Gingerbread

Single parents, equal families

“Supporting separated families; securing children’s futures”

Gingerbread response to consultation Cm 8399
October 2012

Supporting Separating Families; Securing Children's Futures
Gingerbread response to consultation

Summary

1. Recent DWP survey evidence indicates that many parents with care will find making reliable collaborative private arrangements for maintenance very difficult to achieve.
    - When asked whether they could make a private agreement if their case was closed, only 8% of existing CSA cases said they thought they could.
    - Two-fifths of existing CSA cases have no current contact with the paying parent, and a further fifth are not very friendly or not at all friendly with that parent. Nearly half had experienced violence or abuse.
    - Government estimates are that 88% of new applicants will end up paying a £20 application fee to get a statutory calculation, as will 63% of existing CSA cases.
    - Three-quarters of parents with care with existing CSA cases would prefer to continue to have a 'calculation and collect' service. This is for good reason; DWP calculates that among these cases, only 15% of non-resident parents will fully comply with their maintenance obligations over a year.

    [Paras 5-8]

2. The government's 'Direct Pay' proposals - whereby a non-resident parent (NRP) will be offered the choice of paying the child maintenance liability calculated by the Child Maintenance Service (CMS) directly to the parent with care in order to avoid a 20% collection fee - put children's welfare at risk, in that evidence of a past poor payment record under the CSA will be ignored, so as to give non-resident parents a "fresh start." A non-resident parent's past payment record under the CSA should not be ignored when considering future likelihood of payment.

    [Paras 9-17]

3. The offer of a 'Direct Pay' arrangement will even apply where the Child Maintenance Service is on notice that a non-resident parent has a past history of domestic violence. This potentially puts the victim at further risk of domestic violence in the form of financial abuse because the abuser retains control over payment.

    [Paras 18-25]

4. The ongoing 7% collection charge taken from maintenance payments for a child is intended to encourage the parent with care to allow the non-resident parent to "have a second chance" at a 'Direct Pay' arrangement, which has previously broken down. Gingerbread argues it is unreasonable and potentially harmful to the welfare of a child to continue to put a parent with care under financial pressure to accept a payment arrangement which has already failed. The 7% collection charge should be waived where a Direct Pay arrangement has twice broken down.

    [Paras 26-34]

5. The charges to be levied against non-paying non-resident parents are intended to make them change their behaviour. However, past experience suggests that the motivations of non-resident parents for choosing not to support children from former relationships can be complex, often deeply fraught and unlikely to be susceptible to simple financial levers. There is a danger that tensions between parents could be increased rather than diminished, and that recalcitrant non-resident parents could find themselves in a deepening financial quagmire from which it might be difficult to escape. Gingerbread calls for a parallel strategy to seek to engage with repeated non-payers to challenge attitudes and offer constructive support to alter behaviour.

    [Paras 35-38]

6. We think it would be wrong to allow only 30 days' notice of case closure, in 'reactive' cases, when parents in proactive cases will be allowed six months to consider a private maintenance arrangement as an alternative to the statutory scheme. Our proposal is that 'reactive' CSA cases

should be transferred into the new statutory scheme straightaway, with parents allowed a six month 'fee holiday' to consider their options.

[Paras 40-43]

7. The news that an existing CSA case will be closed with undoubtedly come as a shock and source of considerable anxiety to many parents with care who very much rely on the Agency to get maintenance for their children, as will the prospect of being charged to use the new Child Maintenance Service, and being required to accept a 'Direct Pay' arrangement regardless of the non-resident parent's past payment record. For those who have struggled to get enforcement action, such as regular deductions from earnings, it will come as a major blow that all such arrears recovery action will cease.

[Paras 40]

8. The information and advice needs of both parents will be considerable. The government will need to ensure that three distinct groups of voluntary and community sector organisations are aware of the case closure process and the decisions facing parents: organisations providing money or debt advice; organisations providing family support services; and organisations who come into contact with parents who are separating or who have separated.

[Paras 44-50]

9. The government should have a strategy to ensure that families do not lose out on child maintenance altogether, in situations where private collaborative arrangements are not a realistic possibility and where the statutory system could help.

[Paras 46-48, and 52]

10. Gingerbread questions the proposed case closure process, whereby the oldest cases will be tackled first. We propose a 'mixed bag' approach whereby more recent, more straightforward cases are processed alongside the oldest, most complex cases, thus allowing quicker progress.

[Paras 54-58]

11. Around 70% of cases subject to case closure will have arrears. When a case is closed, once arrears have been 'validated', all existing enforcement action will cease and non-resident parents will be given the opportunity to pay the arrears by themselves via a 'Direct Pay' arrangement. This is almost certain to lead to a period of disruption for single parent families previously in receipt of arrears repayments. The process of validation of arrears should be open and transparent, with both parent given the opportunity to make representations

[Paras 59-66]

12. Gingerbread is concerned that, in effect, the collection of arrears owed to hundreds of thousands of parents whose children are now grown up, are being abandoned. This major decision deserves proper public scrutiny, particularly given that in many cases the CSA's own past inaction on debt enforcement has contributed substantially to the arrears which have accumulated.

[Para 64 and 66]

13. The 30 month review of the impact of the government's charging regime must consider whether, as a result of charging parents, the proportion of children living in separated families who have effective maintenance arrangements - whether private or statutory - has increased. The government should also consider the impact of charges on relationships between parents; and also on non-resident parent attitudes and payment behaviour with regard to child maintenance.

[Para 67-75]

Introduction

1. Gingerbread is the national charity working for and with single parent families. We provide expert information and advice, along with membership and training opportunities, to single parents and their families, and campaign against poverty, disadvantage and stigma to promote fair and equal treatment and opportunity for them. Child maintenance forms an important part of our work. Queries relating to child maintenance make up around 10 per cent of calls to our Single Parent Helpline. We produce and distribute factsheets on key aspects of child maintenance as they affect single parents, and it has been a longstanding goal of the organisation to help achieve an effective child maintenance system in this country so that children growing up in separated households are not financially disadvantaged as a result, and are supported by regular child maintenance payments.

2. The government wishes to encourage more separating and separated couples to cooperate in bringing up their children post-separation, including mutual sharing of the financial costs of raising children - without the state having to intervene to reinforce parental responsibilities. Gingerbread has been an active participant in the Steering Group of voluntary and community sector experts assisting the government to deliver this agenda, which emphasises early intervention at the point parents separate. We welcome the additional £20 million in funding over the next few years to improve support services for separating parents, and will continue to work with government on this agenda.

3. *Supporting Separated families; securing children's futures* (Cm 8399) concerns government plans to charge fees where parents use the future statutory child maintenance service, and to close all existing CSA cases. The Command Paper advises that application and collection fees are intended "*to give both parents a real and on-going financial incentive to overcome their differences and collaborate in the interests of their children.*" Similarly, plans to close all existing CSA cases and to institute charges when existing CSA clients reapply to the statutory scheme, are stated to be "*in order to ensure…all separated parents [are given] the opportunity to collaborate.*" [1] The government says it is not consulting on the principle of charging as this "has already been consulted on extensively."[2]

4. Gingerbread's consultation response follows the order of official consultation questions, but starts off by raising two additional issues we think are important. We discuss the 'behavioural economics' behind the decision to introduce charging in the light of recently published detailed survey evidence and analysis by the Department for Work and Pensions.[3] We also comment on how the government's Direct Pay proposals will work.

