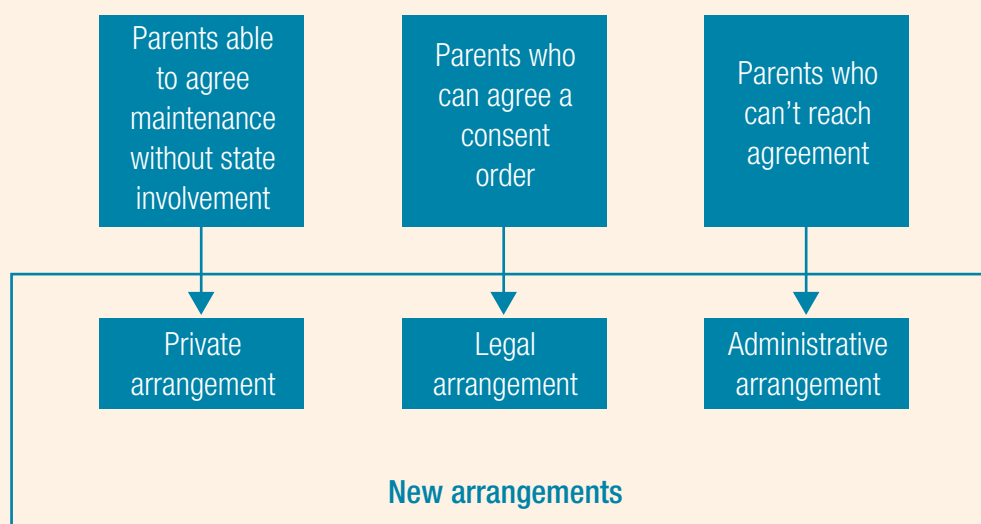


5 The redesigned system

Routes for agreeing child support

39. Removing the current restrictions that affect some parents creates three routes for agreeing child support:
- Private: for parents willing and able to agree child support without involvement of the state or legal system.
 - Legal: for parents wishing to ratify private arrangements or agree child support as part of a wider settlement, a consent order can be obtained where arrangements are not disputed.⁴¹
 - Administrative: for parents who are unable or unwilling to agree privately or by consent, an administrative service will calculate maintenance, establish and monitor payment and enforce compliance where necessary.

Figure 4. Options for making child support arrangements



Parents with care would be able to choose to have no maintenance arrangement in place.

40. The redesigned system creates the right incentives for parents with care to make child support arrangements. As a result, the total number of children receiving maintenance is expected to increase. However, in cases where parents with care have little information about the non-resident parent or know that the non-resident parent is unable to pay maintenance, they may decide that it is not worth

trying to make an arrangement. Parents with care may alternatively decide that it is in their children's best interests not to try to make an arrangement, for example if the non-resident parent has a history of violence or if making an arrangement would cause conflict between parents. Currently, in around 10,000 such cases a year parents are forced to justify their decision not to pursue child support, known as 'good cause', in order to progress a claim for benefit.⁴²

Providing information and advice to parents

41. A crucial part of making the new system work effectively is providing the right support and information to clients. Advice at early stages could help parents decide on the most appropriate route for them to establish a child support arrangement that works. A range of services already exist to support parents who have, or are undergoing, a relationship breakdown. Parents can access support through a variety of providers, including:
 - Sure Start and Children's Centres;
 - extended schools;
 - family support agencies;
 - Jobcentre Plus;
 - local authority advice centres;
 - family mediation services; and
 - the wider not for profit sector, including Citizens Advice Bureaux.
42. While there is a range of information available to parents, information provision is a relatively low-level feature in the current child support system. In a system where parental responsibility is the primary consideration, it will be increasingly important that parents receive the right information and advice, and are supported in making arrangements. The expected increase in numbers likely to make private arrangements suggests there will be an increased demand for support services.
43. Support and advice services are predominantly supplied by the private and not for profit sector, and expanding this capacity should have a positive impact. The family support and relationship breakdown services, jointly provided by the Department for Education and Skills and the Department for Constitutional Affairs, have increased the range and availability of information to parents.

