

**Child Maintenance and Other Payments Bill 2007:
Regulatory Impact Assessment**

June 2007

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Impact of child maintenance redesign

Structure and contents

1. This document provides an impact assessment by the Department for Work and Pensions for the proposals contained in the Child Maintenance and Other Payments Bill 2007. It details the impacts of the legislative changes on individuals, the public sector, businesses (with special emphasis on small firms) and the third sector (made up of charities and voluntary groups).
2. The Bill also makes provision for compensation for those suffering from mesothelioma. It is not intended that the inclusion of both child maintenance and mesothelioma provisions in a single legislative vehicle should be taken to indicate a link between the two in policy, operational or regulatory terms.

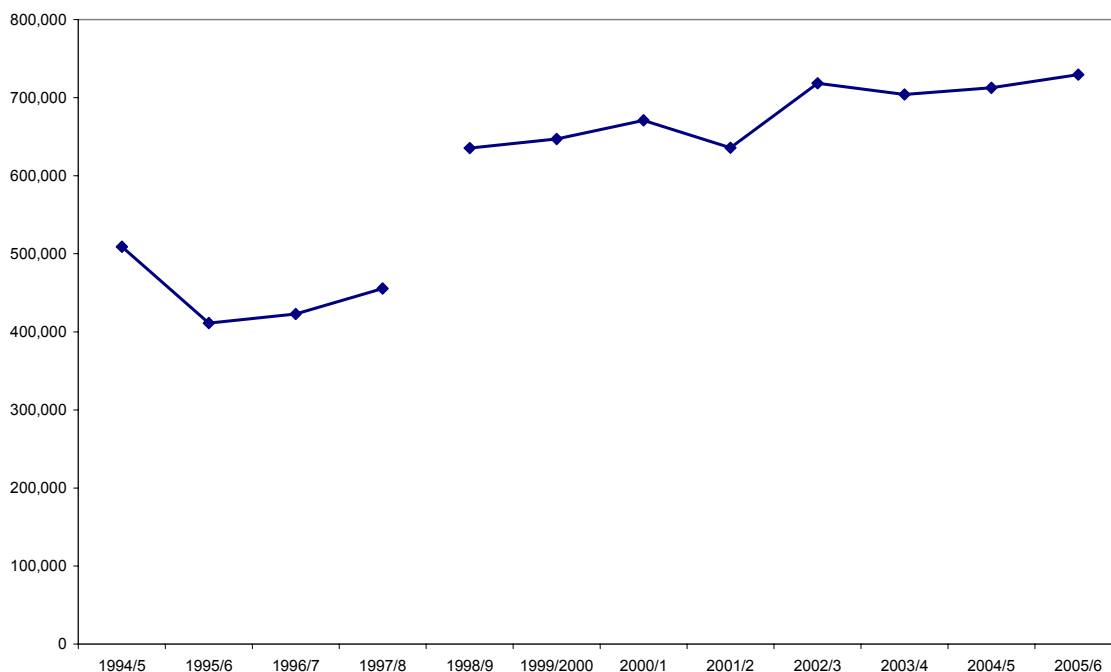
Objectives

3. The child maintenance provisions in the Bill have been developed in the context of the Government's four guiding principles for the reform of the child maintenance system. These are to:
 - **help to tackle child poverty** by ensuring that more parents take responsibility for paying for their children, and that more children benefit from this;
 - **promote parental responsibility** by encouraging and empowering parents to make their own maintenance arrangements wherever possible, but taking firm action – **through a tough and effective enforcement regime** – to enforce payment where necessary;
 - **provide a cost-effective and professional service** that gets money flowing between parents in the most efficient way; and
 - **be simple and transparent**, providing an accessible, reliable and responsive service that is understood and accepted by parents and their advisers, and is capable of being administered by staff.
4. The proposals set out in the Bill reflect discussions with stakeholders and partners, other Government departments, and the devolved administrations.

Background

5. There are currently around 2.5 million parents with care in the UK who are entitled to child maintenance, with around 50 per cent of parents having an arrangement in place where a positive amount of maintenance is owed. Child maintenance is received by around one third of all eligible parents. The time series below shows that the numbers of parents receiving maintenance has increased from around 500,000 in 1994/5 to over 700,000 in 2005/06.

