

# 11 Improving child support policy

103. There are numerous areas of child support policy with scope for simplification and improvement. The redesign has not been able to consider all elements of the current framework but has rather focused on the key parts that need to be changed to deliver a redesigned system of child support. These include steps to simplify existing processes and reduce the administrative caseload, which are discussed in the following sections. There is scope for further policy refinement, and I recommend that the Department for Work and Pensions considers this in taking this work forward.

## Improving information for trace

104. Improving the ability to trace non-resident parents is important as it creates a dynamic whereby people are less likely to try and evade their responsibilities. The CSA currently deals with many cases where there is insufficient information to identify the non-resident parent. These cases are time consuming and costly, and many are closed before they reach assessment.

105. Currently, parents with care on benefit do not have strong incentives to co-operate with the Agency. This may account for some of the poor quality of information provided. Ending benefit compulsion and disregarding maintenance for most parents should create better incentives for parents with care to provide information.

## Options to consider further

106. There are a range of options that could be introduced to improve the information needed to trace non-resident parents. I have considered several options, but further work should be done to develop any additional policy and operational improvements.

107. *Increasing the information required for parents with care to open a case:* The administrative body could require a minimum amount of information from the parent with care before taking on a case. The onus would then be on the parent with care to provide enough information to identify the non-resident parent. There is precedent from Australia, where, if the father is not named on the birth certificate or provably cohabiting with the mother before birth, the mother must prove paternity before the CSA will accept a claim. This policy option fits best with the legal responsibility to jointly register birth, which does not currently exist in the UK. Further work should be carried out to explore the feasibility of this option.

108. *Provide an identification service for the parent with care:* To further improve trace services, the administrative body could ‘pre-process’ cases before accepting them onto the system. This would not be a bar to service, but would help focus resources at an early stage. This could operate on the same principles as the passport ‘Check & Send’ service.
109. *Encouraging joint registration of births:* The most basic piece of information needed to begin a trace is the information about the father on the birth certificate. However, up to 20 per cent of those currently eligible for child support only have details of the mother recorded on the birth certificate. There are a range of steps that could be taken to increase the number of births jointly registered by both parents. These could include providing more information to parents on the birth of their child, for example around the implications that sole registration can have for future child support claims. The most radical option would involve changing the legal presumption that currently places the responsibility for birth registration solely on the mother if the parents are unmarried. This could be amended to make unmarried parents jointly responsible (with certain exemptions for violent or coercive relationships). Registrars would need powers to challenge and support parents making sole registrations. If the policy succeeded, more fathers would be registered on birth certificates, leading to fewer untraceable cases. Australia introduced joint responsibility legislation during the 1990s<sup>60</sup> and, although there are risks attached, evidence suggests it could have a positive impact in the UK.<sup>61</sup> There may also be a wider benefit of encouraging fathers to become more involved in their children’s lives which may increase the likelihood of them paying maintenance.<sup>62</sup>
110. There are significant and wide-ranging potential benefits to be gained from encouraging the joint registration of births. While this issue is outside the responsibility of the CSA and the Department for Work and Pensions, the Government should consider the best way to further develop such a policy. Further work on this area, including examining wider implications of any change, should be undertaken by the government departments with policy responsibility.

## Calculating child maintenance

111. Recognising the complexities involved in calculating maintenance under the old scheme, changes were made in 2000 to simplify the formula and reduce the amount of information required.<sup>63</sup> The process of making a child maintenance calculation under the new scheme is designed to be straightforward. Maintenance is calculated using a formula that depends on the non-resident parent’s current

net income and number of children. Adjustments are made to the standard calculation to take account of individual circumstances, including where both parents have some overnight care of their child(ren), provisions for non-resident parents who have second families, and child-related variations (for example where there are additional costs related to having a disabled child).

112. There is a general acceptance among stakeholders of the broad principles behind the calculation process. For this reason, I do not recommend making major changes. However, there is scope for simplifying it further, to help create a transparent process which can be used as the basis for arrangements made either privately or through the legal or administrative routes. While I suggest a range of policy simplifications, I recognise that there is scope for numerous changes to be made to detailed aspects of policy. Further work should be undertaken to identify areas for policy refinement.

