McKay, pointed out that, based on his research, any charging regime was likely to be unpopular, and that solely focusing on the non-resident parent “as a kind of knee-jerk [...] is not helpful.”<sup>186</sup> Similarly, Janet Allbeson of One Parent Families expressed concern about the introduction of charging, suggesting:

“let us put charging on hold; let us see how the system beds down; let us see who is using the new system and why they are using it and then think about charging and how that fits into it. It is too early, and can just antagonise people and create unnecessary tension and aggravation.”<sup>187</sup>

173. During oral evidence, while the Secretary of State did say that he was “convinced that in general and in principle [charging] should form part and parcel of [C-MEC’s] approach”,<sup>188</sup> he was cautious about when and how a charging system would be implemented:

“We have said in principle we think charging can have a role to play but it will be the job of the Commission and the Commissioner to come up with detailed and specific proposals in relation to how they want to take that policy forward [...] They might want to pilot it in certain areas, they might want to test it out, and we have not crossed that particular bridge yet.”<sup>189</sup>

**174. The Committee recommends that the Department does not introduce a charging scheme for applications to C-MEC.**

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<sup>184</sup> Henshaw Report, para 132

<sup>185</sup> Ev 97

<sup>186</sup> Q 20

<sup>187</sup> Q 124

<sup>188</sup> Q 166

<sup>189</sup> Q 166

## 4 Parents on benefits

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### Compulsion

175. One of the key proposals of the White Paper is the repeal of Section 6 of the Child Support Act 1991, which compels parents with care to apply to the CSA if they claim Income Support or income-based Jobseeker's Allowance.<sup>190</sup> This change is scheduled to happen from 2008. The proposal had originally been made by Sir David Henshaw on the basis of reducing the administrative burden on C-MEC,<sup>191</sup> and was generally welcomed in much of the evidence received.<sup>192</sup>

176. However, some reservations were expressed; while acknowledging the administrative benefits of removing compulsion, Citizens Advice stated:

“We are concerned [...] that many parents on low incomes will not be in a position to agree a sustainable voluntary arrangement, because the separation is not amicable, because the former partner is no longer around, because his actual income is not transparent or agreed, and because promised payments do not materialise. It is understandable that any new system replacing the CSA will want to try to minimise its caseload in order to guarantee its own effectiveness – but this will only prove to be a viable approach if parents are genuinely able and willing to make private arrangements. The availability of good quality advice, including face-to-face advice as well as websites and other information, will be critical if the government's strategy is to stand any chance of success.”<sup>193</sup>

177. Parents with care on benefit currently make up 70% of the intake of new applications to the CSA, although in terms of the Agency's total live caseload they account for less than 40% of cases.<sup>194</sup> On the basis of these figures it is possible to calculate in broad terms that, once compulsion is removed, there will be a significant group of parents with care on benefit, numbering up to 556,000, for whom it is unclear what will happen in terms of their child maintenance arrangements.<sup>195</sup> The Secretary of State commented in supplementary written evidence that:

“There are significant behavioural uncertainties which make precise estimates of behaviour once section 6 is removed particularly difficult. The impact will depend on a number of factors such as how attractive it will be for future benefit claimants to make a maintenance agreement and how much support and encouragement they will receive to make an agreement (both of which depend on the level of the maintenance disregard and how targeted the information and guidance services provided are). It also depends on how many of this client group can be supported to

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<sup>190</sup> White Paper, paras 2.4-7

<sup>191</sup> Henshaw Report, para 25

<sup>192</sup> See, for example, Q 123

<sup>193</sup> Ev 112

<sup>194</sup> Q 151

<sup>195</sup> House of Commons Library estimates based on administrative data for current CSA caseloads in December 2006. This figure represents 40% of the current CSA caseload.

opt for a private agreement. As Sir David recommends, we are doing detailed modelling work to assess the most likely impact but at this point we do not have a specific estimate.

In general though we do expect fewer parents with care to use the Child Maintenance Enforcement Commission (C-MEC) as a result of removing the requirement that all parents with care claiming benefits are treated as applying for child maintenance. Although less benefit parents with care are expected to use C-MEC, we expect those who do use it to be more likely to be assessed as having a positive maintenance amount and maintenance be paid. We aim to ensure that those who choose not to use C-MEC are supported to make private arrangements rather than letting such parents drop out of the maintenance system altogether.”<sup>196</sup>

178. A reduction in C-MEC’s caseload from the removal of compulsion appears to be assumed by the Government and there are (as yet) no obvious safeguards to protect vulnerable parents with care who may end up without any maintenance arrangement. The Secretary of State noted in oral evidence that if there is one specific lesson the Government should have learned from the last 15 years of CSA operations, it is that “if you rush these reforms you get them wrong.”<sup>197</sup>

179. Therefore, in a case where outcomes and effects are unclear, **the Committee is very concerned about the moral hazard which may be created if section 6 is abolished, by allowing non-resident parents to avoid their parenting responsibilities and by leaving parents with care on benefits. We would urge the Government to research whether similar simplification and operational savings could be achieved, and the moral hazard avoided, through a minimum lower limit where maintenance amounts below a very low level are not pursued because the benefits are too small and the costs too great. We also recommend piloting the removal of the requirement for parents with care on benefit to use C-MEC in order to analyse the effect it will have on them and on C-MEC’s caseload and resources. If the Government does remove compulsion nationally in 2008, appropriate safeguards must be installed to protect vulnerable parents with care on benefit. The Government should also be prepared for the effect such a move will have in the short term on increasing the burden on C-MEC’s resources as parents with care look for advice on their child support options.**

## Benefits disregard

180. The “benefits disregard” (also known as the Child Maintenance Premium) is the amount of child maintenance received by parents with care that they are entitled to keep without a corresponding fall in their benefit entitlements (Income Support or income-based Jobseeker’s Allowance). It is currently set at £10 per week for all parents with care on benefit (where maintenance is being paid) whose cases began after the 2003 reforms.

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<sup>196</sup> Ev 121

<sup>197</sup> Q 208

Under the old scheme rules (pre-3 March 2003 cases), all of the maintenance paid by non-resident parents goes to the state to offset the benefit cost.<sup>198</sup>

181. The White Paper states that the £10 disregard will be extended to all cases by 2008. Furthermore, the level of the disregard will be “significantly” increased from 2010/11.<sup>199</sup>

### Child poverty effects

182. In her report on child poverty commissioned by the DWP, Lisa Harker recommended that “reforms to the child support system should aim to achieve the maximum impact on child poverty and, to this end, a significantly higher disregard of maintenance income in benefit calculations should be introduced.”<sup>200</sup>

183. Sir David Henshaw also highlighted the positive impact any increase in the maintenance disregard would have on child poverty (because it increases money flowing directly to the parent with care), estimating that a full disregard would lift between 80,000 and 90,000 additional children out of poverty.<sup>201</sup>

184. The Government estimates that extending the £10 disregard to all cases will benefit 44,000 parents with care and 55,000 children, while the “significant” increase in 2010/11 will “mean that more maintenance paid flows directly to parents with care and will lift many children out of poverty.”<sup>202</sup> A recent Parliamentary Question also provided poverty reduction estimates based on the disregard being set at varying levels:<sup>203</sup>

“Mr Plaskitt: The number of children lifted out of poverty and cost of increasing the levels of the child maintenance disregard in income support, Jobseekers Allowance, housing benefit and council tax benefit in 2009-10 are shown in the following table:

Figure 7

Level of disregard	Number of children lifted out of poverty	Cost in extra benefit expenditure (£ million)
£20	n/a	50
£30	30,000 – 40,000	100
£40	40,000 – 50,000	140
£50	50,000 – 60,000	170
n/a = not available		

*Notes: 1. Number of children lifted out of poverty is defined here as the number of children in households lifted above 60% of equivalised median household income before housing costs by increasing the level of the disregard. 2. Estimates provided are indicative and should only be used to give some idea of scale, since there is uncertainty over future distributions of earnings and maintenance receipts, and figures are sensitive to the assumptions used and drawn from a sample of data. 3. Figures for the number of children lifted out of poverty by a £20 disregard are not available due to a small sample size. 4. Poverty figures are based on analysis of 2004-05 Family Resources Survey and are rounded to the nearest 10,000. 5. Costs are calculated to the nearest £10 million and are based upon a combination of DWP administrative and survey data.*

<sup>198</sup> The reason not all cases are entitled to benefit disregard is that pre-2003 cases are administered by a different system which (until now) was not compatible with the introduction of a disregard.

<sup>199</sup> White Paper p 31

<sup>200</sup> DWP, *Delivering on Child Poverty: what would it take? A report for the Department for Work and Pensions by Lisa Harker*, November 2006, p 58

<sup>201</sup> Henshaw Report, paras 23-24

<sup>202</sup> White Paper p 10

<sup>203</sup> HC Deb, 24 January 2007, cols 1860-61W

185. The Secretary of State, when questioned as to why the “significant” increase would not occur until 2010/11, cited the need to legislate, the successful extension of the £10 disregard, and the need to carry out further research into incentive effects and the cost to the taxpayer as the primary reasons.<sup>204</sup>

186. However, the issue of delaying the “significant” increase was a common theme in the evidence the Committee received; Professor Stephen McKay stated:

“I do not see the reason why it needs to be delayed [...] You can argue about the amount of it, but I think there is no reason why it should not be doubled, tripled and done very quickly, and I think most people would support that.”<sup>205</sup>

187. In written evidence, both CPAG and One Parent Families noted the anomaly that the extension of the disregard “significantly” would only be implemented in 2010/11 after the Government’s interim Child Poverty Target had passed.<sup>206</sup>

188. Janet Allbeson from One Parent Families stated that there could be further implications for child poverty from not introducing the “significantly” higher disregard until 2010/11 but removing the compulsion to use the system for parents with care on benefit in 2008 (and the implied effect this could have on increasing the number of parents with care who are lost from the system altogether – see paras 175-179 of this report). She pointed out that the Government in “the White Paper itself acknowledges that £10 will not be enough to act as an incentive to parents on benefit to make maintenance arrangements.”<sup>207</sup>

189. Oral evidence received from CPAG suggested that the poverty reduction projections made by Sir David Henshaw and the DWP would be dependent on a full pass-through of the disregard; something that does not currently happen. Dr Dornan also talked about the positive impact any increase would have on giving non-resident parents incentives to comply:

“If a non-resident parent can see the money getting through, not simply resulting in lost benefit, there is a greater incentive to comply. I think that needs to be considered as well. Beyond the stuff that you can model and produce a hard number for, you need to consider the extent to which this reduces the depth of poverty for other families and also the extent to which it supports other aspects of policy, in particular tax credits and welfare for work by increasing the stability of people’s income.”<sup>208</sup>

## **Work incentives**

190. The primary reason for not introducing a full (or extremely high) disregard relates to the incentive to work. The White Paper states that:

<sup>204</sup>Qq 183, 187

<sup>205</sup> Q 49

<sup>206</sup> The Government has set targets to reduce child poverty by a quarter between 1998/99 and 2004/05 as a step towards halving it by 2010/11 and effectively eradicating it by 2020. The target in 2004/05 was not met.