Figure 1: Number of parents with care receiving maintenance¹



Source: Family Resources Survey

6. There are three types of agreement that parents can have. Parents can register with the Child Support Agency (parents with care on benefits are compelled to take this route), make an arrangement through the courts or have a voluntary arrangement between themselves. Over 90 per cent of voluntary arrangements are compliant compared with around 70 per cent of arrangements arranged through the Child Support Agency.

¹ There is a discontinuity in figure 1 as prior to 1998/99 information on people who had their maintenance paid as part of their Income Support or Jobseekers Allowance was not collected.

7. The Child Support Agency administers child maintenance in the UK. In total, 130,000 new calculations each year, with 80,000 being parents with care claiming income related benefits and 50,000 coming from non-benefit parents.
8. As of March 2007 around 635,500 children benefit from maintenance collected by the Child Support Agency or money arranged through it, which is then paid direct by one parent to the other.
9. In February 2006, the Government announced a two-stage approach to the reform of the child maintenance system. An Operational Improvement Plan² was to be implemented to stabilise and improve the short-term performance of the Child Support Agency, which would help 200,000 more children to benefit from maintenance payments and lift 30,000 to 40,000 more children out of poverty by August 2010. Secondly, the Government asked Sir David Henshaw to lead a fundamental redesign of the policy.
10. The Operational Improvement Plan has led to improvements already occurring in the Child Support Agency. As of March 2007, the number of unprocessed applications has fallen by almost 30 per cent compared to a year earlier. Telephone services were improving with 97 per cent of all calls available to staff being answered, with an average waiting time of 26 seconds.
11. However, the Government acknowledged that it must go further to ensure that fundamental change is achieved. Sir David published his report on 24 July 2006.³ On the same day, the Government published its response which accepted the vast majority of his recommendations.⁴
12. In December 2006 the Government published a White Paper⁵ setting out its proposals for a new system of child maintenance in more detail.

Rationale for Government intervention

13. Parents may find themselves unable to reach agreement over maintenance arrangements. Others may deliberately evade fulfilling their responsibilities. It is the children who suffer from these actions.
14. The Government is committed to ensuring that children have the best possible start in life, and that parents fulfil their responsibilities towards their children. One of these responsibilities is the payment of child maintenance –

² <http://www.csa.gov.uk/pdf/english/reports/oip.pdf>

³ Henshaw D, 2006, Recovering child support: routes to responsibility, Cm 6894.

⁴ Department for Work and Pensions, 2006, A fresh start: child support redesign – the Government's response to Sir David Henshaw, Cm 6895.

⁵ Department for Work and Pensions, 2006, A new system of child maintenance, Cm 6979.

the money that non-resident parents pay towards the cost of bringing up their children.

15. In the absence of any form of Government intervention, many families and their children would fail to benefit from maintenance. Child maintenance currently helps to lift 100,000 children out of poverty, and some of these children might, in the absence of a framework to ensure that they receive these payments, fall back below the poverty threshold.

Consultation

16. The measures set out in the Bill have been developed in close consultation with stakeholders, and in line with the Cabinet Office's Code of Practice on Consultation.
17. The Government's response to Sir David Henshaw drew on the expertise of a number of stakeholders, including external interest groups, clients of the Child Support Agency, and members of the public.
18. Since the publication of Sir David's report, the Government has continued to involve stakeholders closely in the policy development process by inviting written contributions, holding face-to-face meetings at both official and Ministerial level, and through a number of workshops and events.
19. As part of its initial response to Sir David Henshaw's report the Government held an informal consultation exercise. It put forward a number of questions for stakeholders to consider based around the broad principles of the system. These were summarised in Annex A of the White Paper.
20. Following the publication of the White Paper the Government held a formal consultation period from 13 December 2006 to 13 March 2007. During this period the Department for Work and Pensions facilitated and participated in several events with organisations which it anticipates would play an important role in the delivery of elements of the new system. For instance, officials discussed with employers the impact that its proposals may have on them, and participated in a seminar organised by One Parent Families to discuss the design and delivery of the new information and support services. More detail is set out in the Government's summary of the White Paper consultation '*A new system of child maintenance. Summary of the responses to the consultation*'⁶ published in May 2007.

Research

⁶ Department for Work and Pensions, 2007, A new system of child maintenance – Summary of responses to the consultation, Cm 7061, May 2007.