### Basis for income calculation

113. Maintenance calculations are currently based on a non-resident parent's current net income.<sup>64</sup> Net income is used as it most closely relates to the income that non-resident parents have to live on. The calculation can be time consuming as it involves numerous pieces of information which can change regularly. Often arrears build up while the assessment is being made.
114. Using gross income to calculate maintenance would allow increased transparency, greater simplicity and consistency in approach with calculating entitlement to other payments, for example in-work credits. Gross income is harder to manipulate than net income. Changing the basis on which income is calculated would require a change to the percentages used to calculate maintenance.
115. Using current income can be problematic as it requires the CSA to keep up with large numbers of changes in circumstances relating to relatively small income fluctuations. Changing the basis of the calculation to historic income (relating to the previous tax year) has been suggested as a way of addressing this issue. Historic income (whether net or gross) is easier to prove and, while there may be a material difference between current and historic income, the system would reflect this after a lagged period of time.
116. I have considered a range of options for simplifying the basis on which child maintenance is calculated. One of the key problems in calculating current net income is the administrative burden created by the frequent changes in circumstances needed to ensure that income data are up to date. To address this, I recommend that maintenance calculations are index linked to average earnings.

This would be supported by allowing immediate re-calculations for non-resident parents who lose or gain a job. This would reduce the administrative burden and provide stability of payments for both parents. It would also remove the incentive for parents to apply for regular income recalculations that result in very small changes in maintenance payments. Further work should be done to explore the merits and risks involved in changing the basis on which income is calculated.

### Removing provisions for equal shared care arrangements

117. The CSA currently intervenes in cases where there are equal, or near equal, shared care arrangements.<sup>65</sup> This is to ensure that the system is comprehensive and to deal with any cases where there may be a large income differential between parents, justifying a transfer of funds between them. Under the proposed redesigned system where parents can make their own arrangements, cases involving a large degree of shared care are far less likely to end up being settled through the administrative route. Given that cases of equal, or near equal, shared care involve both parents taking financial responsibility for their children, I believe that these cases should be exempt from third-party involvement, with no provisions within the child support formula for transferring funds between parents.

### Collecting child maintenance

118. The CSA currently provides a collection service: non-resident parents pay the Agency, which then passes the maintenance due to the parent with care. The Agency allows non-resident parents a variety of methods for paying their maintenance. These include automatic payments, such as Deduction from Earnings Orders, direct debits and standing orders, and manual payments, including cash and cheques.

119. Automatic payment methods result in higher compliance rates. Non-resident parents paying maintenance by direct debit have an average compliance rate of 92 per cent compared with only 51 per cent for those who pay by manual payment methods.<sup>66</sup> Automatic payment methods are beneficial for parents as they create a pattern of stable maintenance and also allow payments to be made directly between parents. They also cost less to administer. In contrast, manual payments are costly to administer and tend to have lower compliance rates.

120. While attempts are made by CSA staff to encourage non-resident parents to use automatic payment methods, they can still use manual methods at no extra cost, and few incentives are given to encourage automatic payment. This is in contrast to the incentives given to customers in other sectors to make regular payments using automatic methods; for example, dual electricity and gas customers can receive a discount of up to 15 per cent for using an automatic payment method.<sup>67</sup>
121. Given the advantages automatic payment offers both for parents and the organisation responsible for delivering child support, there are good reasons for it to be encouraged. The CSA currently plans to use automatic payment methods, including Deduction from Earnings Orders, at an earlier stage if a non-resident parent shows signs of becoming non-compliant.<sup>68</sup> Deduction from Earnings Orders allow maintenance to be collected directly from a non-resident parent's income and have a good rate of compliance of 78 per cent.<sup>69</sup> They are not, however, suitable for all non-resident parents. For those who are self-employed or have more than one job, other automatic payment methods should be encouraged.
122. There is scope for creating disincentives for non-resident parents to pay child maintenance manually. This could be achieved by imposing an administration charge on manual payment methods, and further work should be done to investigate the feasibility of such options.

### Using HM Revenue & Customs to collect child maintenance

123. Some stakeholders have proposed that HM Revenue & Customs should be used to collect child support from non-resident parents in employment. This would, in theory, involve making use of existing HM Revenue & Customs processes and using its knowledge of non-resident parents' location and income. However, exploring this option suggests it is not feasible.
124. HM Revenue & Customs does not have current income information on non-resident parents. At any given time it knows an individual's employment and income status from the previous tax year. In the UK tax system, full income information is provided by employers only at the end of the tax year. HM Revenue & Customs does not operate in-year reconciliation and accounting. Following the end of the previous tax year, income information is used to reconcile an individual's tax position and settle discrepancies between liability and tax paid.
125. Therefore, collecting maintenance through the tax system is problematic. As the full information on income and deductions made through the tax system is not known until after the end of the

relevant tax year, the system could not support an in-year transfer of money between parents. In effect, the parent with care would have to wait until after the end of the tax year to receive a lump sum payment for the previous year. Alternatively, HM Revenue & Customs would have to take the financial risk of paying out maintenance and then either recouping overpayments from parents with care or recouping underpayments from non-resident parents.