44. Research indicates that removing compulsion for benefit claimants should lead to a significant increase in the demand for arrangements made outside the administrative system.⁴³ Poor levels of understanding about how child support is calculated, with 50 per cent of old scheme clients not understanding their maintenance calculation,⁴⁴ suggest that there is potential to improve the information available to parents. Although the CSA's online calculator is well used,⁴⁵ it, along with other self-calculation products, should be more readily available to parents to provide a benchmark for negotiations.
45. An important role for the support services is to ensure that vulnerable groups, who may previously have been compelled to use the CSA as benefit clients, receive full advice on the most appropriate route for arranging child support. Existing services do much already to provide high-quality information. As new choices become available, it will be essential that any parents who may benefit financially from the new system are made aware of this. Vulnerability does not only mean financial vulnerability. Parents with care on benefit who are at risk of domestic violence have previously had to declare 'good cause', explaining why using the Agency would put them or their children at risk. This claim is then discussed with a benefits officer and if not accepted can lead to a reduction in benefits. Removing benefit compulsion means there would be no need for this process.
46. In addition, there is scope to further improve the role of local authorities in providing advice, potentially by providing information through Children's Centres as part of an integrated form of family support. Jobcentre Plus will also be a relevant source of information for lone parents claiming benefit. Once they have been evaluated for their effectiveness, we should look at Australia's Family Resource Centres, which will bring together information provision for separating families.⁴⁶
47. Parents using the administrative service are expected to be those who have had a difficult relationship breakdown or where no relationship existed. Such clients are less suited to mediation services. However, there is scope to improve the signposting to financial mediation and alternative dispute resolution services to help clients make their own arrangements.
48. Many of the services already available provide information and support to parents, not just about the choices available to them but also about what parenting means. This is undoubtedly one of the hardest roles for any adult, and can be especially difficult for parents after a relationship has broken down. The Government's Parenting Strategy, through work with organisations such as the National

Family and Parenting Institute and the Parenting Fund,⁴⁷ aims to support the work of the not for profit sector with parents. The Home Office's 'Respect Agenda' has emphasised that supporting parents and giving them the skills they need to be responsible is crucial in tackling problems such as anti-social behaviour.⁴⁸ Recently, the Government recognised the particular challenges facing fathers, and the Department for Education and Skills funded a 'Dad Pack', published by Fathers Direct, with information for fathers.⁴⁹

49. A new approach is needed to ensure that advice on child support issues can be integrated within the wider range of services currently provided to parents. A cross-government effort is required to ensure that this is delivered. This should include further evaluation of the effectiveness of existing government schemes to support parents after separation.

Recommendation: Reconfigure advice services to ensure that child support information is properly integrated. The details of this should be developed by a cross-government group.