<sup>207</sup> Q 136

<sup>208</sup> Q 110

“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.”<sup>209</sup>

191. The Secretary of State, in oral evidence admitted that he “[did] not think there is any evidence” to support the argument that a high or full disregard would disincentivise lone parents to work, but “there is instinct and there is impulse but we have to find a way through over the next year or so and come to a view about the definitive figure.”<sup>210</sup>

192. A recent research report published by the DWP found that there had only been two studies which looked at the work incentive effects of the benefit disregard.<sup>211</sup> A UK study published in 2000 using data from 1997 found that a £5 increase in the disregard “appeared” to lead to an increase of one percentage point in the proportion of people not in work. However, the authors identified a number of limitations in their analysis (notably that there was likely to be bias in the estimates due to the methodology used).<sup>212</sup> In contrast, the second study, published in 2003 using evidence from the USA, found that increasing the level of the disregard had no adverse effect on employment rates. However, the DWP report concluded that due to the different nature of the UK and US benefit systems, this result may not be directly relevant to the UK.<sup>213</sup>

193. Some of the evidence received by the Committee suggested that the effect of a higher disregard on the incentive to work may be overestimated. Mavis Maclean believed that “in the past the job-seeking behaviour of lone parents has not been well enough understood, and I think the impact of a small amount of money is not as powerful as people might think.”<sup>214</sup> CPAG dismissed the work incentive argument and instead called for a full disregard:

“We understand Government has concerns over the work incentive effects of increasing out of work income and intends further examination of this issue. We note that both the Henshaw review itself argued that the work incentives effect in practice is small, whilst the child poverty reduction effect is large. Since parents with care are more likely to be in work if maintenance is stable, and maintenance is itself more likely to be stable if non-resident parents see it reaching their children, there is a strong argument to increase the disregard precisely to facilitate moves into work [...] We urge the Committee to reject the work disincentive argument and call for a full disregard of child maintenance.”<sup>215</sup>

194. One Parent Families also noted that the majority of lone parents want to work and that a disregard could make this easier:

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<sup>209</sup> White Paper, p 31

<sup>210</sup> Q 183

<sup>211</sup> DWP Research Report 402: Child Support and work incentives: A literature review, February 2007

<sup>212</sup> DWP Research Report 402: Child Support and work incentives: A literature review, February 2007, p 3

<sup>213</sup> DWP Research Report 402: Child Support and work incentives: A literature review, February 2007, p 4

<sup>214</sup> Q 47

<sup>215</sup> Ev 98

“One of the things that all the research shows that lone parents want is some kind of security; they want some sort of reliability. They worry about taking that step into work. If they know they have maintenance on-stream – they have applied for it and it is flowing – it makes it a lot easier to contemplate that move, because as well as your earnings and your tax credits (which you have to wait for) and your housing benefit that has got to be adjusted, you will know – a bit like Child Benefit – that you will be able to carry with you into work child maintenance. So in some ways it makes that “dipping your toe in” a lot easier.”<sup>216</sup>

### **Level of “significant” increase**

195. Because the Government wishes to carry out more research on the effect on the incentive to work, it has not yet announced the level to which the disregard will be “significantly” increased.<sup>217</sup> As outlined above, the majority of those who gave evidence welcomed the proposal to increase the disregard although there was no consensus about the ideal level. Professor Stephen McKay suspected that a £40 disregard would be very similar to a full one as very few non-resident parents would be paying more than this level of maintenance:

“Once the disregard got to about £40 a week, the number actually getting more money would be relatively small. So I think, as long as it goes up substantially, whether it goes up to £40 or is a complete pass through is not going to make a huge amount of difference [...] the number of people that affects is relatively small. So, I think a much larger disregard is operationally very similar to a complete disregard.”<sup>218</sup>

The latest CSA statistics show that, in December 2006, 24% of all assessments under both the existing schemes were for £40.01 or more per week.<sup>219</sup>

196. The Secretary of State also noted that the potential cost to the taxpayer was a significant issue:

“We have got to get this right. There is a cost to the taxpayer too in this. The costs of a £50 maintenance disregard are £170 million. This is cost and it has to be factored into it. We are doing some more work.”<sup>220</sup>

In supplementary written evidence, the Secretary of State said that the equivalent cost for a full disregard would be £200 million.<sup>221</sup>

**197. The Committee welcomes the Government’s commitment to increase “significantly” the maintenance disregard for parents with care on benefit. On the basis of the evidence we have seen, we believe that a full disregard would be a desirable, but**

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<sup>216</sup> Q 136

<sup>217</sup> White Paper, para 22

<sup>218</sup> Q 48

<sup>219</sup> DWP, CSA Quarterly Summary Statistics: December 2006, Table 15

<sup>220</sup> Q 187

<sup>221</sup> Ev 121

**bold, step, especially in relation to the achievement of the Government’s child poverty targets. However, given the potential cost to the taxpayer, any action should be preceded by a thorough assessment of the potential positive and negative impact on work incentives of different levels and types of benefit disregard, including percentage withdrawals instead of fixed £ amounts and the effects of annual uprating in line with prices or earnings. It should also include a proper cost-benefit analysis, and we call on the Government to publish and act on its results promptly.**<sup>222</sup>

### Payments for non-resident parents on benefit

198. Another proposal in the White Paper is to increase the flat rate of maintenance paid by most non-resident parents on benefits from £5 to £7 a week by 2010.<sup>223</sup> The flat rate was introduced following the 2003 reforms to the CSA, as well as a nil rate which applies to non-resident parents who fall into certain categories, such as a student in full-time education or where their income is less than £5 (£7) a week. The primary argument outlined in the White Paper for this payment is that it is based on the responsibility of a non-resident parent to contribute to their child’s upbringing regardless (apart from a few cases) of their own income. The Secretary of State affirmed his belief in this principle:

“My view is that the right decision to make here is to send a very clear signal to everyone that, “Your relationship has ended but your financial responsibilities are never going to end until your children reach the age of 18 or leave higher education”. Personally, I think if we were to depart from that we would be fundamentally torpedoing something that is incredibly important here that we should never lose sight of, which is the financial responsibility [for] kids.”<sup>224</sup>

199. Professor Stephen McKay was critical of this aspect of the proposal, commenting:

“Taking £7 from benefit recipients means taking money from one of the poorest groups in society in order to marginally offset the poverty of another poor group. This is particularly punitive given that single people receive just about the lowest amounts of anyone receiving benefits (especially those under 25: £45.50 a week).”<sup>225</sup>

200. Table 2 of his submission, reproduced below, displays benefit rates (income-based Jobseeker’s Allowance, Income Support and child tax credits) for a single non-resident parent and a lone parent with care with one child; it shows that parents with care are clearly badly off, but (even with just one child) have double the income of single non-resident parents before child support is paid.

**Figure 8: Incomes where both NRPs and PWC are out of work**

Age	NRP income	PWC income	Ratio of incomes	Money difference
<b>Before child support</b>				

<sup>222</sup> If the £10 disregard, which was set at that level in 2000 had been index-linked to inflation (as recommended by the Social Security Committee’s Tenth Report during session 1998-990) it would now be approximately £12.10 based on the Retail Price Index or approximately £11.20 based on the Consumer Price Index. (House of Commons Library Calculations)

<sup>223</sup> Q 190

<sup>224</sup> Q 191

<sup>225</sup> Ev 106

18-24 years	£45.50	£119.28	2.6	£73.78
25-59 years	£57.45	£119.28	2.1	£61.83
<b>After £7 child support is paid</b>				
18-24 years	£38.50	£126.28	3.3	£87.78
25-59 years	£50.45	£126.28	2.5	£75.83

Source: Professor McKay's evidence. Note: Non-working NRP and non-working PWC, 1 relevant child with PWC. In practice, costs of housing and Council Tax are also likely to be met.

201. Citizens Advice was concerned about the enforcement of such payments:

“Our initial reaction is to wonder how effective it is to enforce payment of £5 or £7 from benefit income, and whether parents on benefit will pay this sum out of benefit incomes which may be as low as £54 per week.”<sup>226</sup>

202. Dr Paul Dornan from CPAG expressed concern about the size of the increase:

“That is a 40% increase. Income Support I think over the same period has gone up by about 5%.”<sup>227</sup>

He also said “if you compare income support rates to the poverty line, you would find that they are below the poverty line. If you decrease it further through the £5 or £7 charge, then you worsen the poverty for some very poor non-resident parents.”<sup>228</sup>

203. Indeed, if the £5 payment had been index-linked to inflation since the level was first set in 2000, it would now be approximately £6.10 based on the Retail Price Index or £5.60 based on the Consumer Price Index.<sup>229</sup> Upon questioning regarding the size of the increase, the Secretary of State said “[it] is a modest and small amount; it has not increased in value since 2000. Putting it to £7 by 2010 will only just basically keep that £5 equivalent in proportionate value.”<sup>230</sup> However, put in the context of the figures in figure 8 above the Committee believes that a non-resident parent on benefit may not see an additional £2 as a modest amount.

204. From an administrative perspective, some evidence received suggests that there may be significant savings from eliminating the £5/£7 payment and instead making nil assessments for non-resident parents on the prescribed benefits.<sup>231</sup> When questioned about this, Stephen Geraghty stated that:

“... it is certainly true that it costs us quite a bit to move small amounts of money around but – the but is – if we had a claim and the father is on benefit today we would still have the cost of processing the claim and then tracking him to see when he goes in and out on work.”<sup>232</sup>

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<sup>226</sup> Ev 112

<sup>227</sup> Q 114

<sup>228</sup> Q 114

<sup>229</sup> House of Commons Library calculations

<sup>230</sup> Q 190

<sup>231</sup> Q 190

<sup>232</sup> Q 191

205. The Committee recommends that the Government should reassess the increase in the size of the flat rate payment for non-resident parents on benefit and it should instead be index-linked to inflation. The Committee also recommend further research is carried out into the effect this payment has on poverty among non-resident parents and their families and indeed on the work load of CSA and C-MEC; if there is found to be a significant negative impact, the Government should consider abolishing this payment and introducing nil assessments for non-resident parents on prescribed benefits.

## 5 Enforcement

206. The CSA currently has a wide range of enforcement powers. In particular, once it has obtained a liability order from the court, crystallising the amount of the debt owed by the non-resident parent, the Agency may proceed with:

- levying of a distress warrant involving bailiff action;
- registering a county court judgement;
- applying to court for a third party debt order;
- applying to court for a charging order; and
- applying to court for an order of committal to prison or disqualification from driving.<sup>233</sup>

207. Current CSA enforcement activity is shown in the following table:

Figure 9:

	Apr 2004 - Mar 2005	Apr 2005 – Mar 2006	Jul 2005 – Jun 2006	Oct 2005 – Sep 2006
<b>England and Wales</b>				
Liability orders granted	6,780	9,600	10,970	12,360
Distress actions	4,450	8,550	10,020	11,690
County Court Judgement orders	1,180	2,020	1,860	1,870
3 <sup>rd</sup> Party Debt orders	1,290	1,240	1,730	1,890
Charging orders	850	1,070	1,090	1,710
<b>Scotland</b>				
Liability orders granted	470	670	700	890
Attachments	90	120	160	240
Arrestments	240	430	510	580
Bills of Inhibition	240	560	670	810
<b>England &amp; Wales and Scotland</b>				
Suspended committal sentences	220	380	370	390
Committal Sentences	10	20	20	30
Suspended driving licence disqualification	20	40	40	40

<sup>233</sup> Work and Pensions Committee, Second Report of Session 2004-05, The Performance of the Child Support Agency HC 44-II, Ev 68

sentences				
Driving licence disqualification sentences	-	10	10	-

*CSA Summary of Quarterly Statistics September 2006.*

208. We note that the most up to date enforcement statistics are not available and that these September statistics may contain errors. A recent written answer states that an investigation is in process and following this, a revised table and explanatory note will be published.<sup>234</sup>

209. The White Paper seeks an increase in these powers. The Government intends to do this 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 further strengthening and streamlining the enforcement process by removing the requirement to apply to the courts for a Charging Order;
- bringing forward legislation to pilot withholding wages as the first means of collecting maintenance, working closely with business during the development of the pilot;
- making much more use of information exchanged with, and drawn from, financial institutions and credit reference agencies in order to trace non-resident parents and collect and enforce maintenance;
- exploring the scope for introducing powers to collect directly from accounts held by 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.”<sup>235</sup>