New evidence on parents using the statutory service – will behavioural economics work?

5. The Department's survey evidence makes abundantly clear that the circumstances of many parents with care will make achievement of reliable collaborative private

[1] *Supporting separated families; securing children's futures,* DWP July 2012, Cm 8399, page 7, para 23 http://www.dwp.gov.uk/docs/childrens-futures-consultation.pdf
[2] Cm 8399, page 23, para 38
[3] See *Estimating the impacts of CSA case closure and charging*, DWP August 2012 http://www.dwp.gov.uk/docs/estimating-impacts-csa-case-closure-and-charging.pdf

arrangements very difficult to achieve. A survey of 986 new CSA applicants showed that:

- 59% were not at all friendly with the non-resident parent or had no contact;
- 33% were turning to the CSA because a previous private arrangement had failed;
- 50% had experienced violence or abuse from the non-resident parent.

A survey of 1,527 existing CSA parents with care showed that:

- 55% were not at all friendly with the non-resident parent or had no contact;
- 45% had experienced violence or abuse from the non-resident parent;
- Only 8% considered a private maintenance agreement an option, if their existing CSA case was closed, due to the fact the non-resident parent could not be trusted; there was little contact; or the other parent would not agree.[4]

6. The same surveys found that, among new CSA clients, in 36% of cases the relationship with the non-resident parent had ended some time previously; and among existing CSA parents with care, 70% had been apart from the non-resident parent for five years or more.[5] Evidence points to a link between length of separation and the lack of a private arrangement. Statutory arrangements or no arrangements are more common among parents who have been separated for longer. [6]

7. The Government's own internal calculations are that 63% of parents with care who currently use the CSA, as well as 88% of new applicants, will end up paying the £20 application fee in order to obtain child maintenance for their children. What will happen to the rest? The government analysts admit "*considerable assumption-building and derivation was required to develop tentative estimates*" of the proportion of parents who will exhibit "*the right sort of behaviours*"[7] and make private maintenance arrangements instead.[8] Plainly put, it is very hard to know. Meanwhile, among those who enter the statutory Child Maintenance Service, the analysts say that, again, it is very hard to predict who will be influenced by the threat of collection charges into making a 'Direct Pay' arrangement work. They say, this is "*the estimate carrying the most weight and with the least evidence to support it*."[9]

8. The government's own surveys and internal analysis point to major uncertainties over whether the charging regime will succeed in changing behaviour in the way the government wants. The evidence regarding the circumstances of those who presently approach the CSA begs the question whether their ability to make cooperative arrangements over child maintenance will be susceptible to simple levers based on financially penalising parents for "wrong behaviour"; or whether, in fact, the charging regime risks inflaming tensions between parents where relations are already under strain or non-existent, as well as taking money away from children who can ill-afford it.

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[4] See CSA case closure and charging client surveys - tabulation of results at http://www.dwp.gov.uk/consultations/2012/childrens-futures.shtml

[5] Ibid

[6] (2007) Morris S, *Mothers in child support arrangements: a comparison of routes through which mothers obtain awards for maintenance in Britain*, 'Benefits' vol 15 no 1, 17-31, Policy Press; Ireland E. et al, *Evaluation of the Child Maintenance Option Service*, CMEC Research Report No 3, (2011) http://webarchive.nationalarchives.gov.uk/20120716161734/http://www.childmaintenance.org/en/pdf/research/Evaluation-of-CM-Options.pdf

[7] Cm 8399, page 17, para 1

[8] *Estimating the impacts of CSA case closure and charging*, op cit, para 117

[9] *Estimating the impacts of CSA case closure and charging*, op cit, para 151

Direct Pay

9. The government has already passed legislation to allow a non-resident parent to opt for a 'Direct Pay' arrangement in almost all cases, regardless of the wishes of the parent with care (section 4 of the Child Support Act as amended by section 137 of the Welfare Reform Act 2012). Although the consultation document invites no comments on the 'Direct Pay' proposals, Gingerbread considers there are several important issues that are relevant here. One is the decision to allow non-resident parents to opt for payment direct to the parent with care, in circumstances where the Child Maintenance Service has been put on notice that the parent with care has been a victim of past domestic violence from the non-resident parent. This is discussed separately under 'Domestic Violence' below.

10. A second issue concerns the position of parents with care where a non-resident parent fails to pay via a 'Direct Pay' arrangement. DWP analysis predicts that, given the cost consequences of using the statutory collection service, 90% of non-resident parents will opt for a 'Direct Pay' arrangement.[10] Yet a survey of CSA parents with care shows that around 76% of parents with care who currently use the CSA would prefer a Collection Service - and with good reason; among this group, the DWP predict that only 15% of non-resident parents will fully comply with their maintenance obligations over the course of the year.[11] It is children whose welfare will be put most at risk through a non-resident parent's non-paying behaviour. Many single parents, who know from hard experience that a non-resident parent will fail to pay the maintenance due on time and in full on a 'Direct Pay' arrangement, will be left to endure a period of worry, and financial insecurity, as a result of the fact that they will have no say in the choice of Direct Pay. As one parent with care told us:

    "…even if a direct pay arrangement could be put in place, I am 100% certain that it would stop or be delayed every time his new family get a big bill…I came to the CSA because he wasn't paying to support his children."

11. **Given the DWP's own predictions of the proportion of Direct Pay arrangements that will become non-compliant, it is incumbent on the Department to ensure that, in order to prevent hardship to children, the 'tolerances' whereby a non-resident parent is allowed to continue a Direct Pay arrangement when paying less than the full statutory amount; paying late; or making irregular payments are very narrow. This will be particularly important in Domestic Violence cases - see below.**

12. It is also important that parents with care with a Direct Pay arrangement are fully briefed that - having paid an application fee - they remain within the Child Maintenance Service, and what they can do if a payment date is missed, or money is not paid in full. Ideally, we would want each parent with care to be sent a leaflet giving:
    - A telephone number to ring if they are dissatisfied because the non-resident parent has failed to pay in full and on time;
    - The Service's commitment to contact the non-resident parent within 72 hours and to require evidence of payment;
    - Its commitment to move a case rapidly into the collection service if full payment is not proven or is late;

[10] Ibid, page 30.
[11] Ibid, Chapter 7

- Its commitment to recovering any arrears which are outstanding from the period of Direct Pay.

This information should also be available on the CMS website and through the proposed Money Transfer Service.

13. Gingerbread will be monitoring closely how the CMS deals with parents with care who report that payment has not been made in full and on time, given that the welfare of children is at stake. The risk is that, given the government's vision that "*direct payment from one parent to the other should be the norm*"[12] and the introduction of collection fees to deliberately deter entry into the collection service, the parent with care will be under pressure to accept a degree of non-compliance, despite the financial hardship and disrupted budgets which might ensue.

