Gingerbread
Single parents, equal families

Child Maintenance Service inquiry

Supplementary note to the Work and Pensions Select Committee

December 2016

Background

1. Gingerbread has already provided formal written evidence to the committee (CHM0090). This note provides further comments on the oral evidence from the Department for Work and Pensions (DWP; Q73-124).

Family-based arrangements (FBAs; Q75-79 and Q106-110)

2. The committee is keen to establish the extent of successful FBAs, given the policy drive to promote these. We have outlined our concerns with DWP oral evidence on this issue.

3. The Minister seemed to suggest it was a good thing that there were arrangements about which the DWP knows nothing, as this reflects a lack of statutory involvement (Q75). We are more **worried about these unknowns** and whether they represent effectiveness for children.

    - The DWP's own evidence suggests that parents who have long separated are reluctant to raise when they feel an FBA is not working properly (eg if they feel more money is owed or to involve the statutory service) in order to avoid conflict[1]
    - There is a risk that a significant proportion of those who have no contact with the statutory system in fact have no arrangement or an inadequate patchy one which fails to provide a fair contribution to a child's day to day costs
    - The Minister mentioned 'Understanding Society' data would provide more information on these 'unknowns'; as our previous evidence flagged, the data covering the introduction of fees and case closure will not be available for some time and has a very wide definition of an 'effective' arrangement which will not provide adequate measure of robust arrangements

4. The Minister mentioned more than once that parents can always come back to CM Options and the statutory scheme if their FBAs do not work (Q76, Q78 and Q110). However, there are **barriers to accessing the statutory system**.

    - As our evidence noted, the DWP does not actively promote the statutory scheme and what it can offer to those without maintenance or unable to make adequate FBAs. This includes parents with care in relationships where there is intimidation and anxiety about the consequences of involving the CMS.
    - The £20 charge is a deliberate barrier intended to deter parents from coming to the CMS. A recent article by an anonymous DWP staff member showed it is only too effective in stopping single parents on low incomes from accessing a service they need if they are to get regular and adequate child maintenance.

[1] DWP (2015) *Long-term separated parents: developing support to encourage child maintenance arrangements*.

- Similarly, as we noted in our evidence (paragraph 23), some parents feel undue pressure to make an FBA despite circumstances which make it inappropriate. There is therefore still an unanswered question as to whether parents are unfairly pushed away from the statutory system to begin with – before they have a chance to return.

5. The DWP cited statistics on those making effective FBAs but, at times, implied this reflected a full picture of families eligible to seek maintenance (eg Q106). We would like to make clear that these figures only relate to parents who call the CM Options service – this is a relatively small number and not necessarily representative of all separated parents. There are also limitations to this data (CM Options staff conduct the interviews and there is a relatively low response rate).[2] The DWP could have also provided context with its recent estimate for all separated families that, in 2013/14, **46 per cent of FBAs were considered effective**.[3] This data again has its caveats (it is based on Understanding Society among other sources), but at least provides an indication of overall effectiveness of FBAs.

6. While the original vision in the 2011 Green Paper on reforms was of a national infrastructure of family support, the Minister admitted that when it came to relationship support services "we do not yet have a fully worked up plan" (Q116). Over two years after fees were implemented, and with around 700,000 existing CSA cases now destined to be shut down, it is becoming increasingly clear that the infrastructure to support more parents to make effective FBAs is not in place. The point is illustrated by the Minister's admission that only £70m is available nationally for all aspects of relationship support until 2020 (and with the final plans not even yet decided).

7. **Remaining questions:**

   - **Given the centrality of successful FBAs to reforms, should the DWP commission its own robust research to look at arrangements outside the statutory system, rather than relying on delayed and incomplete survey data?**

Service provision (Q89, Q100)

8. The Minister noted that paying and receiving parents can now access email and webchat services (Q89). These sound like welcome developments. Having access to out-of-hours methods of communication (eg email) is often welcomed by time-poor single parents; similarly free webchat services can be preferable to telephone calls which provide no written record of conversations. However, to our knowledge, we have not heard from parents who have been able to use these services.