21. The Department for Work and Pensions is committed to developing a comprehensive evidence base to inform its child maintenance strategy and its delivery. Information is collected and interpreted on a regular basis, including administrative statistics and survey data such as the Family Resources Survey and the Families and Children Study.
22. This is complemented by an economic and social research programme which enables the Department to examine a wide range of issues that are important to the formulation of a successful child maintenance policy. This includes capturing the knowledge and perceptions of clients; finding out the views of the people who administer the child maintenance system; and assessing the implementation and delivery of policies.
23. This has enabled a more rounded picture of child maintenance arrangements in Great Britain to be created, and provides a firm basis on which to develop a child maintenance system that is most appropriate for parents and, above all, for children.
24. To inform the policy approach and ensure that these proposals are developed on the basis of authoritative research and evidence, the Department commissioned further research which looked at the attitudes of parents to the future policy reforms.⁷ In March 2007 the Government published comparative research which compares child maintenance systems internationally, enhancing the evidence base.⁸ Further details of this research, and other previously published research commissioned by the Department that is directly related to child maintenance, are provided in Annex B of this document.

Options

25. Before bringing forward this legislation, Sir David Henshaw and the Government considered a range of options for the way a future child maintenance system could look. The work looked at child maintenance systems internationally and their relative merits.
26. The Government believes that in order to give children the best possible start in life and help parents to fulfil their responsibilities, some kind of child maintenance structure needs to be in place. Such a framework exists in all developed countries. The following options were considered:

⁷ Atkinson A, McKay S and Dominy N, 2006, *Future policy options for child support: The views of parents*, DWP Research Report 380.

⁸ Skinner C, Bradshaw J and Davidson Jacqueline, 2007, *Child support policy: An international perspective*, DWP Research Report 405.

Option 1: Continue with the current policy framework and implement the Operational Improvement Plan:

27. While the investment through the Operational Improvement Plan will improve the short-term performance of the Child Support Agency, this is not a long-term solution. The current policy relies on the co-operation of parents, but if the parent with care is claiming benefit, there is little or no incentive to co-operate as in many cases not all of the maintenance paid benefits their children. Linking the benefit system to the child maintenance system acts to discourage parents from fulfilling their responsibilities.
28. The Child Support Agency has not delivered anywhere near what was expected of it, and continues to be weighed down by the legacy of the past and the rules it has had to operate within. The current system does not let parents arrange maintenance between themselves, even if they are able to do so, thus the Child Support Agency currently overturns many successful agreements. For these reasons the option was discounted.

Option 2: A guaranteed maintenance system:

29. This was considered as part of Sir David's redesign. Guaranteed maintenance operates with the State paying maintenance to all parents with care and reclaiming it from non-resident parents. While this system could be effective in terms of the number of children it could help to lift out of child poverty, it would not achieve this in a way that is well balanced against the interests of the taxpayer, and would not promote parental responsibility. Furthermore, research shows that some parents with care would not want maintenance to be paid in such a way, as they did not want any further reliance on the benefit system. For these reasons the option was discounted.

Option 3: Universal system

30. This would mean a similar approach to that taken in Australia. Everyone in the eligible population would be obliged to register some form of maintenance agreement with the State, be it through the administrative organisation, a voluntary agreement, or a court-based agreement. Australia uses its tax and benefit system as a trigger. Sir David considered that the UK does not have a mechanism that could capture a large enough proportion of the population. In addition, the introduction of such a system would force all parents with care to register with the administrative organisation, even if they would prefer to settle

their own arrangements privately. For these reasons the option was discounted.

Option 4: Implement and build on the broad model proposed by Sir David Henshaw

31. The model proposed by Sir David in his redesign would have significant benefits for families and their children. Empowering parents to make their own maintenance arrangements, with the State stepping in if parents cannot agree, would:

- see more children lifted out of poverty by allowing parents with care to keep more of the maintenance paid before their benefits are affected, contributing towards the Government's target of eradicating child poverty by 2020;
- see more non-resident parents supporting their children and fulfilling their financial responsibilities by removing the disincentives to comply, and providing stronger collection and enforcement procedures; and
- provide a more cost-effective service for taxpayers and a more efficient service for parents. The redesigned system would provide improvements in the administration of child maintenance, helping to ensure that children benefit from child maintenance faster than they currently do. No longer forcing all benefit claimants to use the administrative organisation every time they move onto benefit would realise administrative benefits.