14. A third issue concerns the application of section 4 of the Child Support Act 1991, where officials will have the power to veto the use of Direct Pay, if satisfied that the non-resident parent is unlikely to pay maintenance. DWP evidence is that a third of new applicants to the CSA have previously had a private maintenance arrangement which has ended.[13] To be fair to both parties, we argue the Child Maintenance Service must listen to the representations of a parent with care on the matter - who may have very good reasons for believing that a non-resident parent is unlikely to pay, based on what he has said or past attempts to achieve a private arrangement. There are obvious evidential issues here, but Child Maintenance Service officials must come to a fair judgement in this matter.

15. Where there will be evidence concerning a non-resident parent's propensity to pay child maintenance, is where an applicant has previously used the CSA. But here, the government has said that "*previous compliance in a CSA case will not be used...as evidence that the NRP (non-resident parent) is unlikely to pay."* It argues that parents "*should have the opportunity to have a fresh start in the new service*." [14] Gingerbread considers that to ignore evidence of a non-resident parent's past payment record within the CSA – however poor this may have been – in order to allow a non-resident parent "a fresh start," is to fail to give proper weight to the interests of the child (see below) and the likelihood that maintenance will *not* be paid in future, potentially causing financial hardship and disruption of the household budget where the child lives. Moreover, if it chooses to ignore the CSA's record of a non-resident parent's past payment behaviour, the Child Maintenance Service may be open to legal challenge for deliberately and unreasonably limiting the considerations it took into account under Section 4 when determining whether child maintenance is unlikely to be paid.

16. We suggest that, where a former CSA parent with care has been asked and has indicated that they want to use the statutory collection service, the Child Maintenance Service should look at a non-resident parent's past payment record within the CSA. Although the Department should be in a far better position to decide the relevant criteria, matters relating to a past payment record which might influence the decision whether the non-resident parent is unlikely to pay in future are where:
    - No maintenance payments have been made for two quarters;

[12] Cm 8399, page 4
[13] Child Support Agency client surveys - full tabulated results: CSA client survey of new PWC CSA Applicants. See http://www.dwp.gov.uk/consultations/2012/childrens-futures.shtml
[14] Impact Assessment accompanying Cm 8399, para 67

- Non-payment has occurred in five out of the last eight quarters;
- The arrears are substantial (say more than twenty times the liability);
- There is currently either a deduction from earnings order or a regular deduction order in place, which has been imposed by the CSA due to failure to pay;
- More than one enforcement action has been taken against a non-resident parent in the last 18 months;
- A case involving the non-resident parent had reached the Agency's legal enforcement team.

17. A fourth issue concerns the proposed offer of a Money Transfer Service to parents paying by 'Direct Pay' who wish to keep their personal details private from the other parent. This has the potential to be a very useful service, given the substantial proportion of parents who have no contact with each other, or where the relationship is very unfriendly. Although the Command paper states "*In the vast majority of cases, we will give the non-resident parent the opportunity to pay the parent with care directly, and therefore there will be no further charges* [beyond the application fee] *or fees levied on either parent,*"[15] there is no express confirmation given in the document that the Money Transfer Service will be free to both parties. The question also arises whether the Money Transfer Service would have to be used, if just one parent wanted it. If service fees are involved (for either party), it might be difficult and contentious to compel one party to use the Money Transfer Service at the behest of the other, if it would require the party being compelled to use the Money Transfer Service to pay for it. We think the service should be free to both parties, to avoid a whole new area for dispute and grievance opening up between separated parents.

Domestic violence [Question 1]

18. The Department's recent CSA client surveys reveal the extent to which those who rely on the statutory child maintenance service for help in getting child maintenance have experienced violence or abuse from a non-resident parent; this was the case among 50% of new applicants and 45% of existing CSA clients. We have concluded that the government's new proposals for the new scheme do not go far enough to protect victims of domestic violence from financial abuse, nor do we consider that a collection charge from victims of domestic violence can be justified.

19. We are pleased the government has accepted the Home Office definition of domestic violence which includes "*any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who have been intimate partners*..." It is also right that those who self-declare are fast-tracked through the Gateway to the statutory service, and are exempt from the £20 application charge. We welcome the 'self-declaration' approach.

20. However, by allowing, and indeed actively encouraging an ex-partner who has committed such behaviour, violence or abuse to make direct payments to the victim, we think the government is in danger of ignoring the definition of domestic violence it says it has accepted, in that it appears to have overlooked the role that money plays as a weapon of control and intimidation ('financial abuse'). Examples might include altering payment dates so that the victim is never sure when the money is coming, paying

[15] Cm 8399, page 6, para 19

varying amounts, or insisting on payment in a certain manner, or using payment more directly to control behaviour, to punish or reward.

21. Under the policy proposed, a 'Direct Pay' case will only be allowed into the statutory collection service once a parent with care reports a partial or late payment or no payment at all, and the non-resident parent cannot prove, within 14 days of being contacted by the CMS, that payment has been made. This puts the onus on the victim to report the non-resident parent, and the 14 day leeway gives considerable scope for a non-resident parent, with a past history of abusive behaviour, to continue to seek to exert control: to pay once contacted by the CMS; to persuade the CMS that the parent with care had agreed to accept a partial payment; to excuse late payment due to an error/oversight/late payment of wages, and so on.

22. The (as yet ill-defined) Money Transfer Service is intended to help victims of violence or abuse, and other parents who wish it, to keep personal details secret. This is obviously helpful, but it overlooks one glaring problem: unlike the statutory collection service, where the Agency oversees payments and can intervene directly if a payment is missed, a Money Transfer Service still gives complete control to the non-resident parent over payment itself – with the parent with care bearing the burden of reporting the matter to the Child Maintenance Service if a payment is not made on time or is made only in part.

23. There is one further potential problem with the Money Transfer Service in circumstances where the Child Maintenance Service accepts its use is required due to the risk of domestic violence. If non-resident parents were charged a fee for use of the Money Transfer Service, they might object, if they would have preferred to pay for free by other means. If a non-resident parent would be incurring financial costs as a result of an allegation of past domestic violence, it would be necessary to give the NRP an opportunity to refute the allegation. This would be a difficult area to arbitrate for Child Maintenance Service staff, and we suggest that the Money Transfer Service should be free to both parties to avoid such disputes.

24. Even where a victim of domestic violence has been allowed access to the statutory collection service, they will still come under pressure to return to a 'Direct Pay' arrangement which had previously failed, not only by the imposition of the 7% collection deduction, expressly designed to put them under continued financial pressure, but by the Child Maintenance Service itself which, we are told, will actively intervene to broker a return to a 'Direct Pay' arrangement in domestic violence cases, despite it having failed in the past. This will be for a non-resident parent who "*wishes to have a second chance*" and where, according to the Child Maintenance Service, "*the non-resident parent's behaviour has clearly changed.*"[16] There is thus the prospect of the victim of domestic violence having to deal with the Child Maintenance Service itself putting the case, on behalf of the abuser, that he be given a second chance and has changed. We consider that putting the victim in the position where she is being put under pressure – not only by the non-resident parent but by the CMS as well – to give the abuser another chance, is to risk perpetuating the abuse.