The Government also intends to:

“explore two options in relation to the withdrawal of driving licences and the surrender of passports, providing a power for C-MEC to either:

- apply to the Magistrates’ Court, as is currently the case with driving licences;
- or

<sup>234</sup> HC Written Answers, 28 February 2007, cols 1407W-1408W

<sup>235</sup> White Paper p 69

- 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.”<sup>236</sup>

210. It was put to the Committee by both NACSA and CPAG that the CSA currently had sufficient powers but did not use them successfully. NACSA stated that:

“The sanctions CSA currently have at their disposal are sufficient. C-MEC will inherit all these powers so there is no need for more. It is a sad fact that current enforcement is applied erratically. Cases are ruthlessly pursued without genuine cause, whilst others involve parents with care who have fought for years with only meagre attempts at debt recovery being evident.”<sup>237</sup>

Similarly CPAG stated that CSA enforcement figures demonstrate:

“firstly that powers already exist in many areas and secondly that the extent of the usage of these powers has been low. In a properly functioning system with high compliance the use of sanctions should be low however in the current system with its poor compliance the current CSA is not fully using the powers it already has. The more important question is the extent to which existing powers are being used rather than the acquisition of new powers for C-MEC however politically attractive increasing enforcement powers may be.”<sup>238</sup>

211. The DWP Research Report on the compliance of CSA clients found that many non-resident parents were unaware of the current enforcement powers of the CSA other than the Deduction from Earnings Order. The report also found that “There was little expectation that the CSA would try to do any more than recover the sums owed, so there was no incentive to be prompt with payment or being compliant.” The report concluded that “A lack of expectation of penalties, or knowledge of those facing penalties, is a worrying situation for an organisation seeking to enforce compliance.”<sup>239</sup>

212. Professor Stephen McKay told the Committee:

“People need to believe that they will be made to pay up eventually, which at present many of them do not think they will be.”<sup>240</sup>

213. Stephen Lawson, a solicitor and member of Resolution said:

“At present there is a reluctance to use the powers available to the CSA to consider recovering arrears from sources other than income. The CSA will not, as a matter of course, use the powers available to them to ascertain information about the resources of the non-resident parent to enable a decision to be made about recovery – e.g. if a debtor in a civil case owes money a creditor will usually ask for evidence of the debtor’s means and will want to see copies of bank statements, building society

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<sup>236</sup> White Paper, p 69

<sup>237</sup> Ev 86

<sup>238</sup> Ev 98

<sup>239</sup> DWP Research Report 285 *Investigating the compliance of CSA clients* para 7.2

<sup>240</sup> Q 54

passbooks, life policy details, house equity details. The CSA is systematically incapable of obtaining or processing this information from capital. The drive to reduce administrative costs reduces the incentive for the CSA to conduct forensic investigation. The fear is that in the drive to reduce costs C-MEC will not make appropriate forensic enquiries and the parent with care will not be engaged or consulted in the process.”<sup>241</sup>

### **Administrative enforcement**

214. Currently the CSA cannot take any enforcement action, other than placing a Deduction from Earnings Order, without applying to the Magistrates’ Court for a Liability Order, a legal recognition of the arrears of maintenance. If these enforcement proceedings fail to gain payments from the non-resident parent the CSA can then apply to the courts for a Charging Order against the non-resident parent’s property. If a charge is registered, and the property is sold, proceeds from the sale are used to pay off the child support arrears.<sup>242</sup>

215. Stephen Geraghty commented that:

“the CSA do not have any powers other than deductions of earnings orders, of which we have got 150,000 in use at the moment. Taking a driving licence is a power that the court has at its discretion [...] and courts are very reluctant to use them.”<sup>243</sup>

216. He advocated making the sanctions into administrative orders, as set out in the White Paper, so the CSA would not need to go through the courts to apply for them:

“instead of having to go through a criminal level standard prosecution we can actually say, “Because you have five or however many thousands of pounds unpaid child support, your driving licence will be suspended.”<sup>244</sup>

217. Mr Geraghty compared the situation in the UK with other countries’ child support enforcement operations: “we are the only one of the English speaking child support enforcement operations which has to go to court to get a liability order. In every other jurisdiction it is part of the maintenance order and in most of them the charging on your property just follows from the initial order.”<sup>245</sup> The Secretary of State added that:

“It has taken on average about three months, slightly longer, to actually get a liability order from a magistrates’ court, only 1% of them are ever turned down in magistrates’ courts, but all through that period of time while we go to court someone is not getting their maintenance and then we have got a tougher job to recover the arrears.”<sup>246</sup>

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<sup>241</sup> Ev 64

<sup>242</sup> White Paper, p 73-74

<sup>243</sup> Q 197

<sup>244</sup> Q 197

<sup>245</sup> Q 197

<sup>246</sup> Q 197

218. However, concern was expressed about moving from court to administrative enforcement. Stephen Lawson stated that:

“The justification given by the Government for the abolition of Court-based enforcement is not accepted. The Government complains that the Liability Order process is too slow. As a matter of law the CSA only have to give a non-resident parent seven days notice of an intention to apply for a Liability Order. Once a complaint is issued in a Magistrates Court a return date is issued very quickly – usually within a week or two. The Liability Order process should remain. [...] Administrative enforcement is arbitrary, made without reference to ability to pay and is subject to no judicial scrutiny.”<sup>247</sup>

219. NACSA told us:

“These parents often rely on “their day in court” as the only avenue to voice concerns over the alleged debt. The mere suggestion of removing this process is inconceivable. The National Association of Child Support Action would not support, and would wholeheartedly object to such a proposal until C-MEC has shown itself to be accurate and efficient.”<sup>248</sup>

220. Resolution stated:

“Charging orders put at risk people’s homes and Parliament should not sanction an enforcement regime that offers no safety net to address errors.”<sup>249</sup>

They recommended that there should be safeguards, asking for example whether enforcement decisions:

“would be taken by a second case officer. Would it be taken by an independent person outside that team? What happens if the non-resident parent or the parent with care still disputed the assessment? What would be the appeals mechanism? Is there a basis in that case, if the non-resident parent for example did not want their driving licence removed and disputed the level of arrears, before any such draconian enforcement action was actually taken, that that person would be entitled to have an appeal hearing?”<sup>250</sup>

221. Resolution also pointed out that the White Paper does not mention the subject of appeals: “The appeals system has actually been totally ignored in the White Paper. This needs to be addressed.”<sup>251</sup>

222. The level of inaccuracy in CSA liability orders was highlighted by the CSA Standards Committee Report 2003-04.<sup>252</sup> On examination of an (admittedly small) sample of 58

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<sup>247</sup> Ev 64

<sup>248</sup> Ev 101

<sup>249</sup> Ev 62

<sup>250</sup> Q 92

<sup>251</sup> Ev 61

<sup>252</sup> CSA Standards Committee Annual Report 2003-04, p3

liability orders they found 65% of them to be inaccurate. When questioned on this figure Stephen Geraghty stated that the current accuracy level is:

“about 84% but the quantum of inaccuracies, according to the National Audit Office’s last audit of our accounts, is 0.6%. These are errors to a penny. The figures I just gave you are not on liability order cases, they are on the book as a whole.”<sup>253</sup>

223. He tried to reassure the Committee that:

“what we are doing both with the outsourced debt collection and the liability orders, [ ] [is] we work through the case again before we take action and we have 300 people in Kirkcaldy who are working through these cases as we do for any enforcement action who go through all the information we have and make sure the balance is accurate.”<sup>254</sup>

224. In further written evidence the Department informed the Committee that in the year ending March 2006 the Agency applied for almost 12,000 liability orders and only around 50 were dismissed by the court. Although a number of cases were withdrawn – largely due to payment being received before the case was heard – in that same year the court granted over 10,000 liability orders.<sup>255</sup>

**225. The Committee recommends that if C-MEC is granted powers to make administrative orders then these should be accompanied by safeguards to ensure against inaccuracy and to provide a swift, effective and independent process for a right of appeal. The Government should therefore set out what appeal methods it intends to introduce for C-MEC customers.**

### **Severity of sanctions**

226. Of particular concern to many of those who contributed to the inquiry was the severity of the proposed enforcement powers. Resolution referred to “draconian powers.”<sup>256</sup> One option that has been canvassed is that of publishing (on C-MEC’s website) the names of those non-resident parents who are successfully prosecuted, and those who have had a successful application for a liability order made against them. Professor Stephen McKay commented that:

“Many US states make use of ‘ten most wanted’ webpages for those with the highest arrears – typically to help trace them. There is no real evidence on their effectiveness. Often those with relatively low-paying jobs are said to owe tens of thousands of dollars. This eye-catching initiative seems less familiar to the UK, where we do not have lists collated relating to very serious criminal offenders, lists of sex offenders, or ASBOs and the like. It would also, presumably, run risks of identifying the children

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<sup>253</sup> Q 199

<sup>254</sup> Q 199

<sup>255</sup> Ev 121

<sup>256</sup> Ev 60

affected and their reactions to seeing in their fathers on such a public site would be of interest (to say the least) and perhaps not in their best interests.”<sup>257</sup>

Duncan Fisher from Fathers Direct added:

“One of the necessary tests is: does it damage the child’s interests? Every enforcement measure needs to undergo that test. The naming and shaming one would fail immediately on the grounds that it is not in the best interests of the child for the embarrassment in his family to be known by everybody in the school playground; it is just intolerable from the child’s point of view. That proposal was a decoy for the media and I cannot believe it was serious.”<sup>258</sup>

Resolution said:

“Naming and shaming’, would [...] only apply to the few and raises human rights issues.”<sup>259</sup>

227. The White Paper also proposes bringing 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.”<sup>260</sup> A similar proposal for curfew orders was dropped from the Draft Children (Contact) and Adoption Bill in 2005 after the joint committee scrutinising it found it to be disproportionate and that it could be potentially difficult for the child.<sup>261</sup>

228. When questioned on whether the new powers were just gimmicks the Secretary of State replied:

“I think they are serious proposals and I hope the Committee and people will treat them in that way too. [...] somehow we have to create a different culture, where the premium is placed on compliance [...] These powers are, I accept, unprecedented in the area of civil debt recovery, but they need to be if we are going to turn this culture around. I do not think we should judge the success of these or any other enforcement powers by the number of times they are exercised by the Commission. That, in a sense, misunderstands the purpose and nature of these types of reforms.”<sup>262</sup>

**229. The Committee notes that section 2 of the Child Support Act 1991 already provides that the Secretary of State must have regard to the welfare of any child likely to be affected by any decision involving the exercise of a discretionary power (e.g. such as whether to, and how to, effect enforcement against a non-compliant, non-resident parent). The Committee recommends that the Government reaffirm that this**

<sup>257</sup> Ev 103

<sup>258</sup> Q 143

<sup>259</sup> Ev 62

<sup>260</sup> White Paper, para 5.27

<sup>261</sup> Draft Children (Contact) and Adoption Bill – First Report Volume I, HC 400-I, HL Paper No. 100 I para 89

<sup>262</sup> Q 149

requirement will still apply in the new scheme of enforcement powers. Furthermore, the Committee has serious reservations as to how far the proposal to publish on the web the names of non-resident parents who have been successfully prosecuted, or non-resident parents who have substantial arrears, is consistent with this principle, given the potentially seriously detrimental effect on individual children's welfare.