32. Having carefully considered all of the options, the Government's recommendation is to implement and build upon the broad model proposed by Sir David Henshaw at Option 4. The proposals are set out in the Government's White Paper, "*A new system of child maintenance*".⁹

33. This Regulatory Impact Assessment shows what the impact of Option 4 would be.

⁹ Department for Work and Pensions, 2006, *A new system of child maintenance*, Cm 6979.

Encouraging parents to make their own arrangements

Repeal of Section 6

34. Under Section 6 of the Child Support Act 1991, if a parent with care is paid or has claimed Income Support or income-based Jobseeker's Allowance they are treated as though they have applied for child maintenance through the child support scheme.
35. The repeal of Section 6 would allow parents to choose how they make their maintenance arrangements. Parents with care who receive benefits would no longer be required to use the statutory scheme administered by the Child Maintenance and Enforcement Commission (C-MEC). This would affect approximately 250,000 parents with care each year. Parents would be able to choose whether to agree a child maintenance arrangement directly between themselves; use the statutory maintenance scheme for calculation, collection and enforcement; or to make no arrangement at all if this is what they wish. This would increase the level of choice available to parents.
36. The Government wants as many parents as possible to be made aware of the options for organising child maintenance and to decide how best to arrange maintenance in their particular circumstances. That is why the new arrangements would include a dedicated child maintenance information and support service to enable parents to find out more about the options available to them and help them decide which route to child maintenance would be the most appropriate, and to help them put in place an arrangement of their choosing.

Impact on individuals

37. Table 1 below shows how parents with care currently report having a maintenance agreement in place¹⁰:

Table 1: Maintenance arrangements by type

| parents (per cent)¹¹ | |
|--|----|
| Child Support Agency | 19 |
| Private arrangements | 23 |
| Consent orders at court | 4 |
| Combination of arrangements | 5 |
| No arrangements | 49 |

¹⁰ *Families and Children Study 2005*

¹¹ *The numbers reporting a child maintenance agreement are likely to be an underestimate as parents with care using the Child Support Agency who are assessed as being owed no amount of maintenance may report having "no arrangement"*

38. Removing the requirement for parents with care on income related benefits to use the statutory scheme provides parents with more choice than they currently have. Benefit claimants are currently compelled to use the CSA even when they are able to make arrangements without the help of the state. These parents would now be able to make the arrangement that best suits their own personal circumstances
39. There are a number of behavioural uncertainties which make it difficult to make robust estimates of future flows and future caseload. Given a number of assumptions, it is estimated that the number of parents with care would fall from approximately 1.4 million cases using the CSA in March 2007 to around 1m using the collection and enforcement services of C-MEC in steady state.
40. Although the number of people expected to use the statutory maintenance scheme is lower, those people who use the service are more likely to receive maintenance (through being more likely to have a positive assessment). These proposals would also increase the number of parents making voluntary arrangements from 575,000 to around 750,000 in steady state, which coupled with the increased number receiving maintenance through the statutory maintenance scheme, is expected to increase the number of children benefiting from maintenance¹².

Impact on the public sector

41. The repeal of Section 6 would have a direct impact on a number of Government departments and agencies. In particular there would be an impact on C-MEC, Jobcentre Plus, the Ministry of Justice and the Department for Education and Skills.

C-MEC

42. It is estimated that the annual number of cases having a calculation made each year from the statutory maintenance scheme would fall from 130,000 currently to 100,000 once Section 6 is repealed. These volumes are sensitive to a number of central assumptions and the detailed policy design. In steady state, it is estimated that this would lead to a reduction in costs from £600m to £400m each year.¹³
43. The Government wants as many parents as possible to be made aware of the options for organising child maintenance and to decide how best to arrange maintenance in their particular circumstances. That is why the new system

¹² DWP internal analysis using the Families and Children Study and CSA administrative data

¹³ It is estimated that continuing with the current policy would cost £600m (excluding benefit spending) in 2007/08 prices. These costs are the current best estimate and may be subject to revisions as the policy develops.

would be accompanied by a dedicated child maintenance information and support service to enable parents to find out more about the options available to them and help them decide which route to child maintenance is right for them and to help them put in place an arrangement of their choosing.