25. **The Command Paper states that by preventing a parent with care from vetoing a paying parent's "*right* (sic) *...to opt to pay through Direct Pay*," it will "*limit the ability of one parent to use the collection service as a means of control or revenge***

[16] Cm 8399, chapter 4, para 31

***against the other*." The government appears to be willing to turn a blind eye to the opposite: the use of a Direct Pay arrangement as a form of control or abuse by a non-resident parent, even in circumstances where the Child Maintenance Service has been put on notice that the parent with care has been a victim of past violence or abuse from the non-resident parent. This is completely unacceptable.**

Parent with care Collection Fee [Question 2]

26. Collection charges, say the government, "*represent a direct cost of failing to cooperate for both the PWC ...and the NRP.*" Gingerbread strongly disagrees with the thinking implicit in this statement. Whilst it is obviously better if separated parents get on, we see payment of child maintenance as a responsibility of a non-resident parent towards his/her children, irrespective of the relationship, good or bad, between the non-resident parent and parent with care. This is *not* to say that the various tensions and disputes which can arise between former partners are not serious, and need to be resolved. Cooperation between parents is to be encouraged and supported; but by taking away 7% of a child's maintenance, in circumstances where a non-resident parent's non-payment has already caused the Child Maintenance Service to step in, is to suggest that the latter can be justified in withholding payment for a child because of the parent with care's 'non-cooperative' behaviour. Gingerbread argues this is fundamentally wrong; we see the government's primary responsibility as being towards the child, in ensuring that non-resident parents meet their financial obligations, not seeking to engineer parental relationships though its use of fee charging – in a way which makes children poorer.

27. Gingerbread's view is that, ultimately, the decision to take financial responsibility for a child from a former relationship lies with the non-resident parent, who also has control over whether to pay voluntarily or not; how much to pay; and at what intervals. There is no equivalence between parents in this respect. As the DWP's Equality Impact Assessment notes: "*whereas the non-resident parent will normally have the option to choose maintenance direct and thereby avoid charging, the parent with care will not be able to avoid charges if the non-resident parent is not willing or able to use maintenance direct; whether the parent with care ...is negatively affected by charging is largely dependent on the conduct of the non-resident parent..."* [17] **This is why a 7% collection charge, which essentially penalises the child for the non-resident parent's non-paying behaviour, is wrong in principle. It is neither fair nor appropriate.**

28. The government argues that making an on-going 7% collection deduction throughout the period that a case is within the collection service is necessary because "*it is vital that the parent with care has an incentive to allow the non-resident parent to pay through 'Direct Pay*."[18] Gingerbread considers this logic is flawed, given that the parent with care will only have been allowed access to the collection service because a non-resident parent has failed to keep to a previous 'Direct Pay' arrangement and where the Commission has already concluded that, without the collection service, maintenance is unlikely to be paid. Why should the parent with care be put under continuous pressure to accept a payment method which has already previously failed?

29. According to the Command Paper, the 7% deduction is intended to make a parent with care who is within the collection service more receptive to requests from a non-resident

[17] *Child Support Fees Regulations 2012,* Equality Impact Assessment July 2012, para 51
[18] Cm 8399, para 32, Ch 4

parent to "*have a second chance*" at a Direct Pay arrangement, in circumstances where "*the non-resident parent's behaviour has clearly changed*."[19] Although the Command Paper states that "*typically, it will require the parent with care to agree to move back to Direct Pay*", under the legal rules, it will ultimately be a matter for the Child Maintenance Service to decide. We trust that a parent with care will never be transferred back to a Direct Payment against their wishes.

30. The behavioural consequences of the fees imposed on both parents, may well be that the parent with care agrees to give the non-resident parent "*a second chance*." However, in the context of the Department's own estimates that among cases where the parent with care would prefer to use the collection service, only 15% of non-resident parents using 'Direct Pay' will actually remain fully compliant in meeting their child maintenance obligations over a year,[20] it remains a real possibility that a parent with care could start off under a Direct Pay arrangement which fails; go into the Collection Service as a result; return to a Direct Pay arrangement under pressure to give the non-resident parent a second chance and to escape the 7% deduction; find the non-resident parent still fails to pay; and then end up back again in the Collection Service – a cycle which could be repeated over and over again.

31. **We suggest that, if the government is determined to press ahead with the 7% collection charges to incentivise parents with care within the collection service to revert to a Direct Pay arrangement, it should at least consider waiving that deduction where a non-resident parent has demonstrated, after two goes at a 'Direct Pay' arrangement, that full and regular payments of the statutory liability will not happen, putting the parent with care and child at risk of increased financial insecurity. This would also prevent the perpetuation of 'financial abuse,' as discussed above.** Quite simply, it is oppressive and unreasonable to continue to continue to put a parent with care under financial pressure to accept a payment arrangement that clearly does not work.

32. In considering whether to give a "second chance" or even "a third chance" to a non-resident parent who has already failed to pay child maintenance via a Direct Payment arrangement, the Child Maintenance Service will need to bear in mind the potential implications for a child, where a parent with care with fragile finances is left trying to fill the gap if child maintenance payments were to stop. In making that decision, **the Child Maintenance Service will need to consider its obligation (under Section 2 of the Child Support Act 1991) to have regard to the welfare of any child likely to be affected by the decision.** A major consideration should be the great importance of reliability of income to single parent families in making ends meet on a low income. Research evidence points to the fact that those raising children alone are often reliant on a number of different insecure income streams, which they have to juggle.[21] In the low-skill, insecure employment which many single parents have, earnings can vary or stop altogether. Meanwhile, means-tested benefits are sensitive, not only to changes in income but also to other changes: a child leaving school for example, a deduction to repay a social fund loan, a change in childcare costs. In this scenario, single parents repeatedly tell us how important regular child maintenance can be in 'bridging the gap' and helping them afford basic essentials for their children, such as shoes, decent

[19] Cm 8399, Ch 4, para 31
[20] *Estimating the impacts of CSA case closure and charging*, DWP Aug 2012, para 150
[21] See for example Ridge T, *Living with Poverty: A review of the literature on children's and families' experiences of poverty*, DWP Research Report No 594 (2009)

clothing, school meals, as well as paying for items which improve a child's quality of life such as access to a computer, a football class or trips out. Its importance depends on its reliability.

33. The statutory collection service – because it offers statutory oversight of payments by a non-resident parent with the ability to intervene at once if payments are missed – is very important for many parents with care because it offers the prospect of greater reliability. Once a parent with care is within the collection service due to the failure of the non-resident parent to comply with the maintenance liability, the Child Maintenance Service should think very carefully about the interests of the child, before allowing the non-resident parent to revert to a past method of payment which has already failed.

34. Finally, on the question of the affordability of the 7% charge, Gingerbread disagrees with the government's assessment that, whilst raising an estimated £48 million per year for the government,[22] the 7% collection charge "*will not have a significant negative impact on the welfare of parents with care and their children.*"[23] A parent with care who, in the new scheme, receives around the current average CSA assessment of £33.40 per week, would lose over £120 per year in money that would otherwise be spent on a child/children. The reduction in child maintenance as a result of the collection fee has to be placed in the context of an increasingly harsh economic climate, with rising costs of essentials such as food, fuel, housing costs and childcare; falling incomes from stagnant or reduced earnings; and reduced benefits and tax credits. This is a loss which struggling parents with care and their children can ill-afford.