### *Reputation of C-MEC*

230. The Committee received evidence that the increase in enforcement powers could stigmatise C-MEC and dissuade people from using it. One Parent Families commented that:

“There are a variety of circumstances where it is easier for both parents if payment of child maintenance is done through the Agency – for example, where there is a tense relationship and both parties want an intermediary to avoid disharmony; or where the non-resident parent is disorganised and poor at budgeting. Too great a focus on the new Commission as dealing only with hard-core serial non-payers risks creating hostility among non-resident parents contacted by C-MEC, and may deter some parents with care seeking help from C-MEC when they need it.”<sup>263</sup>

231. Anne Kazimirski of NatCen said that:

“if you do distinguish C-MEC as only hardcore cases where the father has never paid at all you might get situations where the parent with care is almost too scared to involve C-MEC because of the way that the non-resident parent would react, so even though she may really need the money she may be so scared that it would affect the relationship between them and the way that the non-resident parent would behave with the children.”<sup>264</sup>

232. Duncan Fisher from Fathers Direct commented:

“Part of the brand has to be that it is helpful, that it is there to help parents, and, at the moment, the way that the child support reforms were announced in the media is exactly the opposite. There was a blitz of media coverage that this is a punitive system. So there is a lot of work to do on branding before any parents are going to trust anything that the state has set up.”<sup>265</sup>

233. However, the Secretary of State did not seem to be perturbed by this. When questioned as to how people will use the Commission if it is solely marketed as a repository of hard cases he replied:

“If they do not want to be classified as such they should reach their own voluntary agreements, that is the whole point. We have got to make coming to C-MEC very,

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<sup>263</sup> Ev 80

<sup>264</sup> Q 24

<sup>265</sup> Q 123

very uncomfortable for the non-resident parent who is not complying with their obligations to support their family. It has got to be their worst nightmare.”<sup>266</sup>

**234. If C-MEC is to concentrate on compliance and enforcement with severe sanctions for non-resident parents who fail to pay their child support, then the Committee recommends that another organisation provide the advice services on levels of maintenance and shared care at the point when parents separate. Such advice should be part of a more holistic approach to relationship breakdown when children are involved.**

### ***Monopoly of enforcement***

235. A further issue concerning enforcement is the monopoly that the CSA currently enjoys in this area. Under the 1991 Act only the CSA has the power to collect child support debts and enforce liabilities through the courts. This was tested in the Kehoe case in which the House of Lords ruled that neither a child nor a parent with care has the right to pursue this debt in their own right. Professor Stephen McKay commented that:

“it is a strange world in which the state, which often has no interest in collecting money privately, is the one who has to collect it and the individual who does have the interest in actually receiving it does not have that power.”<sup>267</sup>

236. One Parent Families stated:

“It is intensely frustrating for parents with care, who see a non-resident parent freely spending sums of capital whilst owing large arrears in child support, that they are completely dependent for enforcement action on an often slow and ineffective bureaucracy.”<sup>268</sup>

237. The issue was also flagged up by Sir David Henshaw:

“Under the current system, a parent with care has no right to enforce a claim for child support against a non-resident parent who fails to pay. A number of stakeholders have argued that the legislation should be changed to allow such independent enforcement. Such a step would fit with the logic of giving more individual responsibility to parents. However, it would also raise some risk of duplication of effort between the administrative and court systems. One option would be to allow parents with care the right to enforce, but only if there was clear evidence that the administrative service had failed to do so effectively (for example by not taking action within a defined period of non-compliance). This should be considered further in the detailed design of the new system.”<sup>269</sup>

238. One Parent Families stated that it would like to see:

“The Child Support Act amended to allow a parent with care to be able to apply to the Family Courts for:

<sup>266</sup> Q 202

<sup>267</sup> Q 4

<sup>268</sup> Ev 80

<sup>269</sup> Henshaw Report, para 67

- firstly, an investigation of means of the non-resident parent; and
- secondly, permission to bring enforcement action for unpaid child support liabilities through the Courts, in circumstances where a sum has been levied against the non-resident parent by the Agency or C-MEC; he has failed to pay some or all of the maintenance due; and the Agency or C-MEC has failed to take effective enforcement action against the non-resident parent in the last three months in circumstances where such action could reasonably have been expected. The Family Courts would be able to grant leave for the parent with care to pursue enforcement action in circumstances where it was thought enforcement action stood a reasonable chance of success. Such a provision would hold the Agency or C-MEC to account for their action or inaction on an individual case, and allow Court intervention to prevent disposal of funds which could be used to pay off child maintenance arrears by the non-resident parent.”<sup>270</sup>

239. A reform to give the parent with care and the child the power of enforcement would seem to follow the policy principles of individual responsibility and movement away from state interference. It is also a policy that has been adopted in the latest Australian child support reforms. However, the White Paper does not comment on this issue. In response to questioning by the Committee on this issue the Secretary of State replied that:

“I do not believe that it is likely that an individual parent left to his or her own devices is likely to be necessarily more successful than C-MEC.”<sup>271</sup>

**240. The Committee doubts that many parents with care would wish to use the court system to enforce child support liabilities. However, where there are substantial arrears, and the CSA has failed to take effective action to enforce those debts, then the Committee believes that it would be consistent with the overall policy thrust of the Government’s reforms to allow parents with care the option to enforce such debts through the courts in their children’s name.**

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<sup>270</sup> Ev 81

<sup>271</sup> Q 201

## 6 Transition

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241. The CSA has an unfavourable history regarding transition between systems. Following the introduction of the second child maintenance system in 2003 there are still 800,000<sup>272</sup> old scheme cases that have yet to be converted to new scheme calculations, representing over half of the total CSA caseload.<sup>273</sup> As NACSA said “transition is a word now associated with moving from CS1 to CS2 and which failed in the public view.”<sup>274</sup>

### A “Clean Break”

242. Sir David Henshaw in his report recommended a “clean break” approach:

“I believe there are strong reasons to justify making a clean break with the current Agency and creating a new body with a mandate to deliver a ‘fresh start’ for child support. This body should be separate from the task of dealing with legacy issues from the current system, including the management of existing debt. I recommend that a new body be established to deliver child support with a residuary body responsible for pursuing the old debt.”<sup>275</sup>

He emphasised that “given the existing operational problems facing the CSA, the task of moving cases under two parallel schemes to a third would be extremely difficult.”<sup>276</sup>

243. However, according to the White Paper the intention is for C-MEC to have responsibilities for:

- “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;
- managing the transition of cases into private arrangements or between schemes; and
- the closure of the existing child maintenance schemes and the CSA.”<sup>277</sup>

This would seem to be quite a change from Sir David Henshaw’s idea of a clean break although the Secretary of State argued otherwise: “He favoured a clean break. That is what we are doing.”<sup>278</sup>

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<sup>272</sup> White Paper, figure 3.1

<sup>273</sup> Current caseload 1.39 million CSA quarterly Summary of Statistics, December 2006

<sup>274</sup> Ev 85

<sup>275</sup> Henshaw Report para 73

<sup>276</sup> Henshaw Report para 87

<sup>277</sup> White Paper, para 3.9

244. One Parent Families suggested:

“Although the White Paper talks of a ‘clean break’, in reality it would appear that the CSA (its staff and computer system) will simply be re-branded as C-MEC from 2008 onwards.”<sup>279</sup>

245. NACSA asked whether:

“transition from CSA to C-MEC would surely also move all the complexities onto the new system?”<sup>280</sup>

246. Professor Stephen McKay said:

“The proposals will take until 2013 to be fully implemented, it seems. If so, it seems likely that for a while there will be ‘old rules’, ‘new rules’ and ‘newer rules’ cases all running alongside each other. This is likely to put pressure on who is allowed to ‘convert’ (and who is not) between systems.”<sup>281</sup>

### Routes into and out of C-MEC

247. The following diagram represents the routes into and out of the new C-MEC child maintenance system for both the transition phase and for new cases when fully operational. On the left hand side it shows the entry routes for current CSA clients during the transition phase. Current CSA clients who are parents with care will receive advice and guidance laying out potential options (see para 97). On the right hand side are the new cases entering C-MEC, they can stay outside of the system completely and seek no support and guidance and make their own private agreements, or they can use the C-MEC services.

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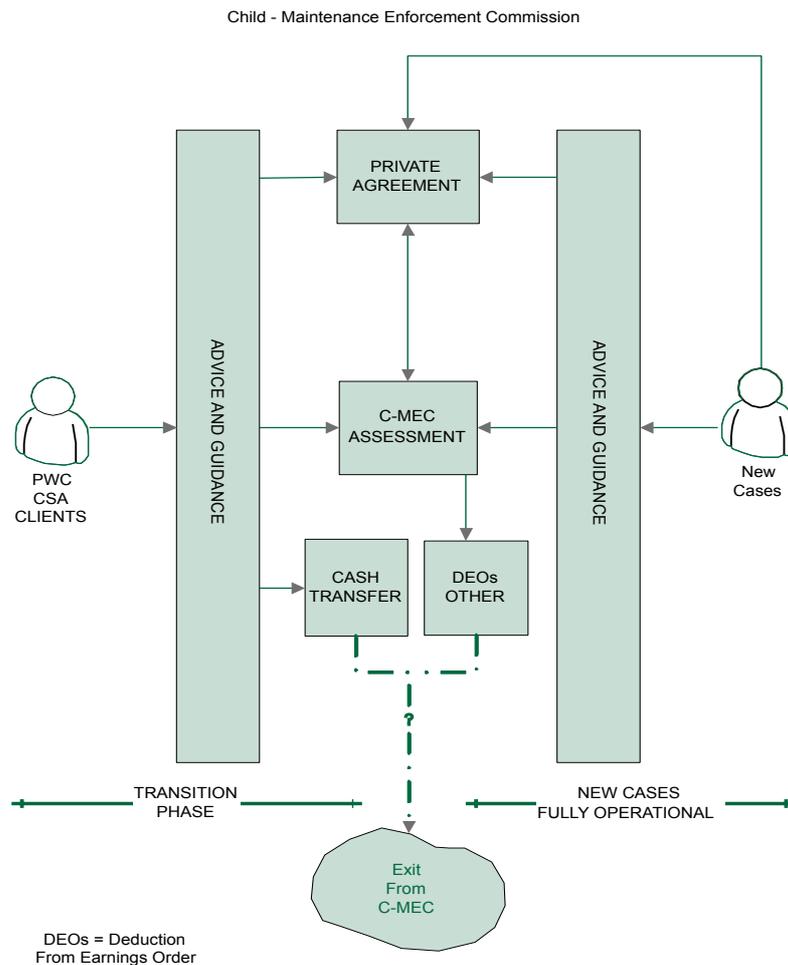
<sup>278</sup> Q 214

<sup>279</sup> Ev 76

<sup>280</sup> Ev 85

<sup>281</sup> Ev 105

Figure 10



248. An element of the proposals in the White Paper that lacks clarity is the expected life of a C-MEC order and the conditions under which it would be closed or moved to a private arrangement (or maintenance direct). When questioned about whether C-MEC would follow the Australian route of moving parents who had been compliant for 6 months out of the state system and on to private arrangements, the Secretary of State answered:

“It is not something we proposed in the White Paper. Should we be prepared to look at that? Possibly. We have got to be clear, however, on the extent to which that policy would be compatible with choice. It does not sound to me at first hearing that it is. To compel people to follow a particular route, that is essentially what we are reluctant to do.”

249. Stephen Geraghty commented:

“We do currently encourage people where the payments are very steady to consider agreement but we do not force them or pressure them. [...] It is something that C-MEC may consider, encouraging people, ‘If the payment package is regularly established do you really need our services?’”

250. **The Committee is concerned that parents who will now have a choice to opt in to C-MEC will not have the full information which they need to make an informed decision as it is not clear how they would move out of the system once they are in it.**

The Committee therefore recommends that the Government states what the expected life of a C-MEC order would be and under what conditions the case would be closed or moved onto a private maintenance direct agreement.