9. The Minister cited figures on compliance (Q100) – it should be noted that this data refers to any amount of maintenance is paid, rather than full (or almost full) payments. Further, it is assumed that payments made through Direct Pay are 100 per cent compliant. The DWP has recently taken on board our concerns regarding this assumption and will review their statistics once forthcoming evaluation data is published; however, it must be emphasised that, with around 70 per cent of cases paid via Direct Pay, this assumption has significant implications for compliance figures.

10. **Remaining questions:**

[2] DWP (2016) *Effective family-based child maintenance arrangements following contact with CM Options: background information and methodology*.
[3] DWP (2016) *Estimates of the separated family population to December 2014*.

- **Can the DWP provide any figures on availability, usage and evaluation of email and webchat services?**

Case closure and CSA arrears (Q80-86)

11. There was a distinct lack of clarity in the discussion on the £350m transferred so far in CSA arrears to the CMS and how arrears collection is prioritised (Q83-86). The Minister's replies referred to all CSA cases with arrears, rather than distinguishing between cases which are part of the case closure programme (where there is a current liability, ie a child) and CSA 'arrears-only' cases (where liability has ended because a child has grown up, and will only be dealt with once case closure is complete). The DWP evidence on treatment of CSA arrears was confusing as a result, outlined below.

12. Responses on the **treatment of CSA arrears so far transferred over to the CMS** were clouded by the references to arrears-only cases (CSA arrears transferred will necessarily only involve arrears relating to children). There was good news with the Minister assuring the committee that recovery of arrears in the CMS had the same priority whether they were transferred from the CSA or built up in new CMS cases (Q84). But other answers suggested barriers to this approach. We know that a balance has to be struck between the interests of cost efficiency for the DWP and the interests of children. However, it is far from clear that sufficient weight is being given to the interests of children and the long-term benefits of adequate financial support from both parents during childhood:

    - There was the suggestion that CSA arrears arising as a result of current case closure would be put on the CMS system and "quarantined" until a new application was made to the CMS (Q80). This implies that, unless a new application for future maintenance is made, no action will be taken. However, we had understood from an earlier PQ that the CMS would chase CSA arrears even if there was no new application, if the receiving parent actively said they wanted the arrears collected.

    - The Minister said arrears would be pursued only if "economically viable" (Q82). It was not clear what this means in practice? If it is decided that no action is possible due to economic viability, the receiving parent should be told and arguably the rules changed to allow the parent access to the courts to pursue the debt themselves (if they can afford it).

    - And – a policy which appears to affect arrears in the CMS generally – the Minister questioned the value of pursuing collection of debts worth less than £500 (Q84). This means that lower income families where maintenance may be worth £10 or £20 per week are left to wait many months without vital support until the CMS will take action. This kind of cash threshold means receiving parents on lowest incomes will be worst served by debt collection – particularly single parents, for whom even modest amounts of child maintenance can make a real difference.

    - There is also the suggestion that some arrears collection will be abandoned because the paying parent is making it too difficult for them (eg by moving abroad, Q84). However, the Minister gave no indication as to the extent to which this was a problem or affected the 'collectability' of CSA arrears transferred to the CMS.

13. There was also continued lack of clarity over the **treatment of 'arrears-only' cases**, where the child has grown up (called 'yesterday's children' by the DWP; Q80, Q84).

- The DWP has not spelled out the timetable for closing down these 'arrears-only' cases and transferring arrears to the CMS, a timetable which only begins once the present closure process for current cases is finished at the end of 2017.
- Although not related to the questions raised (which referred to case closure, ie where there is still a child) the Minister made it clear that arrears owed to children who are now much older are a lower priority for collection. However, it was not clear whether this was a blanket threshold, or whether there are any needs-based distinctions to be made (for example, between those who are young adults still in education and financially dependent on parents, and those who are much older).
- The Minister did not clarify how it would communicate with parents with 'arrears-only' cases – they are currently left in the dark. At the very least, all parents should be told what decision has been taken in their case regarding recovery (or not) of these older arrears and the reasons for the decision.