Charging non-resident parents to achieve behaviour change [Questions 3 & 4]

35. DWP research confirms that, when faced with a 20% collection fee, the overwhelming majority of non-resident parents will opt for a 'Direct Pay' arrangement. However, it remains to be seen whether placing substantial charges on to non-resident parents within the statutory collection service for collection and enforcement will persuade them to pay their child maintenance liabilities in full and on time to the parent with care - either on a completely voluntary basis, or via a 'Direct Pay' arrangement. Past experience would suggest that the motivations of non-resident parents for choosing not to support their children from former relationships are complex, often deeply fraught, and unlikely to be easily susceptible to simple financial levers. The danger is that tensions are increased, with the parent with care getting the blame for the crippling charges levied by the Child Maintenance Service, when all that most want is regular payments in full and on time to help them to support their children.

36. We wonder whether there is scope for a parallel strategy to engage with recalcitrant non-payers, to challenge attitudes and get them to alter their non-paying behaviour. Possibly under the threat of financial charging, or even (rather like speed awareness courses) as a means of avoiding 'heavy end' enforcement such as removal of driving licences, there might be scope for the Child Maintenance Service to offer access to intensive interventions aimed at engaging non-resident parents with strategies - practical and emotional - for dealing with their financial obligations as parents (usually fathers) to their children. This could be a good opportunity to make unengaged and non-paying non-resident parents more receptive to the government's proposed network of relevant

[22] Impact Assessment, accompanying Cm 8399, op cit, page 17
[23] Impact Assessment, accompanying Cm 8399, op cit, para 123

support services - which, if past evidence is anything to go by, may face challenges in achieving participation from bitter, angry and unwilling non-resident parents.

37. There is a risk that by levying collection charges at the 'top end' of the government's initial proposed range of charging levels, the effect will be to increase the financial difficulties of some non-resident parents in finding the money to pay child maintenance. These financial difficulties may be particularly acute for non-resident parents whose previous CSA assessment was based on out-of-date figures, and who may thus be already facing an abrupt hike in liabilities. Accumulating arrears may also lead to further charges as enforcement action proves necessary – thus creating a deepening financial quagmire from which it might be difficult to escape.

38. Gingerbread would prefer an approach which prioritises getting essential financial support to children, rather than one which relies on punitive sanctions to alter a non-resident parent's 'non-paying' behaviour. **We believe it would be in the interests of children if it was made as cheap and simple as possible for non-resident parents to pay their maintenance liabilities. That is why, like the Work and Pensions Select Committee[24], Gingerbread would prefer a system of automatic payroll deductions from wages and automatic deductions from bank accounts in non PAYE cases, free to the non-resident parent.** We believe the cost of setting up and maintaining such arrangements would be more than offset by the savings that would be achieved by avoiding expensive enforcement action, including action to recover the enforcement charges themselves.

Charges versus the cost of a case

39. The government says it will not generate an overall surplus or profit from charging. However, in individual cases, a considerable number of parents within the collection service could end up being charged more in fees than the cost of the service they receive. For example, were fees to apply to parents paying the current average amount of child maintenance liability of £33.40 per week, the parents would between them be paying £469.04 per annum in fees (£121.68 by the parent with care and £347.36 for the non-resident parent). This compares to the average cost of a case managed on the present computer systems of £350 per year.[25] This cost is predicted to drop by around £80 per year – to around £270 – under the new statutory scheme. In this scenario, a non-resident parent with an average child maintenance liability would end up paying more in fees than the annual average cost of processing a case. It could be argued that the paying parent effectively ends up paying a tax to the government, and not simply a fee for services provided.

[24] *The Government's Proposed Child Maintenance Reforms* HC 1047-I, Fifth Report of Work and Pensions Select Committee, Session 2010-12 http://www.publications.parliament.uk/pa/cm201012/cmselect/cmworpen/1047/104702.htm)

[25] See CMEC Annual Report 2011/12, page 17

Reactive case closure and Proactive case closure [Questions 5 and 7]

40. The news that an existing CSA case will be closed will undoubtedly come as a shock and source of considerable anxiety to many parents with care who very much rely on the Agency to get maintenance for their children, as will the prospect of being charged to use the future new Child Maintenance Service, and being required to accept a 'Direct Pay' arrangement, which may lead to disrupted payments. For those who have struggled to get enforcement action such as regular deductions from earnings order or a regular deduction order in place to recover child maintenance arrears, it will come as a blow that all such action will cease. In reactive case closure cases, this will be against the backdrop of a new statutory application from another parent (itself possibly a shock). **It is therefore important that the process of case closure is approached carefully and sensitively, with as much information as possible being given to parents to help them with the decisions they must make.**

41. Parents will have to weigh up the pros and cons of a private 'family-based' maintenance arrangement, against the costs and benefits of using the new statutory maintenance scheme. They may well wish to seek further information and advice to understand their position under the new statutory scheme - for example, the nature of the new Child Maintenance Service; what they can expect in return for the service fees they pay; how much child maintenance would be likely to become payable through the new statutory scheme; and the treatment of arrears. They may wish to pay £20 to obtain a child maintenance calculation, simply as a platform to begin negotiations with the other parent.[26] They may also want to explore in more detail the scope for arriving at a mutually agreed private arrangement - something which may take time, particularly if there has been little contact with the non-resident parent, or relations have been poor. They may wish to involve outside agencies to help broker an agreement.

42. We don't think the balance has been got right between allowing a parent subject to proactive case closure six months to consider their position, whilst only allowing 30 days for a parent subject to reactive case closure. Each parent will have to go through the same stages of thinking and seeking help/advice to arrive at a decision. Thirty days will leave very little time - particularly, for example, when notice is given when a parent is on holiday or away from home. Obviously there are the interests of the new applicant in need of child maintenance to consider. One possible solution might be to treat 'reactive' case closure cases rather like 'reactive transition' cases. **Our suggestion would be to automatically transfer a 'reactive closure' case into the new system - whilst giving the existing parents a transition period of six months without charges, to fully consider their options. At the end of six months, charging would apply.** The government says it expects to end liability and close cases 'reactively' in just a small proportion of the 1 million existing CSA cases[27]. Therefore there are unlikely to be great cost repercussions from such a move. Given the importance of the decisions to be made and their impact on children's lives, we think all parents should be given sufficient time to give the matter serious thought.

[26] We see potential problems in cases where parents use the £20 application fee as the starting point for agreeing a private arrangement. If that arrangement later breaks down and the parent with care returns to the Child Maintenance Service for access to the collection service, what will the attitude of the CMS be where a non-resident parent protests that there was a separate agreement between the parents that a lesser sum should be paid? What steps will be taken to collect the arrears? What if a non-resident parent falsely alleges that there was an agreement to accept less, in order to avoid the CMS intervening to take the case into the collection service? How will this be dealt with?