## Principles of transition

251. The White Paper emphasises that the Government does not intend to have a mass migration of cases but it will be guided by two principles of transition, to:

- “ensure that the transition to the new regime is driven by child poverty considerations – focusing on support for the poorest families first; and
- ensure that the approach is practical and achievable – learning from past experience by reducing the complexity that stalled the implementation of previous reforms.”<sup>282</sup>

252. However, these principles have been questioned in evidence to us. Resolution commented that the:

“Definition of “poorest families” is likely to be problematic and create additional unnecessary work for the new agency in prioritising which cases should be transferred first. The simpler and arguably fairer way forward, would be to deal with the transition of cases on a date order basis.”<sup>283</sup>

253. Stephen Geraghty explained that “I imagine that C-MEC will prioritise those people which will be the old scheme nil assessed cases.”<sup>284</sup>

254. One Parent Families said:

“we agree that old cases with a ‘nil’ assessment are a very good place to start, and likely to lead to significant immediate gains for parents with care. It should be noted, however, that, with 55% of old scheme cases having a nil liability (414,298 cases in December 2006)<sup>285</sup>, this initial identified priority represents a huge amount of work, and will in itself require further segmentation.”<sup>286</sup>

**255. We note that Sir David Henshaw recommended that there should be a ‘clean break’, with a new body to deliver the new system, and a residuary body responsible for pursuing old debt. We are concerned that the Government’s proposals will in time mean that C-MEC is running three different systems. This does not represent the clean break envisaged by Sir David Henshaw. We fear that, given the experience of the CSA, this will jeopardise the success of C-MEC. This means that the transition should be planned with administrative efficiency at its heart. We appreciate that the Government wants to focus on support for the poorest families first. We are, however, concerned at**

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<sup>282</sup> White Paper para 3.21

<sup>283</sup> Ev 61

<sup>284</sup> Q 217

<sup>285</sup> CSA Quarterly Statistics December 2006

<sup>286</sup> Ev 77

**the CSA Chief Executive's comments that C-MEC may prioritise the old scheme nil assessment cases. This approach may be misplaced effort and result in little additional child maintenance for parents with care. We would welcome clarification on this aspect of the Government's proposals.**

## **Timescale**

256. The timescale outlined in the White Paper is:

### **“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 the Child Maintenance and Enforcement Commission's prospective Board members can input into the preparatory work necessary to launch the new organisation.

Investment in the Operational Improvement Plan will continue, improving performance for parents using the existing arrangements.

Piloting will take place to inform C-MEC's decisions on how to structure information and guidance services.

### **2008-09**

The Child Maintenance and Enforcement Commission will be in place with statutory authority. Its priorities will be to:

- take responsibility for existing CSA operations and start the procurement of new services;
- use the new powers for enforcement and collection 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; and
- 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.

### **2009-2010**

Parents will be supported to make choices - existing clients will have the options available outlined to them, either to make 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.

## 2010-2011

New applications will be accepted under the new assessment regime.

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.

## 2012-13

All clients will be on a single set of rules managed by a single organisation.”<sup>287</sup>

257. Citizens Advice stated that:

“The pace of reform is disappointingly slow. Although the CSA will begin to be wound up as soon as legislation can be passed, it is unlikely that the new Commission will be fully up and running until about 2013.”<sup>288</sup>

258. The Secretary of State has been questioned both in the House of Commons Chamber<sup>289</sup> and by the Committee over the time it will take to implement the proposals. He told the Committee that:

“If you rush these reforms you get them wrong. Do you really want me to overrule the advice I have had from people in the Department, people like Stephen, people I have a very great deal of respect and trust in, and say, “No, I think I can do it faster”. I would not if I were you put any trust in someone who turned up and said they could do it quicker. We have got to do this as quickly as we can. We have to avoid the mistakes we have made in the past, and there have been many.”<sup>290</sup>

## Role of IT

259. An important area of transition is the potential role for IT. John Wheatley from Citizens Advice told the Committee:

“Although the Government has rejected the idea of a complete new IT system, it does talk about developing supporting IT, and that needs to be robust. All of these things have led us to be a little sceptical because we have been here before about radical reforms to child support delivering the step change that is necessary. We wait to be convinced.”<sup>291</sup>

260. The Secretary of State tried to reassure the Committee that:

“We have learned a lot from previous exercises and I think in EDS we have a partner which has worked very hard with us to try to fix this system. There is a very

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<sup>287</sup> White Paper, p54-56

<sup>288</sup> Ev 113

<sup>289</sup> HC Deb, 13 December 2006 cols 873-887

<sup>290</sup> Q 208

<sup>291</sup> Q 85

considerable amount of painfully learnt experience that now must be applied and will be applied to the resolution of these outstanding problems both between now and when the new scheme starts and when C-MEC starts itself.”<sup>292</sup>

**261. We have seen no evidence that, with CSA’s record of serial IT failures, this third attempt to create a new system of child maintenance arrangements with the necessary IT support will be any more successful than the first two. The Committee recognises that the proposed reforms simplifying the child maintenance calculation does not necessarily mean a simplified IT programme as has been demonstrated by the current CSA computer system problems. The National Audit Office report on IT projects, *Delivering successful IT-enabled business change*, highlights the complexities of the technical issues around joining new and old systems and we hope that the Department has learnt from its past mistakes with the first two CSA IT systems. Our predecessor Committee wrote in depth about these problems and recommended that the DWP should be significantly more open about its IT projects. In this light we recommend that the Government publish detailed explanation of its plans for C-MEC’s IT system in an attempt to win public confidence before the work begins.**

### Current public information on transition

262. We heard evidence that there is a concern as to how people will be informed of the transition process based on the public’s reaction so far to media stories. Citizens Advice told us that it had already faced people confused by the announcement of changes:

“Much of publicity surrounding the publication of Sir David Henshaw’s report, and the Government’s initial response, in July 2006 suggested that the CSA was being scrapped. This caused some people seeking advice from our bureaux to wonder whether their liability for child support had come to an end, and prompted others to seek advice about how an outstanding application for maintenance would be affected.”

They argued that:

“Clearer information to all individual users of the CSA should have been provided so that no-one was left in any doubt about how the announcements affected their current position, and how changes in the future might alter it. Large numbers of the enquiries received by Citizens Advice Bureaux are from parents who are paying or receiving money under the child support scheme dating from before 2003, and these people, as well as everyone else, might reasonably expect to be told what the proposed reforms meant to them.”<sup>293</sup>

And also recommended:

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<sup>292</sup> Q 221

<sup>293</sup> Ev 114

“ the CSA should now take greater responsibility for informing people currently in the child support system about their current position and about the effect any changes may have on them.”<sup>294</sup>

263. Parentline Plus stated that it was conscious of the huge impact the announcement that changes to the child support system could cause: “We anticipate a massive increase in parental anxiety as the changes are introduced.”<sup>295</sup>

**264. We are disappointed that having emphasised the importance of advice services in the White Paper there is evidence that the Government has already failed in explaining to current CSA clients what the potential meaning of the White Paper is to them. This is a vulnerable client group whose needs must be anticipated and met and we ask the Government to address this urgently.**

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<sup>294</sup> Ev 113

<sup>295</sup> Ev 110

## 7 Debt

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265. Since its creation in 1993 the CSA has collected over £5 billion in maintenance; however, around £3.5 billion of debt has accumulated.<sup>296</sup> The White Paper states that existing debt accrued from the punitive Interim Maintenance Assessments (IMAs) will be revalued from £1.3 billion to £0.5 billion,<sup>297</sup> while a further £50 million will be written off in other specific forms of debt.<sup>298</sup>

### Interim Maintenance Assessments

266. IMAs have accrued in old scheme cases under the rules which apply to cases taken on between 1993 and 2003. They were imposed if the full details of a non-resident parent's income were not available, and were set at a punitive level in order to act as a penalty for any non-resident parent who failed to provide the necessary information about their circumstances in order to carry out a Full Maintenance Assessment. They were intended to encourage a non-resident parent to comply and co-operate with the CSA and pay child maintenance. However, in practice, the penalty did not have the required effect and many non-resident parents continued to evade their child maintenance responsibilities.<sup>299</sup>

267. Much of the evidence which the Committee received accepted that debt resulting from the system of IMAs may need to be reassessed to provide more realistic estimates of the actual debt owed. Stephen Geraghty stated that where the appropriate information is subsequently received to make a proper assessment, "it comes out on average about a third of what we have estimated."<sup>300</sup> However, Citizens Advice expressed concern about how the reassessment of IMA debt downwards will be communicated to parents with care.<sup>301</sup>

268. When asked about this, Stephen Geraghty said this was "something which I have not got a definite answer to. It is one of the things that we are considering."<sup>302</sup> The Secretary of State commented that "I think we should involve parents with care to the greatest extent that we can and come to an understanding of the process that we are following and also, this may be necessary, to get their agreement to proceed along these [IMA reassessment] lines."<sup>303</sup>

269. We raised the rate of growth of outstanding debt with the Chief Executive of the CSA and the Secretary of State.<sup>304</sup> In response, Stephen Geraghty stated:

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<sup>296</sup> White Paper, para 5.32

<sup>297</sup> White Paper, para 5.42

<sup>298</sup> Specifically, unpaid fees and interest arising from regulations abolished in 1995; cases where the PWC is deceased, or NRP is deceased and the debt cannot be recovered from the estate; and where the parents are reconciled or the PWC has asked for the cessation of recovery activity. See: White Paper, paras 5.39-42

<sup>299</sup> White Paper, paras 5.41-42

<sup>300</sup> Q 233

<sup>301</sup> Q 116

<sup>302</sup> Q 234

<sup>303</sup> Q 235

<sup>304</sup> Q 236

“The rate of increase has dropped from about £23 million a month to just over £20 million a month now, so we are making some inroads into the rate of increase but I agree not into the book. We have got the debt book broken down. There are 880,000 people that owe an amount of money. For half of them it is less than £1,000, and for 1% of them it is over £50,000, which are a lot of the IMAs that we have just talked about. We are setting up debt enforcement teams and as part of the operation we are quadrupling the number of people we have in enforcement, each of whom has a target list of cases to work. In other cases, once the debt is confirmed we send them out to these private debt collectors that we were talking about - we have an 18-month contract with two private debt collectors - and 17,000 cases with £81 million has gone out to them so far, so we are bringing those cases back to life.”<sup>305</sup>

**270. Given that the level of arrears is still rising, we ask the Government to explain in greater detail the changes in resourcing levels and processes which it plans to introduce to turn the situation around.**

### Factoring debt

271. The CSA first began piloting the use of private debt agencies in August 2005. Contracts with two private debt collection agencies began in July 2006. These involve payment by the Agency of a fee for successful collection of debt, rather than paying for each referral. A recent Parliamentary Question showed that a total of £72,000 has been paid to these debt collection agencies for their services up to November 2006.<sup>306</sup>

272. NACSA noted that while genuine debts should be recovered where possible, proposals “... to factor (sell) debts ... would only lead to bigger debts as a result of interest being added by the new owner (who will be looking to make a return).”<sup>307</sup> Resolution also highlighted the problem of factoring debt that may have been calculated incorrectly.<sup>308</sup>

273. Evidence was not entirely negative regarding the factoring of debt however, Professor Stephen McKay believed that in some cases it could be appropriate:

“There are some people out there who are trying to wilfully dodge paying any money, and you do need the tools to deal with that group. That does not mean you should go after people in an unfair or disproportionate manner, but you do need these kinds of sanctions there just to show the organisation’s teeth.

**Chairman:** If they have owed money for the last ten years, they have lost all rights to any sympathy, have they not, brutally?