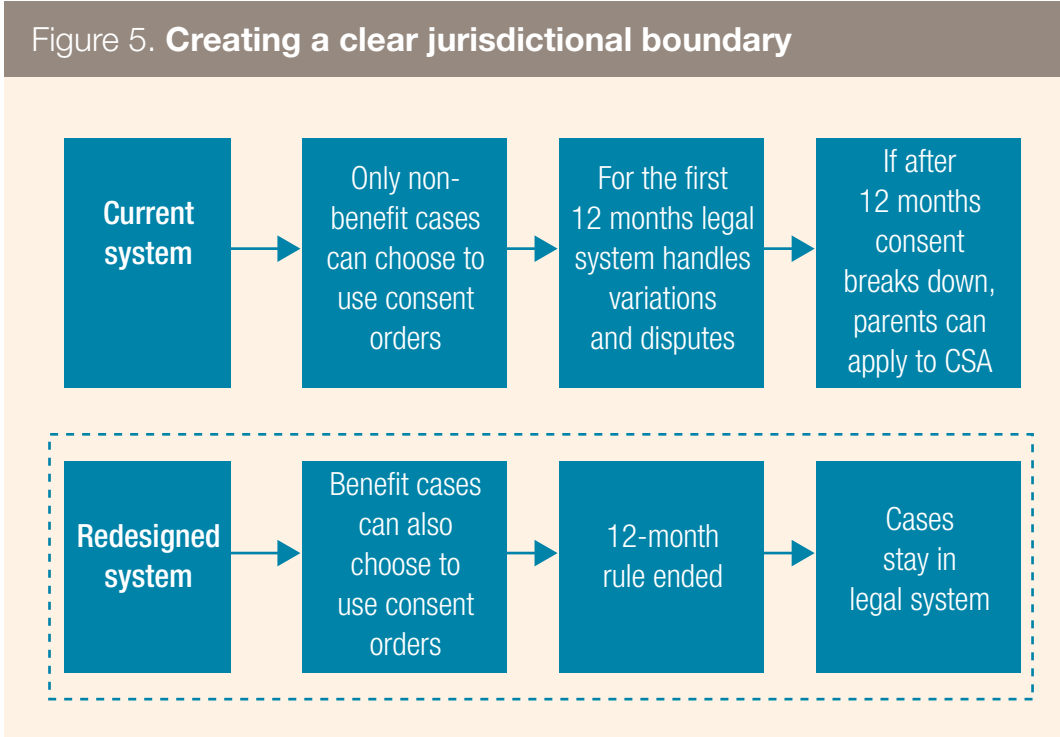
Using the legal system

50. The legal system currently provides a route for non-benefit claimants to settle child support. Around 10,000 people a year use this route to make a consent order containing provision for child support payments.⁵⁰ In the main these payments are part of ancillary relief packages for divorcing couples or part of a financial settlement for ex-cohabitees.
51. Consent orders provide a way for parents who are able to agree child support privately to ratify their agreements in the courts. The courts can vary consent orders to reflect changing circumstances and can enforce them on application from the parent with care. Enforcement action can include all the sanctions available to the courts. Consent orders should provide security for parents who are able to agree on child maintenance but may have concerns about ongoing compliance. Using the legal system would only be an option for parents who can agree on child support arrangements.
52. 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. Under my proposals, the courts would be able to ratify arrangements made with the consent of both parties but would have no jurisdiction to impose initial settlements. Where parents cannot decide matters between themselves they would have to use the administrative service.

53. Removing the compulsion on benefit claimants to use the CSA will open up the court route to those who wish to validate a private agreement through a consent order. The main impact of this will be to enable benefit claimants who are divorcing or separating from a cohabiting partner to agree child support as part of a wider financial settlement.
54. For parents on low incomes and benefits, this route should be funded by legal aid. Those who do not qualify for legal aid will have to pay to make a consent order, but in cases where child support is being agreed as part of a wider financial settlement this is likely to be a marginal cost. Further work is needed to provide detailed costing figures.
55. Opening up the legal route is likely to lead to an increase in work for the legal system of between 15,000 and 25,000 cases each year.⁵¹ This will consist largely of parents with care who are currently compelled to use the CSA. Such parents will have been previously married or cohabiting and will have other financial matters to resolve. They are likely to be able to arrange child maintenance by consent without the need for a court hearing.
56. Allowing parents to pursue child support through a legal or administrative route requires a clear boundary between the two systems. This is necessary to prevent parents attempting to move between different routes to maximise individual outcomes. Doing so would involve duplication of resources and allow parents to play different routes off against each other. To retain separate jurisdictions for the administrative and legal routes, once parents opt into the legal route they will have to continue to use this until child maintenance is no longer needed. This means that parents who make a consent order will have to deal with any request for variation or enforcement action through the courts.
57. Under the current system, where a new consent order is in place the court has jurisdiction over changes to the order during the first 12 months. It only has jurisdiction after the 12 months so long as neither parent seeks to overturn the order by applying to the CSA, or the parent with care goes on benefits. The ability to move between systems after a year can in itself create instability and reduce the incentive to make an initial agreement.

58. 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. This would treat new consent orders in the same way as those made before 2003. Variations to the original order would be decided through the courts if parents could not agree. This is expected to add a small number of court hearings each year. Further work is needed to model the number of parents likely to use this route to agree child support and to assess the detailed impact this would have. This work should include further analysis on the impact on the courts' caseload and resulting costs.



Recommendation: Remove the current 12-month break-point, preventing consent orders from being overturned by the administrative organisation, in line with the pre-2003 position.