[27] Cm 8399, para 39, page 39

43. For proactive closure cases, we think six months' notice will give parents sufficient time to come to terms with the implications of case closure and to fully consider their options. It should also give the Child Maintenance Service sufficient time to process the statutory applications which arise in each tranche of cases closed, without disrupting payments to children.

Help, information, advice and support during the case closure process [Questions 6 and 8]

44. The impact and implications of the planned changes for parents who currently use the CSA are considerable. For example, the DWP estimate that around 9% of non-resident parents within the CSA (around 100,000 cases) could potentially experience a rise in their maintenance liability of over £40 per week, were they to go into the new statutory system, due to the fact that their current assessment is out of date. Around 3% of parents with care (around 33,500) could experience a drop in statutory maintenance of more than £40 for the same reason.[28]

45. Meanwhile, seventy per cent of cases subject to case closure will have child maintenance arrears,[29] with parents with care being expected to take decisions as to how they wish to proceed with regard to such arrears: to write them off; negotiate a part-payment with the non-resident parent in full satisfaction; or to have the balance remain outstanding for collection, after the case is closed. Parents with care who currently receive child maintenance via a deduction from earnings order or deductions direct from a non-resident parent's bank account will need particular advice to deal with the closure of current enforcement action once an arrears balance has been 'validated,' and their options for recovering child maintenance arrears from the non-resident parent in future.

46. Gingerbread is particularly concerned to ensure that case closure and charging does not put off parents raising children on their own who will struggle to make adequate child maintenance arrangements privately, and who may be deterred from applying to the statutory scheme in circumstances where the new rules and improved systems could actually improve their chances of obtaining decent amounts of maintenance for their children. The DWP estimates that, when faced with case closure, up to 100,000 parents with care who currently use the CSA will be deterred by the £20 application fee from applying to the new scheme, and will make no maintenance arrangements in future.[30] The significance of such a large number of parents giving up on child maintenance is played down by the Department, on the basis that the majority of those deterred by the application fee "*are likely to be nil assessed or to have smaller than average CSA assessments*"[31] or that they are likely to be disproportionately parents who currently have 'non-effective' arrangements (in that the non-resident parent is non-compliant).[32]

47. The loss of child maintenance to families deterred by the £20 application fee needs to be taken very seriously, particularly in the light of ministers' avowed commitment to maximise the number of children with effective maintenance arrangements, and their concern that because "*only half of children benefit from an effective arrangement*," the

[28] Impact Assessment, para 133, page 26
[29] Impact Assessment, para 49, page 12
[30] Figure 16, *Estimating the impacts of CSA case closure and charging,* DWP, August 2012. See Figure 18 Ibid
[31] Impact Assessment accompanying Cm 8399, para 113
[32] *Estimating the impacts of CSA case closure and charging,* DWP, August 2012, Figure 17

current child maintenance system is "*broken*."[33] Even though the Department is right to calculate that it will be parents receiving lower amounts of child maintenance who are more likely to decide that the £20 application fee makes it not worthwhile to reapply, this is still money that can make a difference to children's lives. Some might actually get more child maintenance under the new scheme, for example if an existing assessment is out of date. Moreover, it is likely the majority of 'nil-assessed' parents and those with 'non-effective arrangement' groups who - faced with the £20 fee - give up on child maintenance, are doing so out of resignation and defeat. Yet it is precisely these groups who might well benefit from inclusion in the new statutory system. For example, it has been estimated that 50,000 of the parents who currently have a nil assessment, will have a positive assessment under the new scheme.[34] 'Non-effective' CSA arrangements partly reflect poor arrears collection by the Child Support Agency. Within the new statutory maintenance system, swifter and more effective intervention when payments are missed is promised.[35]

48. There are other examples where a parent with care might give up, although they might succeed in obtaining improved child maintenance via the new statutory scheme, despite having been let down by the current one. At present it is very difficult for a parent with care to prove that a non-resident parent has unearned income; under the new scheme, it will be easier to have such income taken into account. At present, earnings from certain occupations (for example, where the non-resident parent is a part-time fireman or who is in the TA) are excluded from a CSA calculation, but will be taken into account in future. Unless parents with care are alerted to these changes, they will not be aware that their position - including their negotiating position for a better private arrangement - has improved.

49. Help, information, advice and support is needed not just from the voluntary and community sector. Government too has a responsibility to provide practical and clear information and guidance so that parents can make good decisions which ensure that their children receive adequate financial support from both their parents.

50. Government will need to ensure that three distinct groups of voluntary and community sector organisations and other partners are aware of the case closure process and timetable, and the impact of the new statutory child maintenance scheme on child maintenance liabilities so that they are able to signpost or offer help appropriately. These are:
    - Organisations providing money or debt advice. The case closure process and the new statutory child maintenance calculation are both likely to trigger financial changes for many of those affected, for example, where maintenance payments cease or where there are changes in the amounts paid or received. It is important that those on the front line providing money advice are aware that this is happening; how the process works; the implications of charges; and the various options available to parents regarding their future child maintenance choices, and the pros and cons of each. Talking through a potential statutory maintenance liability with parents, and how to manage either a substantial increase in liabilities or cope with less child maintenance will also be important. Parents also have important decisions to make regarding child maintenance arrears: for example whether to offer or accept a partial

[33] For example, Minister of State Steve Webb, HOC Hansard, 11/09.2012 col 1
[34] Impact Assessment accompanying Cm 8399
[35] Cm 8399, page 28, para 12

amount in full and final settlement of a maintenance debt, or, in the case of a parent with care, whether to continue to pursue amounts owed.

- Organisations providing family support services to separated families. The government is in the process of tendering for contracts to provide a range of services for separating and separated families, which overall are intended to support positive collaboration between parents to work in the best interests of their children. It is vital that all organisations delivering these services are fully informed of the case closure process and changes to the statutory child maintenance service and future liabilities so that they can address - either directly or through effective signposting - issues between parents which relate to providing adequate financial support for children, as well as those which relate to cooperative parenting. It is also important the Department ensure that the services provided cater adequately for the circumstances of the former CSA clients who turn to them for help in reaching a private maintenance agreement as a result of charges (see 'New evidence on parents using the statutory service' above.)

- Organisations working with parents or which come into contact with parents who are separating or who have separated. There are clearly a whole range of organisations which have regular contact with and provide support and advice to parents. As frontline services, it will be important that these organisations are informed about the case closure process and the new statutory system, so as to be able to identify where a parent they have contact with needs help, and can signpost them to appropriate advice and support.

51. In terms of government responsibilities, it is important that parents currently using the CSA are given as much information as possible to cope with the closure of their existing CSA case and the consequences; their various options going forward; and how they can explore the pros and cons of each option in more detail. **We recommend that the Child Maintenance Service and Options produce material in a variety of mediums and formats which seeks to a) make the case for child maintenance and the difference it can make to children's lives; b) the choices now facing parents in how they choose to make child maintenance arrangements in future; c) the advantages and possible drawbacks attached to each choice, depending on an individual's situation; and d) (because few parents or even advisers will be aware of this), a summary of how the new statutory scheme will differ from the present ones.**

52. More generally, **as part of its overall aim of maximising the number of children with effective maintenance arrangements, it is important that the government sets out a strategy for ensuring that families do not lose out on maintenance altogether, in situations where private collaborative arrangements are not a realistic option, and where the statutory system could help. It will be particularly important to target parents with care who fare badly under the CSA (for example, because their assessment is out of date, because they are an 'old scheme' case with a nil assessment, because their ex-partner is self-employed or has earnings which are currently excluded), but whose maintenance assessment under the new scheme is likely to be more.**

53. We think it is particularly important that careful thought is given to the advice and support available to those non-resident parents who face a substantial increase in their statutory maintenance liability under the new scheme, due to their current assessment being out of date. There may also be particular money advice and budgeting issues for non-resident parents whose income drops by less than 25%, but who nevertheless will struggle to meet their current child maintenance liabilities on their reduced income.