**Professor McKay:** Yes, basically, they must have ignored a whole sequence of correspondence, court summonses and all other kinds of things. There does come a

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<sup>305</sup> Q 236

<sup>306</sup> HC Deb, 25 January 2007, cols 1968-69W

<sup>307</sup> Ev 86

<sup>308</sup> Ev 62

point where you have to draw the line and say the sympathy is at an end. There are rights of appeal and so on.”<sup>309</sup>

274. One Parent Families also believed that there may be cases where factoring debt is appropriate:

“We agree that there is scope to ‘clear off’ debt by seeking negotiated settlements or factoring debts, but are pleased that this will only be done if the parent with care agrees. We recommend that the application of these new methods of dealing with debt should be carefully monitored.”<sup>310</sup>

## The 6 year rule, maladministration and compensation

275. There is no reference in the White Paper to the substantial part of the debt which is legally unrecoverable – i.e. debt more than 6 years old. The CSA originally had no powers to obtain a Liability Order in respect of debts that were more than six years old.<sup>311</sup> New regulations introduced last year removed this limitation period but only in relation to amounts that became due after 12 July 2000 (i.e. amounts that were not already time-barred at the commencement of the new Regulations).<sup>312</sup>

276. Therefore, while there is now no six year time bar, some arrears have already become time barred by the elapse of time (for example, if liability started in April 1993 and the CSA did not obtain a liability order until April 2000, then the arrears up until April 1994 would be statute-barred). According to a 2006 National Audit Office report, this amounts to about £760 million, and the only way this debt can be collected in the future is if the “non-resident parent [becomes and] remains compliant and agrees to pay the debt back.”<sup>313</sup> Directly, referring to this £760 million, Stephen Lawson in written evidence said “[in] many cases it seems there has been Agency maladministration, which has caused financial loss. The CSA should be taking proactive steps to make compensation payments to parents with care who have lost money as a result of CSA maladministration.”<sup>314</sup> James Pirrie from Family Law in Partnership warned:

“Lawyers groups now expect to pursue full and fair compensation where maladministration can be shown. This will radically increase the fairly minimal levels of compensation now being paid and will consume significant amounts of Agency resource in dealing with these historic cases.”<sup>315</sup>

277. Janet Allbeson from One Parent Families said in oral evidence:

“In a lot of cases some of this money is uncollectible, due to the agency’s own incompetence, and its own maladministration. There are debts that are more than

<sup>309</sup> Qq 80-81

<sup>310</sup> Ev 82

<sup>311</sup> see Regulation 28 of the Child Support (Collection and Enforcement) Regulations 1992.

<sup>312</sup> Statutory Instrument 2006 No. 1520 The Child Support (Miscellaneous Amendments) Regulations 2006

<sup>313</sup> NAO, Child Support Agency – Implementation of the Child Support Reforms, June 2006, p 64

<sup>314</sup> Ev 67

<sup>315</sup> Ev 87

six years old worth £760 million sitting there that they cannot enforce. We also know that one of the reasons they were not able to bring cases on to the new system was because the data on which those cases are based is dodgy. In a sense, it makes it very hard to enforce because they cannot justify the debt. That is their own problem, and what we say is if you are going to clear this amount of historic debt you could do it by setting up some sort of compensation system where they have been at fault, and maybe that is the way out. We do not think they can just ignore it and hope it goes away; they have got to face up to the fact that quite a lot of that debt is caused by problems that they have had. That money is legally owed to lone parents [...] there has also got to be some kind of compensation for the sad history of the agency and those parents who have lost out as a result - and children, of course; a whole generation of children has grown up without the maintenance that they were owed.”<sup>316</sup>

278. Resolution pointed out that there are already procedures in place to compensate where maladministration by the DWP or its agencies can be proven:

“the [DWP] has its own guide called Financial Redress from Maladministration. It is not mentioned in the White Paper and very few people – certainly very few members of the public - are aware of it. What this guide states, in paragraph 15, is that as far as possible a customer should be put back in the same position that they would have been in but for the official error.”<sup>317</sup>

279. The Secretary of State gave the following statistics on maladministration payments by the DWP:

“The largest amount paid to date to a single individual (whether in one payment of several) is £91,000. This was paid in four separate payments over a two and a half year period.”<sup>318</sup>

280. Furthermore, the following payments of financial redress were made in 2005-06 in each of the following bands:

**Figure 11:**

£250 or less	7922
£251 – £500	550
£501 - £1,000	625
£1,001 - £5,000	968
£5,001 - £10,000	64
Over £10,000	7
Total	10,136

*Source: DWP written submission Ev 121. Note: The 11,515 payments published in Hansard on 18<sup>th</sup> December is the number of financial redress payments actually paid in the financial year 2005/06 and reported in the Annual Report and Accounts. The analysis is about a breakdown of the number of cases that have been authorised to receive financial redress in 2005/06. The Agency only has detailed information on payments authorised and not those actually paid in a given time period.*

<sup>316</sup> Q 145

<sup>317</sup> Q 119

<sup>318</sup> Ev 121

281. The Committee recommends that the DWP should develop an action plan to ensure that the availability of compensation for maladministration (as described in the Department's publication, *Financial Redress for Maladministration*) is effectively drawn to the attention of potential applicants. The Committee further recommends that the Secretary of State be required to report to the Committee annually setting out the full details of the sums paid in respect of alleged maladministration by C-MEC, both under the scheme for Financial Redress for Maladministration and through legal proceedings.

### Informal payments and debt

282. As outlined above, some of the CSA's £3.5 billion of accumulated debt has been caused by the CSA's slowness in making maintenance assessments; during these delays huge arrears built up for non-resident parents which they were not capable of paying, although, during this time, many informal payments may have been made (for more information on informal payments see paras 163-167 of this report). As Michelle Counley from the National Association for Child Support Action pointed out:

“A number of cases come through where payments are not registered, and that can lead into all sorts of difficulties because the non-resident parent is not aware of the need to record those payments and then, 10 years later, the CSA become involved and say: ‘By the way, you owe £70,000.’”<sup>319</sup>

### Debt owed to the State

283. In its response to Sir David Henshaw's report, the Government stated that of the £3.5 billion of debt currently outstanding, “around half is owed to parents with care and around half to the State” and that “It currently costs around 60 pence in administration costs to get each £1 of maintenance to a child.”<sup>320</sup> The 2006 National Audit Office report on the CSA noted that the total cost of enforcement activity during 2004/05, including work on penalties, fraud investigations and information gathering, was an estimated £12 million; they collected £8 million.<sup>321</sup>

284. In response to these figures, Stephen Geraghty stated that these figures were not comparing like-with-like:

“... while they are accurate that is not quite the right description. The £12 million is the cost of running our Enforcements Directorate in that period, which is the one that takes people to court and, as said earlier on, were we to have administrative sanctions rather than legal ones, we would be much more cost effective. So it is comparing the total cost of running the Enforcement Directorate with the money that is paid by people into that Directorate, so it is the consideration for us not taking action, it is not a fair comparison.”<sup>322</sup>

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<sup>319</sup> Q 133

<sup>320</sup> Government's Response to the Henshaw Report, para 10

<sup>321</sup> NAO, *Child Support Agency – Implementation of the Child Support Reforms*, June 2006, p 65

<sup>322</sup> Q 228

285. Regardless of whether these figures are a fair comparison, collecting outstanding debt is clearly costly and it could therefore be argued that it is not in the state's best interest to chase debt owed to it. However, the adoption of such a policy would undoubtedly give those non-resident parents who have complied with their child support obligations to date a very real and legitimate sense of grievance. **On balance, the Committee recommends that the Department should make every effort to collect debt owed to parents with care that can be proved to be accurate. However, the Department should look in more detail into the efficiency of collecting debt owed to the state, particularly where the calculated amounts are questionable.**

## Conclusions and recommendations

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1. In light of the recommendations of our previous report, we are pleased to note that the Government's proposals to reform the CSA include its eventual wind-up (Paragraph 9)
2. The Government needs to recognise, in planning the provision of advice services and ensuring that these meet the needs of both parents, that parents making private arrangements may well not enjoy equal bargaining power, with the potential for such power imbalances to be reflected in the terms of financial arrangements. We also ask the Department to explain how the problems associated with the child maintenance system before the Child Support Act 1991 will not simply recur with the increased emphasis on private arrangements. (Paragraph 23)
3. The Committee agrees that Jobcentre Plus has an important role in signposting lone parents to child maintenance advice services. However, by definition Jobcentre Plus will predominantly be dealing with lone parents claiming benefits. There will be other separating parents on low incomes with a need to have a child maintenance arrangement in place who will not necessarily have contact with Jobcentre Plus. The Government needs to find ways of reaching these other groups, such as low income separating parents in paid employment, to ensure that they are not at risk of being left without adequate child maintenance arrangements (Paragraph 31)
4. The Committee accepts that C-MEC should not be involved in questions of contact and support for parenting by separated couples, but believes that these issues are an inevitable and unavoidable part of many CSA clients' lives. Ensuring that there is sufficient high-quality, holistic, trusted and independent advice for both men and women in all areas of the country is therefore an essential precondition of success for the Government's proposals. It will be crucial for parents who have separated, for example, to receive timely advice on what is a reasonable settlement and how payments should be set up. (Paragraph 57)
5. The Committee recommends that whether the advice is provided by a single source or separate organisations signposted from a central body, the availability should be well known, and that the advice itself should be delivered sympathetically. We are not convinced that C-MEC will be the right organisation to deliver this advice (Paragraph 57)
6. The Committee recommends that the Government ensures advice for separating parents is adequately funded to provide both a telephone service and face-to-face meetings. We recommend that the Government sets out its detailed plans in this area at the very latest before the Second Reading debate on the proposed Bill bringing in the child maintenance reforms (Paragraph 61)
7. In our opinion, it seems that if the Government is intent on moving clients towards private agreements and away from using C-MEC then its decision not to explore the use of the courts is inconsistent. The Committee recommends that the Government

reconsider the decision not to allow courts to make a maintenance order unless both parties consent (Paragraph 67)

8. The Committee is concerned that the 12 month rule may not be working as intended and recommends that if the Government keeps the rule then it needs to find a way of addressing the weaknesses identified by Sir David Henshaw and highlighted in the evidence we received, in particular the confusion over the powers of the CSA to make maintenance assessments even after a “clean break” settlement and the potential manipulation of the 12 month rule by some self-employed non-resident parents to lower their child maintenance payments (Paragraph 76)
9. The Committee believes that without any powers to set standards, monitor or enforce it is unclear what would motivate people to register private agreements and particularly how the Government would encourage separating parents, and especially those on low incomes, to do so. Parents must have confidence that C-MEC will enforce any child maintenance agreement which has been registered with it, if asked by either parent. Past experience indicates that the only way these arrangements can work is if both the parent with care and the non-resident parent believe that C-MEC will take on their case and process it speedily and efficiently if the arrangement breaks down. (Paragraph 86)
10. The Committee is concerned that, whatever the merits of joint birth registration, this highly sensitive matter is being tagged onto child maintenance legislation when it potentially has wider ramifications through the family law system. (Paragraph 95)
11. The Committee is not convinced by the Government's argument that it is inappropriate for C-MEC to collect maintenance calculated through voluntary arrangements. The Committee believes that Government should be doing all it can to facilitate private arrangements. In appropriate cases this will mean enabling parents to come to private agreements but providing an official collection service which provides both payer and payee with an authoritative account of payments of child maintenance made and received. (Paragraph 102)
12. The Committee recognise that Deduction from Earnings Orders are a useful tool to receive payments from non compliant non-resident parents. We note that the DWP intends to test them as a first means of collecting maintenance, even if the non-resident parent would be willing to pay by another method. Although this proposal could have merits, it would be a significant step and we ask the Department to set out when and where it will “test” this and what steps it will take to avoid antagonising non-resident parents with good payment records who are asked to participate. We ask that the lessons learned from this exercise be reported to the Committee (Paragraph 107)
13. We request further statistical information on the likely actual impact of the move from net to gross income on different categories of parents (Paragraph 114)
14. The Committee recommends that legislation should continue to provide for the Secretary of State to have the power to make regulations, subject to parliamentary approval, to adjust the standard percentage rates in the new formula; and in addition that the rates should be reviewed every five years. The Committee recognises that

taking account of the income of the parent with care would introduce unwanted complexity into a child support system that is trying to be simpler (Paragraph 117)