14. **Remaining questions:**

- **What procedures are in place for the CMS to check whether a receiving parent without a current CMS case still wants the CSA arrears (relating to a current liability, ie a child) collected?**
- **What does 'economic viability' of arrears collection mean in practice? What are the criteria used when deciding viability? What steps are taken to inform parents with care who are owed maintenance, where a decision to take no action is taken on these grounds?**
- **What proportion of CSA arrears are deemed genuinely 'uncollectable' due to a paying parent's actions (eg moving abroad)?**
- **When will the DWP clarify the timetable for closing 'arrears-only' cases?**
- **Will the DWP distinguish between 'arrears only' cases were a liability has recently ceased and those where a child has long since grown up, when prioritising arrears collection?**
- **Will the DWP's new compliance and arrears strategy (Q84, Q91) be subject to public consultation and parliamentary scrutiny before being finalised?**

Enforcement (Q84, Q119-120)

15. The Minister reports the DWP uses its array of enforcement powers "relentlessly" (Q84). While we welcome the DWP's recently updated plans to publish much-delayed data on CMS enforcement later in 2017, it is regrettable that **no data has been published** alongside this session to support this evidence.

16. Further details on resources for enforcement are welcome (Q119-120), but also raise further questions as to **how staff numbers match the CMS arrears caseload** and how teams are deployed. For example, does the intended staff workload of "40 cases per person in enforcement" apply only to the enforcement team (ie handling around 10,000 cases out of the stated 90,000 CMS cases with arrears) or more broadly to both the arrears and enforcement teams?

17. There was also some confusion between proper financial assessments for the purpose of stronger enforcement and for the purpose of a fair calculation – see paragraph 19.

Sharing HMRC information with CMS (Q94-103)

18. The Minister was **misleading in stating that the CMS has full access to HMRC data on income 'other' than earnings**, when identifying income for a maintenance calculation (Q94). When assessing maintenance liability, the CMS will look initially only at earned income. It is left up to the receiving parent to argue and make the case as to why the CMS should go back to HMRC to request information on 'other' income. As we have noted in our previous evidence (paragraphs 45, 83-85) this can be difficult. Given that the DWP now has easy access to this information (as the Minister noted), it is still not clear why this is not automatically provided by HMRC for the initial calculation.

19. At times, there was some confusion as to whether the Minister was discussing sharing HMRC data for the purpose of collecting maintenance (eg identifying income and assets from which to recover debts) or calculating maintenance liability (Q94-95, Q100):

    - For example, in response to a question about taking action on hidden income (Q100), the Minister responded with reference to the small proportion of parents not paying liabilities. This **confused parents' concerns regarding accurate liability assessments with non-payment**.

    - It was not clear that the remedies cited were relevant to ensuring liabilities properly reflect paying parents' income/wealth; for example, the Minister implied that the Financial Investigation Unit (FIU) was only available once a case had reached enforcement (Q95). If so, this **overlooks important scrutiny of a paying parent's true income at an earlier stage**, when determining the actual sum to be paid. The FIU could, for example, provide an important resource when determining whether a paying parent is diverting income to gain a lower assessment. Further, if a paying parent successfully minimises income (and therefore liability), the case may never get to enforcement for the FIU to investigate.

20. The DWP did not address the issue raised by the committee, where receiving parents are told by the CMS to report non-declaration of income for tax purposes to the HMRC, but find that no action is taken (Q98, Q102). It is still unclear whether the HMRC has any special procedures to investigate cases where there is a child maintenance interest.

21. **Remaining questions:**

    - **Can HMRC data sharing for the purpose of assessing liabilities be improved?**
    - **When is the FIU used – only once in enforcement or throughout a case?**
    - **Can HMRC provide figures on:**
        - **The number of reports they are getting from receiving parents about non-declaration of income (eg via their tax abuse helpline)**
        - **What steps are taken to investigate calls from receiving parents**
        - **The number of cases have been investigated by HMR**
        - **What the relationship is between HMRC and the FIU, and the number of cases they have co-operated on?**