Order of case closure [Question 9]

54. The proposal to start with CSA cases currently being dealt with offline at CSA Bolton makes sense, given the higher costs of such cases. Thereafter, the plan is to close cases starting with the oldest. On the one hand, this may enable CSA cases to be closed which are so old and in abeyance that neither parent is interested in involving the statutory service any more. It will also mean that 'old scheme' cases - which are more complex to administer and which have a higher proportion of nil assessments - will be closed first.

55. However, these are also likely to be the least up to date cases, dating from a time when the CSA had severe administrative problems and arrears collection was very poor. Case closure will involve ensuring that cases are fully up to date and that any outstanding tasks, such as changes of circumstances, have been completed.[36] This may well be a complex and time-consuming process, involving a number of appeals. Determining the accuracy of arrears which occurred many years ago may be particularly challenging, and disputes are likely to arise. There is the possible risk that the CSA gets bogged down in the early tranches of the oldest, most difficult, cases, leading to delays in taking on more recent cases which may be easier to deal with.

56. There is also the risk that, among the older cases, there will be a disproportionate number where non-resident parents are likely to experience a substantial rise in liability, were the parent with care to apply to the new scheme and where, having arranged their lives to cope with child maintenance liabilities as they are, the sudden financial 'shock' of the new scheme will be particularly disruptive.

57. A further consideration is the evidence that, the longer parents have separated, the less likely it is that they will succeed in a private agreement - reflecting the fact that they may no longer be in contact, may have re-partnered, have older children who have their own lives etc. An early influx of possibly more difficult cases may make the task of the new 'Gateway,' and the various relationship support services being given new funding by government, particularly tricky and rather demoralising in persuading the parents involved to collaborate together in future. A greater proportion of cases in the earlier tranches may end up in the statutory maintenance system, and experiencing the full brunt of charging. Many will be deeply unhappy.

58. An alternative strategy might be to segment the existing CSA caseload into different groups, so that specialist staff work on the older, more complex cases, and less highly trained staff work on easier, more recent cases. A 'mixed bag' approach might lead to quicker results, and a greater success in an uptake of private, family-based arrangements. This will be more rewarding for the Gateway service and the support services to which parents will be signposted.

[36] Impact Assessment, para 49, page 12.

Treatment of arrears

59. The statutory collection service will, by definition, be one which is only available to non-resident parents who have already exhibited 'non-paying' behaviour and where there are already arrears which need collecting. This must put arrears collection at the heart of what the future Child Maintenance Service should be doing.

60. Fifty-nine per cent of total child maintenance arrears (around £2,211 million) are owed to over a million parents with care.[37] The record of the Child Support Agency in collecting arrears owed to families has been poor over many years. Arrears collection has been consistently seen as an 'add-on' to what is regarded as the core business of the Agency. In 2011, the Chief Executive of the Child Maintenance and Enforcement Commission explained the Agency's priorities: **"***The first thing we do is distribute money we have got in…Then we process new applications…Then we deal with changes of circumstances…Then we go for recent breakdowns…After that we go for arrears where there is still a child; and after than we work cases where the child is now grown up."*[38]

61. The expert Advisory Panel brought in by the Commission to advise on uncollected arrears commented: "*On the whole, arrears collection could be described as extra-curricular to the Commission's every day activity of current and new case maintenance and monitoring…the Commission is not structured for the pursuit of arrears and consequently the task has not been effectively managed to date."*[39] The Panel found that only 17% of total CSA staff were deployed on 'non-paying current liability casework,' whilst "*very little or no resource*" at all was devoted to arrears cases where there was no current liability.[40]

62. The continual focus on achieving current and future payments of child maintenance has two consequences:
    - Firstly, it overlooks the consequences of the loss of child maintenance for the families to whom it is owed, where a parent with care can find themselves in debt when maintenance due has failed to arrive and where the family has had to endure financial hardship and 'going without' for many months, and even years, as a result. Payment of arrears, even if several years late, can still make a vital contribution to a child's future, for example, in helping fund the costs of teenage years, or contributing to training or further education.
    - Secondly, an institutional focus on payments going forward can encourage a culture of non-compliance, where non-resident parents believe that they can 'get away with' non-payment. In a culture where it is only "bread on the table for a child now" which counts, a non-resident parent, who has successfully avoided paying for periods in the past, ends up being rewarded because - so long as payments are made going forward - less attention and priority will be given to the unpaid amounts.

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[37] Hansard, 30/04/2012, 1315W and 1316W

[38] *The Government's Proposed Child Maintenance Reforms*, Volume 1, Fifth Report of the Work and Pensions Select Committee, HC 1047-1, July 2011 , Oral evidence, 16/05/2011, Q70 http://www.publications.parliament.uk/pa/cm201012/cmselect/cmworpen/1047/104702.htm

[39] *Advisory Panel on Arrears of Child Maintenance*: A report to the Secretary of State on the handling of arrears of uncollected child maintenance (2012) http://webarchive.nationalarchives.gov.uk/20120716161734/http://www.childmaintenance.org/en/pdf/advisory-panel-arrears-sep-11.pdf

[40] Ibid

63. Disappointingly, the government's plans regarding the treatment of arrears at CSA case closure seem to continue the same approach. Not only will all on-going CSA arrears collection action (for example, a DEO or deduction order) cease once a case has been closed and the arrears balance 'validated,' but a non-resident parent will be left to pay the past arrears, previously collected by the CSA, by themselves via a 'Direct Pay' arrangement. This is almost certain to lead to a period of disruption for single parent families in receipt of repayment of arrears. There must be a high probability that a non-resident parent who has a poor past payment record (hence the arrears) and where the CSA has had to intervene to take enforcement action, will fail to stick to payment of those arrears by himself through a Direct Pay arrangement.

64. The government says "*We need to focus on getting money to those parents who have children now and are therefore most in need of it.*"[41] **The major decision to abandon the child maintenance debts owed to the hundreds of thousands of parents with care, where the arrears have continued for so long that the children have now grown up, deserves proper public scrutiny - including consultation with the parents with care who are likely to be affected. There is a moral hazard argument here that needs to be addressed.** 'Arrears only' cases account for nearly half of the current arrears balance by value (£1.7 billion), and account for a third of all arrears cases.[42] As repeated inquiries by both Select Committees and by the National Audit Office have shown, as well as independent research[43], in many cases it has been the CSA's own inaction on debt enforcement which has contributed substantially to the arrears which have accumulated. Whilst some parents with care may well have given up on the arrears they are owed, others could well be very unhappy at the approach, having waited years for the CSA to recover the money they are due, and because they are still suffering the consequences of years of financial hardship.