15. We agree with the Government's intention to reverse the decision in the Smith case and define gross income as being total income after the deduction of capital allowances. However, we note this will leave the issue open of how the parent with care can obtain sufficient information to challenge low assessments, and ask the Government to set out how it will address this problem (Paragraph 124)
16. We recommend that more research should be carried out into the appropriate level of income variation to balance operational efficiency and responsiveness to individual hardship. There should be a legal duty placed upon those non-resident parents who are involved in C-MEC cases to report to C-MEC any change in income greater than or equal to the set proportion. The Department should closely monitor how effective C-MEC is in dealing with these cases promptly. (Paragraph 134)
17. The success of the new assessment system will depend, in considerable part, on the operational system for the transfer of information between HMRC and C-MEC. We ask the Government to make it clear how the process of data sharing will work in practice and to report the evidence from any pilots that have taken place in testing the systems to exchange information (Paragraph 139)
18. The Committee recommends that there should be a clear, robust process of dealing with well-founded applications for variations and appeals against maintenance calculations where the parent with care believes that the non-resident parent's maintenance assessment is based on incorrect or misleading income data (Paragraph 145)
19. The Committee recommends that the statutory child support system moves away from the current system of overnight liabilities which causes day counting and diary keeping by parents and constant readjustments. In the Committee's view the ideal solution is that there should be an initial agreement between the parents and C-MEC on the approximate amount of time the children spend between the two households. This should govern the assessment for the remainder of the year and not be adjusted unless there are major contact changes. For arrangements with close to 50:50 shared care the Government should consider the case put by Sir David Henshaw for having no child support liability at all between parents (Paragraph 162)
20. the Committee recommends that informal payments should not be included in any C-MEC maintenance calculations. However, if, as the Government has stated, they are to be taken into account then there should be clear advice on procedural matters and an unambiguous list, prescribed in legislation, defining what counts as an informal payment (Paragraph 167)
21. The Committee recommends that the Department does not introduce a charging scheme for applications to C-MEC. (Paragraph 174)
22. the Committee is very concerned about the moral hazard which may be created if section 6 is abolished, by allowing non-resident parents to avoid their parenting responsibilities and by leaving parents with care on benefits. We would urge the

Government to research whether similar simplification and operational savings could be achieved, and the moral hazard avoided, through a minimum lower limit where maintenance amounts below a very low level are not pursued because the benefits are too small and the costs too great. We also recommend piloting the removal of the requirement for parents with care on benefit to use C-MEC in order to analyse the effect it will have on them and on C-MEC's caseload and resources. If the Government does remove compulsion nationally in 2008, appropriate safeguards must be installed to protect vulnerable parents with care on benefit. The Government should also be prepared for the effect such a move will have in the short term on increasing the burden on C-MEC's resources as parents with care look for advice on their child support options (Paragraph 179)

23. The Committee welcomes the Government's commitment to increase "significantly" the maintenance disregard for parents with care on benefit. On the basis of the evidence we have seen, we believe that a full disregard would be a desirable, but bold, step, especially in relation to the achievement of the Government's child poverty targets. However, given the potential cost to the taxpayer, any action should be preceded by a thorough assessment of the potential positive and negative impact on work incentives of different levels and types of benefit disregard, including percentage withdrawals instead of fixed £ amounts and the effects of annual uprating in line with prices or earnings. It should also include a proper cost-benefit analysis, and we call on the Government to publish and act on its results promptly (Paragraph 197)
24. The Committee recommends that the Government should reassess the increase in the size of the flat rate payment for non-resident parents on benefit and it should instead be index-linked to inflation. The Committee also recommend further research is carried out into the effect this payment has on poverty among non-resident parents and their families and indeed on the work load of CSA and C-MEC; if there is found to be a significant negative impact, the Government should consider abolishing this payment and introducing nil assessments for non-resident parents on prescribed benefits (Paragraph 205)
25. The Committee recommends that if C-MEC is granted powers to make administrative orders then these should be accompanied by safeguards to ensure against inaccuracy and to provide a swift, effective and independent process for a right of appeal. The Government should therefore set out what appeal methods it intends to introduce for C-MEC customers (Paragraph 225)
26. The Committee notes that section 2 of the Child Support Act 1991 already provides that the Secretary of State must have regard to the welfare of any child likely to be affected by any decision involving the exercise of a discretionary power (e.g. such as whether to, and how to, effect enforcement against a non-compliant, non-resident parent). The Committee recommends that the Government reaffirm that this requirement will still apply in the new scheme of enforcement powers. Furthermore, the Committee has serious reservations as to how far the proposal to publish on the web the names of non-resident parents who have been successfully prosecuted, or non-resident parents who have substantial arrears, is consistent with this principle,

given the potentially seriously detrimental effect on individual children's welfare (Paragraph 229)

27. If C-MEC is to concentrate on compliance and enforcement with severe sanctions for non-resident parents who fail to pay their child support, then the Committee recommends that another organisation provide the advice services on levels of maintenance and shared care at the point when parents separate. Such advice should be part of a more holistic approach to relationship breakdown when children are involved (Paragraph 234)
28. The Committee doubts that many parents with care would wish to use the court system to enforce child support liabilities. However, where there are substantial arrears, and the CSA has failed to take effective action to enforce those debts, then the Committee believes that it would be consistent with the overall policy thrust of the Government's reforms to allow parents with care the option to enforce such debts through the courts in their children's name (Paragraph 240)
29. The Committee is concerned that parents who will now have a choice to opt in to C-MEC will not have the full information which they need to make an informed decision as it is not clear how they would move out of the system once they are in it. The Committee therefore recommends that the Government states what the expected life of a C-MEC order would be and under what conditions the case would be closed or moved onto a private maintenance direct agreement. (Paragraph 250)
30. We note that Sir David Henshaw recommended that there should be a 'clean break', with a new body to deliver the new system, and a residuary body responsible for pursuing old debt. We are concerned that the Government's proposals will in time mean that C-MEC is running three different systems. This does not represent the clean break envisaged by Sir David Henshaw. We fear that, given the experience of the CSA, this will jeopardise the success of C-MEC. This means that the transition should be planned with administrative efficiency at its heart. We appreciate that the Government wants to focus on support for the poorest families first. We are, however, concerned at the CSA Chief Executive's comments that C-MEC may prioritise the old scheme nil assessment cases. This approach may be misplaced effort and result in little additional child maintenance for parents with care. We would welcome clarification on this aspect of the Government's proposals. (Paragraph 255)
31. We have seen no evidence that, with CSA's record of serial IT failures, this third attempt to create a new system of child maintenance arrangements with the necessary IT support will be any more successful than the first two. The Committee recognises that the proposed reforms simplifying the child maintenance calculation does not necessarily mean a simplified IT programme as has been demonstrated by the current CSA computer system problems. The National Audit Office report on IT projects, *Delivering successful IT-enabled business change*, highlights the complexities of the technical issues around joining new and old systems and we hope that the Department has learnt from its past mistakes from its first two CSA IT systems. Our predecessor Committee wrote in depth about these problems and recommended that the DWP should be significantly more open about its IT projects.

In this light we recommend that the Government publish detailed explanation of its plans for C-MEC's IT system in an attempt to win public confidence before the work begins (Paragraph 261)

32. We are disappointed that having emphasised the importance of advice services in the White Paper there is evidence that the Government has already failed in explaining to current CSA clients what the potential meaning of the White Paper is to them. This is a vulnerable client group whose needs must be anticipated and met and we ask the Government to address this urgently (Paragraph 264)
33. Given that the level of arrears is still rising, we ask the Government to explain in greater detail the changes in resourcing levels and processes which it plans to introduce to turn the situation around (Paragraph 270)
34. The Committee recommends that the DWP should develop an action plan to ensure that the availability of compensation for maladministration (as described in the Department's publication, Financial Redress for Maladministration) is effectively drawn to the attention of potential applicants. The Committee further recommends that the Secretary of State be required to report to the Committee annually setting out the full details of the sums paid in respect of alleged maladministration by C-MEC, both under the scheme for Financial Redress for Maladministration and through legal proceedings (Paragraph 281)
35. On balance, the Committee recommends that the Department should make every effort to collect debt owed to parents with care that can be proved to be accurate. However, the Department should look in more detail into the efficiency of collecting debt owed to the state, particularly where the calculated amounts are questionable (Paragraph 285)

## Annex 1

	<b>"Old Scheme" 5 April 1993 – 2 March 2003</b>	<b>"New Scheme" 3 March 2003 - current</b>	<b>White Paper proposals</b>
Incomes used in formula	NRP and PWC	NRP only	NRP only
Income figure used	Assessable income (net income less exempt income)	Net Income	Gross Income
Percentage rate of income for each child	Maintenance assessment included element based on income support rate for each child, but no direct correlation between number of children and amount of assessment	15/20/25	10/15/20 to reflect change in basis of assessment from net to gross income
Percentage rate deducted for each child in NRP's new family	Formula made limited allowance for NRP's new children – e.g. at exempt income stage for new natural children and only at protected income stage for new step-children	15/20/25 (applied before 15/20/25 for "qualifying children" who are subject of the assessment)	10/15/20 (as above)
Threshold for shared care to affect assessment	104 nights a year minimum	52 nights a year minimum	White Paper is silent, though deals with (much less common) cases of split care <sup>323</sup>
Notice of change of income to affect assessment	Any time for change if £10 p w or more	Anytime for changes of more than 5%	1 year fixed awards more than 25%
Flat rate for NRP on benefits or on low income	£5.80 p w (uprated annually)	£5.00 p w (not changed since 2003)	£7.00 p w
Up to what age maintenance is paid for qualifying child?	16/17/18 year old – traditional child benefit definition used	16/17/18 year old – traditional child benefit definition used	18/19 year old – new child benefit definition (CBA 2005) to be used
Number of pieces of information needed to make a calculation	Over 100 items	Much less than old system but still need information to calculate net income	3 items - gross income - number of qualifying children - number of children living with NRP

<sup>323</sup> "Split care" is where one child lives with one parent and another child with the other parent. "Shared care" is where they both live with PWC but have regular contact with NRP (i.e. more than 104 or 52 nights a year, depending on whether covered by old or new scheme).

Maintenance disregard for PWC on benefit	No maintenance kept by PWC in receipt of benefit	£10 Child Maintenance Premium	More maintenance to be kept but amount not yet set
Inter-relationship with court consent orders in private cases	Consent order in private case excluded CSA indefinitely (unless PWC later claimed benefit)	Consent order in private case excluded CSA for 12 months only	Consent orders will exclude CSA for 12 months only (private and benefit cases)

## Appendix 1

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“The following questions have been raised in this white paper.

- 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 to support services 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:

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 will be set out in legislation. This will aim to ensure that C-MEC:

- Is focused on helping parents meet their financial responsibility to their children, 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.

This paragraph 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:

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 and provide 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.

Do the principles for moving forward set out in this paragraph, provide the right approach?

- Question 4: Is our approach of combining a simpler assessment formula with an exceptions regime the right one?
- Question 5: Which of the three approaches outlined in the paragraphs below should be employed to determine child maintenance liabilities in a case of this kind?

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.

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 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.

The other way could be to count all children supported by a non-resident-parent, whether under the child maintenance 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 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?
- 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?"

## Appendix 2

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### *Memorandum by BBC Radio 4: You and Yours*

You and Yours is BBC Radio 4's flagship consumer and social affairs programme broadcast between 12 noon and 1pm every week day lunchtime.