126. The CSA can already deduct child support direct from income through the use of Deduction from Earnings Orders. More effective information-sharing between the two organisations should ensure that more money is collected through Deduction from Earnings Orders. Using existing HM Revenue & Customs data is a positive step nonetheless, and I recommend that there should be greater cross-government sharing of information for tracing non-resident parents.

## Collecting arrears

127. Current problems around collection and enforcement have led to many cases having unpaid maintenance. Between 1993, when the CSA was established, and 2005, £3 billion of maintenance payments have not been made by non-resident parents.<sup>70</sup>
128. A combination of cultural and administrative issues has made it difficult to collect arrears from non-resident parents. The Agency has been reluctant to collect arrears from non-resident parents' assets, preferring instead to focus on collecting out of income. This often results in slow repayment arrangements being agreed with non-resident parents. There are poor incentives for prompt payment, and enforcement has often been used as a last resort. Collecting arrears from untraceable non-resident parents is clearly very difficult as no action can be taken if the Agency does not know their address or employer. These factors, combined, have allowed arrears to build up to an unacceptable level.

## Database of newly hired employees

129. The United States has introduced a requirement on businesses to report details of every person who enters their employment. The measure was introduced specifically to improve the success of collecting child maintenance payments and is reported to have significantly improved collection rates. While it enables child support authorities to know the employer of any non-resident parent at any point in the year, it relies heavily on employers to co-operate and provide timely information. Given the costs imposed on businesses,

such a move is not likely to be a cost-effective way of locating non-resident parents, but may warrant further consideration in the future if it would help achieve wider governmental objectives.

130. Going forward, the build-up of arrears should be reduced given the recommended changes to collection and enforcement. The Department for Work and Pensions should investigate further actions that could be taken to improve arrears collection.

**Recommendation: The Department for Work and Pensions should undertake further work to identify and develop opportunities to refine policies around trace, assessment and collection.**

## Charging

131. Under the redesigned system, there is scope for charging parents to use the administrative route to make child support arrangements. This would contribute to the objectives of the new system by incentivising private arrangements, which can be more successful, helping child welfare through increased compliance and reducing the impact on the taxpayer by offsetting operating costs. Charging may also be necessary to retain the boundaries with the legal route which will require parents to pay for making consent orders. Failure to charge for the administrative service may create incentives for parents, whose circumstances are better suited to using the legal route, to opt for the administrative route to avoid paying charges.
132. Other countries charge parents for the use of child support services using a variety of different models. In the United States, non-benefit parents with care can be charged an annual fee of \$25.<sup>71</sup> Some states have also charged a percentage of maintenance, typically between 3 and 6 per cent.<sup>72</sup> Charging has also been a feature of the UK system in the past, where an initial assessment fee of £44 was charged up until 1995 when charging was suspended.
133. I recommend that charging is introduced to users of the administrative service. This could take a variety of forms. One option is to impose an up-front fee. Analysis of the current caseload shows that there is a significant group of private cases that are closed before an assessment is made.<sup>73</sup> The most plausible explanation is that most of these cases are initiated by parents with care to put pressure on non-resident parents, who then either agree to make a private arrangement or restart compliance with an existing arrangement. While in the current system this is a legitimate tool, in the new system we want parents to make much greater use of the

proposed improvement in information and advice services rather than triggering unnecessary and expensive interventions.

134. The most straightforward way of deterring such applications would be to charge parents with care an up-front fee. Further work is needed to address the level at which such a charge should be made. Another option is to charge for advanced trace services. This would encourage parents with care to co-operate with the system and would potentially deter cases where there is very little prospect of ever being able to trace the non-resident parent.
135. Charging can also be used to incentivise parents to make their own arrangements where possible. Creating successful private arrangements requires both parents to co-operate, which suggests a rationale for charging both the parent with care and non-resident parent for using the service. One option is to charge parents for the use of certain services, for example charging a percentage of maintenance for using the collection service. This is analogous to charges applied in the legal system for specific services.
136. However charges are introduced, the needs of vulnerable parents with care must be taken into account. I do not want to create a disincentive to use the service for those parents who have no other option for agreeing maintenance. Further research is needed to examine the safeguards that may be needed to ensure that charging can be applied without putting vulnerable groups at risk.

**Recommendation:**

- a) **The new administrative body should be given the power to charge clients.**
- b) **Further work should be done to develop detailed policy in this area.**