65. Questions also arise about the process to 'validate' arrears and what this will entail. Gingerbread accepts that there are real issues concerning the collectability of past debt, due to evidential difficulties and past errors in calculating amounts owed, and also where the arrears are due to past punitive 'Interim Maintenance Assessments.' But even where arrears are considered at least 'potentially collectable' (a figure of £ 1,176 million out of the total of £3,748 million owed), the DWP anticipate that less than half of this amount (around £540 million) is 'likely to be collected'.[44] This appears to owe more to government priorities, and the availability of resources, rather than to the practical abilities of the new Child Maintenance Service to collect the money due.[45] **It is important that the process of validating arrears should be open and transparent, with both parents being given clear explanations and a full statement as to the final figure arrived at, with the opportunity to make representations. Where amounts are considered uncollectable, parents with care should be told. If the**

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[41] Cm 8399, page 28

[42] *Advisory Panel on Arrears of Child Maintenance*: A report to the Secretary of State on the handling of arrears of uncollected child maintenance (2012) http://webarchive.nationalarchives.gov.uk/20120716161734/http://www.childmaintenance.org/en/pdf/advisory-panel-arrears-sep-11.pdf

[43] See Atkinson and Mackay, *Investigating the compliance of Child Support Agency Clients,* DWP research report no 285 and Davis G et al, *Child Support in Action*, Hart Publishing 1998

[44] CMEC Client Funds Account 2010-2011, Report by Comptroller and Auditor General, 2012, http://webarchive.nationalarchives.gov.uk/20120716161734/http://www.childmaintenance.org/en/pdf/cmec-client-funds-account-2010-11.pdf

[45] See evidence of DWP to the Public Accounts Committee, Eighty-Third Report of the Commons Public Accounts Committee Session 2010-2012, *Child Maintenance and Enforcement Commission: cost reductions* Q 35-39 and Written Evidence at Ev 27

arrears are considered too costly to pursue, parents should also be informed, alongside details of the collection and enforcement action previously carried out by the CSA.

66. We consider the question of future collection of existing CSA arrears to be one where further public scrutiny of the Government's approach is needed. We look forward to the publication of the DWP's future arrears strategy for the recovery of child maintenance arrears, and whether the lessons of the past have been taken on board.

The 30 month review [Question 10]

67. The Government is committed to a review of its charging regime thirty months after charging begins (around 2016). Gingerbread sees the simple test of success of the reforms as the extent to which the proportion of children living in separated families who have effective child maintenance arrangements - private or via the statutory system - has increased as a result of the introduction of the government's new policies.

68. The definition of what is regarded as an effective arrangement is very important here. In estimating post-reform effective arrangements outcomes, DWP analysts have used a definition which we consider falls far short of what most people would regard as an "effective" arrangement, in that:
    - All 'maintenance direct' arrangements are regarded as "effective" without any check on whether the amounts due are in fact being paid. Given that, in future, 'Direct Pay' arrangements will not be mutually agreed, and are likely to be chosen by non-resident parents keen to avoid collection charges rather than because they intend to fully comply, this would give a wholly inaccurate picture of whether maintenance is being paid or not, and whether statutory obligations are being met in full or in part.
    - An arrangement is regarded as "effective" in the statutory scheme and within private arrangements, not only if the full amount due is paid, but also if something - however little - is paid (and in the case of a private agreement it is paid always or usually on time).[46] Thus an arrangement where a non-resident parent is due to pay, say, £50 per week, is still regarded as effective if only £5 is paid two weeks late. In most people's eyes, if a non-resident parent is reneging on a private agreement or failing to meet a statutory maintenance liability to such an extent, the arrangement cannot be called "effective".

69. To be an "effective" maintenance arrangement for a child, we think three aspects are important and need to be measured: (i) the amount relative to what was privately agreed, or relative to the amount set by the statutory liability. Here, whilst some tolerance can be given to partial payments, to count *any* payment as making an arrangement effective stretches credibility. We would suggest that, to be regarded as effective, a payment should fall within the tolerance thresholds that will trigger a referral of a 'Direct Pay' case into the collection service. (ii) The timeliness of a payment i.e. it is paid on the dates it is due or reasonably close to the date; and (iii) regularity - payments are made at consistent intervals and are not missed.

70. It is important that the Department builds up a picture of the wider separated family population both now and in the future, in order to be in a position to compare the proportion of effective private arrangements; the proportion of parents with care with no

[46] See *Estimating the impacts of CSA case closure and charging*, DWP August 2012, footnote 17

arrangements and whether this has declined or increased; and the proportion of parents within the statutory scheme and whether this has declined as expected. This will require a good baseline study and we understand that the Department have commissioned relevant questions via Wave 3 of the longitudinal 'Understanding Society' survey, which will be available from the end of 2013.

71. However, the timing of the Waves of Understanding Society and lengthy intervals before data becomes available mean that the data in later Waves which will measure the impact of the changes in 2015 will not be available in time for the 30 month review. We suggest that the Department needs to commission its own research, perhaps using the US client data base, to see how the proportion of effective maintenance arrangements has changed across the separated family population, broken down into the different types of arrangement (or lack of it) parents have. This survey must be robust and based on a representative sample.

72. The Department will of course be able to draw on a number of internal sources. We would caution against using CMEC's surveys of Child Maintenance Options Outcomes as a reliable baseline for future comparison, because callers to the Options Service are self-selecting. By no means all separated parents use the CM Options Service, and, among new benefit claimants only those who actively flag up they wish to use the Options Service are referred to it. Similarly the Gateway Service, although it will capture a greater number of cases because all those wishing to use the future statutory service will be required to use it, will still only deal with a proportion of the separated family population. Information obtained will be interesting, but will not give the full picture.

73. The Department is in a good position to do both quantitative and qualitative research looking at former CSA clients and new CMS applicants to check what arrangements they are making - and the reasons and influences that lie behind these arrangements. There may be different behavioural impacts between these two groups. Ideally, these surveys should be repeated with the same parents over time, in order to monitor changes and the reasons behind those changes.

74. The reforms place considerable emphasis on financial levers to influence behaviour, in particular in encouraging greater cooperation between parents in negotiating their own private arrangements as opposed to using the statutory system. It will therefore be important to carry out qualitative research - with non-resident parents and parents with care - to consider the impact of charges on relations between parents:
    - Have they prompted conversations and negotiations around money and private arrangements which would not have happened before?
    - If private arrangements are made in relation to child maintenance arrangements as a result of the charges both parties would otherwise pay, have these continued and are both parents content with the arrangement?
    - Have they encouraged better relations and increased co-operation more generally?

75. We would make a special plea for research relating to non-resident parent attitudes and payment behaviour with regard to child maintenance. We would like to see a study commissioned examining non-resident parent attitudes now, and in 2015, across the separated population as a whole, which looks, amongst other things, at the extent to which the 20% collection charge has influenced behaviour and attitudes to the payment of child maintenance.

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