The programme has 3.181 million listeners per week. Their average age is 59. 56.1 percent of You and Yours listeners are female. 43.9 percent are male.

The social grading of listeners breaks down as follows:

- A and B: 36 percent
- C1: 36 percent
- C2: 14.4 percent
- D and E: 13.6 percent.

### INTRODUCTION

Between 20th February and 6th March, working in conjunction with the Work & Pensions Select Committee, we gave our listeners the unique opportunity to contribute directly to the committee's inquiry into the Child Support Agency.

Our phone in programme 'Call You & Yours' - which invited listeners to air their views on the Child Support Agency - was broadcast between 12.00 – 13.00 on Tuesday 6th March 2007 on BBC Radio 4. We asked our listeners to give us their views on:

**“ideas and solutions- what would make the failing system work better”**

### RESPONSE

We had a reasonably large response; within two weeks we received 299 emails, calls, texts and letters. For this report we have used a sample of 100 calls, emails and texts. They break down into 7 broad categories:

- 28% (28 listeners) responded with their negative experiences of the Child Support Agency.
- 27% (27 listeners) responded with their suggestions on what would make the agency work better.
- 18% (18 listeners) said the biggest problem was to do with contact issues and the bias towards the parent with care.
- 9% (9 listeners) contacted us with regards to benefits
- 6% (6 listeners) said voluntary agreements were an issue (when they worked and when they didn't)

- 6% (6 listeners) contacted us with regards to problems with tracing and assessing an absent parent
- 6% (6 listeners) made general comments on the Child Support Agency

### **1. Examples of those who responded with regards to mistakes being made by the Child Support Agency**

I am a lone parent and have been fighting the CSA for over five years – my ex husband walked out of me and our two children aged 5 years and 6 weeks at the time. He was self employed and at first was assessed to pay £5 a week because he claimed he earned such a small income that he was unable to pay more. Then he had another child with a new partner and was then assessed to pay zero. I have appealed, complained and a new assessment was made. However he was never chased up or enforced to pay the money and now arrears have built up. The CSA knows where he lives and works but nothing is done. Their excuse is that he is self employed and unless he tells them what he is earning there is no way of them knowing for sure. I feel the Child Support Agency has let me and my children down. I was told by the CSA that it wasn't worth me pursuing the case but I believe the agency should hound absent parents to make them pay. This situation is not fair on me or my children.

My wife's ex-husband remarried and has refused to declare his new wife's income to the CSA. He subsequently gave up work to live on her income (which was likely to be much greater than his). This meant that my wife received just £5 a week to help care for their 13 year old daughter. Whilst her ex-husband and his new wife bought a new house and moved up the property ladder! I had disclosed my income to the CSA as requested. There should be some way of compelling parties to provide all of the information required by the CSA so that fair and complete assessments can be made of parental responsibilities.

### **2. Examples of Solutions**

Absent parents details including national insurance numbers should go to the Dept of Revenue & Customs and the money for their children should be deducted from their wages via a tax code so that everyone including the employer knew exactly what was happening

There has been lots of talk about enforcement but what about offering a 'carrot' to those parents that pay on time a bit like when people pay their utilities bills on time. Maybe that would encourage more people to pay on time?

### **3. Examples of shared access and contact**

Yes it is terrible that there are many divorced fathers that are not morally and financially supporting their children. However, the family law in the UK is so biased towards the mother (when did you last here of a father having residential custody?) and slow to resolve matters that for many divorced dads a financial protest is often the only real option open to them.

Tony Blair and David Cameron can talk about swift action on fathers who do not contribute to their children, but what about the thousands of mothers who withhold access or play visiting 'right games' with their children? Currently it can take 2 years and countless hours of negotiation and penalising legal costs to resolve such matters if one goes through the legal channel; is it any wonder that dads refuse to pay when they are being refused their rights to see their children.

If you want reform of family law it should be from the bottom up, don't just select easy political targets for a quick vote. I think withholding money is a way for dads to protest against the laws which are so biased towards the mother.

The battle would be over in a day if maintenance and access were agreed as part of an overall deal. Most reasonable people would agree that they should be separate issues but when a relationship breaks down people stop being reasonable. There is everything to gain & literally nothing to lose. Maintenance and access both have to be agreed so why not do it together and remove the "I'm not paying because she won't give me access" and "I'm not giving him access because he won't pay maintenance" arguments at a stroke.

This should release the resources to concentrate on those who simply refuse to pay anything and that go to great lengths to hide their income and assets.

#### **4. Examples of benefit issues**

Scrap it completely and go back to taking non paying non resident ex partners to court to arrange private payments without taking step children into consideration. My ex got into a relationship with a woman who already had 2 children (by two different fathers) and they plan to marry so his stepchildren will be considered when assessing his expenditure. Their fathers should be paying for them just as my ex should be paying for our baby. Income support should not be affected by non resident parent's contributions; after all isn't it CHILd maintenance not paying off mum's Income Support!

I pay 180 pounds per month to the CSA for the support of my 4 year old daughter. My ex partner, who is living on benefits, does not receive a penny of this. Am I right in thinking that the amount I pay is deducted from her benefits? If so, it seems grossly unfair that money I pay over to support my child is not being used for that purpose, but instead to save the government paying out to support my ex and her other child by another father who pays no maintenance. Surely there must be a way of ring fencing the money paid out for my child, or at least letting the mother keep the money for the purpose intended. At the moment my daughter is being kept in poverty by the system even though she has a responsible father who thought he was paying for her upkeep.

#### **5. Example of voluntary agreements**

My husbands ex wife complained to him that she was not getting any maintenance money regularly but this was despite the fact that the money was coming straight out of his bank account every month. Because the CSA didn't seem to be able to pay her on time every month they decided to come up with a private agreement and now she gets the money paid

straight into her bank from her ex husbands account every month. Private agreements really are the way forward.

#### **6. Example of problems tracing and assessing an absent ex partner**

My baby was born in December 2005. In February 2006 I applied to CSA for maintenance but heard nothing from them for 6 months. It was only when I called THEM I was told that my application had been archived because they couldn't prove the identity of my ex partner because they couldn't trace his NI number. Why didn't they write to me to let me know - I could have taken the action I have been forced to take now a year ago. The only way I can get evidence for the CSA is to take my ex to court under a Declaration of Parentage order. I will then be issued with a "court decree" in my favour which I can then take to the CSA to process my case. Because I am on Income Support I will only receive £10 p/w if I'm lucky because the remainder will pay back my income support, so it won't be child support it will be government support and my son and I will be no better off!

#### **You and Yours feedback:**

This programme prompted a very good response on 'Call You and Yours'. The majority of emails and phone calls came in during the one hour broadcast (approximately 200 emails and 50 phone calls). The vast majority of listeners who contacted us were keen to share their personal experience of the Child Support Agency and a good number had well thought out suggestions and solutions to make the agency work better. Most were keen to be involved with the radio programme because of the potential to help shape the Select Committee's final report.

*BBC Radio 4: You & Yours March 2007*

*Producer: Rabeka Nurmahomed*

## Appendix 3

	Advice			Printed Materials		Emotional Support					
	Phone	F2F	Email	Leaflets/ booklets	Internet	Phone	F2F	Email	Self-help groups	Internet forums	Work- shops
Association of Shared Parenting					*						
Aquila Trust						*		*			*
British Association for Counselling and Psychotherapy							*				
Citizens Advice Bureau (CAB)	*	*	*	*	*						
Community Legal Service	*			*	*						
Fathers Direct				*	*						
Families Need Fathers	*			*	*	*			*	*	*
General Practice							*				
Gingerbread	*		*	*	*				*		
MIND				*	*	*	*		*		
National Association of Child Contact Centres	*			*	*					*	
National Association for Child Support Action			*		*						
National Debtline	*			*	*						
National Family Meditation		*									
One Parent Families	*		*	*	*						
NCH (Previously known as National Children's Home)	*			*	*						
Parentline	*		*			*		*			*

Relate		*				*	*	*			*
Resolution	*	*		*	*						
Shelter	*	*		*	*						
F2F = Face to face											

## Formal minutes

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**Wednesday 7 March 2007**

Members present:

Mr Terry Rooney, in the Chair

Miss Anne Begg

Harry Cohen

Michael Jabez Foster

Justine Greening

Mrs Joan Humble

Mark Pritchard

John Penrose

Jenny Willott

**1. *Child Support Reform: Report text***

The Committee considered this matter.

**2. *Child Support Reform: Formal consideration***

Draft Report (*Child Support Reform*), proposed by the Chairman, brought up and read.

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 285 read and agreed to.

Annex and Summary agreed to.

*Resolved*, That the Report be the Fourth Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the Chairman do report to the House those Memoranda submitted to the Committee since the initial set of Memoranda was reported to the House on 31 January.

*Ordered* That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 14 March at 9.15am

## Witnesses

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### Wednesday 17 January 2007

*Page*

**Professor Stephen McKay**, University of Birmingham, **Ms Anne Kazimirski**, National Centre for Social Research and **Ms Mavis Maclean**, Oxford Centre for Family Law and Policy

Ev 1

### Wednesday 24 January 2007

**Ms Kim Fellowes**, Resolution, **Dr Paul Dornan**, Child Poverty Action Group and **Mr John Wheatley**, Citizens Advice  
**Mr Duncan Fisher**, Fathers Direct, **Ms Janet Allbeson**, One Parent Families,  
**Michelle Counley**, National Association for Child Support Action

Ev 19

Ev 29

### Monday 5 February 2007

**Rt Hon John Hutton MP**, Secretary of State for Work and Pensions and **Mr Stephen Geraghty**, Chief Executive, Child Support Agency.

Ev 37

## List of written evidence

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Families Need Fathers	Ev 59
Resolution	Ev 60
Stephen Lawson	Ev 64
Relate	Ev 67
One Parent Families	Ev 68
One Parent Families Supplementary	Ev 71
Mavis Maclean CBE	Ev 84
National Association for Child Support Action	Ev 84
James Pirrie	Ev 87
Chris Ambrosino	Ev 93
Fathers Direct	Ev 93
Child Poverty Action Group	Ev 96
Child Support Action	Ev 99
Family Justice Council	Ev 101
Professor Stephen McKay	Ev 103
Parentline Plus	Ev 110
Citizens Advice	Ev 112
Moneywatchers	Ev 115
Citizens Advice Scotland	Ev 118
Department for Work and Pensions	Ev 119
Department for Work and Pensions Supplementary	Ev 121

## Reports from the Work and Pensions Committee Session 2006-07

First Report	Power to incur expenditure under Section 82 of the Welfare Reform and Pensions Act 1999: new Employment and Support Allowance IT System – Further Report	HC 86
Second Report	The Work of the Committee in 2005-06	HC 215
Third Report	The Government's Employment Strategy	HC 63
Fourth Report	Child Support Reform	HC 219

## Reports from the Work and Pensions Committee Session 2005-06

First Joint Report	Home Affairs and Work and Pensions Committee: Draft Corporate Manslaughter Bill	HC 540
First Special Report	Pension Credit and Delivery of Services to Ethnic Minority Clients: Government Response to the Committee's 3rd and 4th Reports of Session 2004-05	HC 297
Second Report	The Efficiency Savings Programme in Jobcentre Plus	HC 834
Third Report	Incapacity Benefits and Pathways to Work	HC 616
Second Special Report	The Efficiency Savings Programme in Jobcentre Plus: Government Response to the Committee's Second Report of Session 2005-06	HC 1187
Fourth Report	Pension Reform	HC 1068
Fifth Report	Power to incur expenditure under Section 82 of the Welfare Reform and Pensions Act 1999: new Employment and Support Allowance IT System	HC 1648