Providing an administrative route for those unable to agree child support

59. Parents who are unable to make their own arrangements or whose private arrangements break down would be able to use the administrative route to settle child support. Arrangements will be similar to the current situation, with an organisation responsible for delivering child support for its clients. The organisation would provide the following functions:
- trace non-resident parents;
 - calculate maintenance payments according to a published formula;
 - collect maintenance from non-resident parents and pay it to parents with care;
 - monitor ongoing compliance; and
 - enforce arrangements where non-payment occurs.
60. Parents wishing to use the administrative route would have to make an application for a child support arrangement. This could be made by either parent. Once an application is received, both parties would have to provide the necessary information to allow maintenance to be calculated. Having calculated the maintenance to be paid, the administrative organisation would establish a payment schedule for the non-resident parent. They would then collect the payment and pass maintenance on to the parent with care. Ongoing compliance would be monitored and if payment stops at any time the necessary enforcement action would be taken.
61. The client base using the administrative service is expected to look significantly different from that of the CSA. Removing benefit compulsion is likely to reduce the administrative organisation's caseload, allowing it to focus on cases where parents find it difficult to agree child support. Disregarding most maintenance in benefit calculations would also improve the incentives for parents with care and non-resident parents to co-operate with the system.

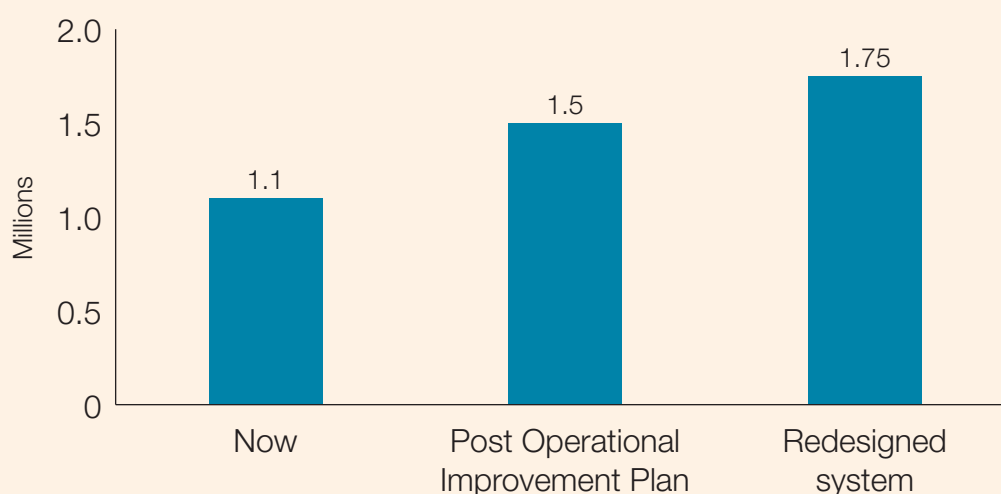
Delivering for children

62. Opening up the routes through which parents can arrange child support should increase the number of children receiving maintenance. There are two main reasons for this. First, disregarding maintenance in benefit calculations increases parents'

incentives to make arrangements; parents with care get to keep the maintenance paid and non-resident parents know that the maintenance they pay goes to their child. Secondly, allowing parents to choose the most appropriate route for them to agree child support is expected to lead to greater satisfaction with arrangements, resulting in greater compliance. Tied to this is the removal of third-party involvement from child support arrangements where the parent with care is on benefit. The current policy can have a negative effect on compliance. Analysis suggests that, under the redesigned system, between 250,000 and 400,000 more children could receive maintenance than will be achieved by delivering the Operational Improvement Plan.⁵²

63. As well as delivering benefits for children, the redesigned system should also be more cost-effective. Increasing the number of parents who make their own arrangements will lead to a reduced role for the state. Fewer parents using the administrative service to agree child support, alongside policy and operational improvements, should lead to a streamlined, more efficient operation. In the long run this is expected to yield savings in the region of £200 million.⁵³

Figure 6. **Number of children receiving maintenance**



Source: Department for Work and Pensions/Redesign team analysis using Wikeley N et al, 2001, National Survey of Child Support Agency Clients, Department for Work and Pensions Research Report No 152 and Child Support Agency Quarterly Summary of Statistics, March 2006.