Jobcentre Plus

44. Jobcentre Plus currently receives approximately 250,000 benefit claims with a child maintenance interest each year. Only approximately 80,000 of these actually result in a child maintenance calculation being made. The remainder are closed for a number of reasons. These reasons include the parents with care having good cause not to co-operate with the Child Support Agency, a reduced benefit decision being made where good cause is not accepted or a case being referred from Jobcentre Plus but the parent with care having a case open with the Child Support Agency.
45. The repeal of Section 6 would mean that parents with care, on benefit would no longer be compelled to make an application under the statutory maintenance scheme; therefore Jobcentre Plus would not be required to complete an application that enables a child maintenance calculation to be made.
46. In the future, Jobcentre Plus would, however, continue to play a key and proactive role by ensuring that parents who are claiming benefit are made aware of the new child maintenance information and support service. It is estimated that this change in role would have a cost neutral impact on Jobcentre Plus in steady state.

Ministry of Justice

47. Some of the proposals in the Bill, including the repeal of Section 6, would increase inflows to the judicial system. The Judicial Impact Assessment set out in Annex A, assesses the impact and implications of these measures on Legal Aid, the courts, tribunals, and the judiciary. The Department for Work and Pensions and the Ministry of Justice expect an increase in the number of parents using the legal system of up to approximately 10,000 each year on current numbers.
48. The Department for Work and Pensions has agreed with the Ministry of Justice to transfer £4.8 million to cover this increase, the increased cost of additional work for tribunals, a baselining exercise and the cost of a review of the impact of these changes 24 months following the commencement of the legislation.

Department for Education and Skills

49. Parents would have a range of choices about how to arrange child maintenance. There would be a significant need for parents to have access to high quality information and support to guide them through the process and ensure the best possible outcomes for their children. The Department for Education and Skills has an overall objective to ensure that life outcomes of children are improved. Increasing and improving the provision of child maintenance information and support could contribute towards this objective.
50. The Department for Education and Skills already facilitates a number of effective information and support services on other aspects of the separation process. Arranging maintenance can be a difficult process for parents, whether they are a separating couple or parents who have never lived together. Wherever possible both Departments would continue to work closely together to ensure that relevant, up to date information and support about child maintenance is included in these broader services for parents. The aim is to ensure that parents are informed about all aspects of parenthood and family separation in a joined-up manner and through a number of outlets, and are aware of their financial, as well as their non-financial, obligations towards their children.
51. The Department for Work and Pensions has consulted fully with the Department for Education and Skills throughout the development of these proposals.

Impact on the third sector

52. An increased range of choices about child maintenance would need to be backed by a dedicated child maintenance information and support service. There are a number of well established community voluntary groups who have many years of experience supporting parents and their children through the separation process. The Government has been working with the third sector to consider the development of an effective child maintenance information and support service which is joined up and tailored to the needs of its clients.
53. While it would be the responsibility of C-MEC to commission information and support services, it is envisaged that there would be an increased role for the third sector as an important stakeholder.

Delivering child maintenance in a new way

54. The Bill establishes a Non-Departmental Public Body (NDPB) to administer and facilitate child maintenance, the Child Maintenance and Enforcement Commission (C-MEC). This would replace the Child Support Agency.
55. It is a fundamentally different approach to the delivery of child maintenance, marking a clean break from the past and providing the basis for more innovative and flexible approaches to service delivery in the future. C-MEC would be responsible for the delivery of a new child maintenance system which breaks the compulsory links to DWP benefits. As a result, there is no need for immediate Departmental control.
56. An NDPB's "arm's length" relationship with Ministers becomes appropriate given the sensitive and private nature of the organisation's work. Furthermore, the independence this governance structure provides would ensure that C-MEC's Board is entirely focused on the delivery of an efficient and effective service. They would have the flexibility to adopt innovative approaches to delivery, particularly in the use of the private sector.
57. The Bill provides C-MEC with the power to contract out its functions to the private, public or third sector. The Bill further provides that C-MEC must carry out its functions effectively and efficiently, offering best value for money. The extent to which C-MEC chooses to contract out its functions is therefore closely linked to how effective and efficient this would be. C-MEC would have to report annually to Parliament: within this C-MEC would have to state the extent to which the power to contract out its functions had been used.

Impact on individuals

58. The Bill provides for C-MEC to have the power to charge for its services. Any charging regime would be subject to separate approval by both Houses of Parliament on a proposal from the Secretary of State and prior to introducing this C-MEC would consult with relevant stakeholders and conduct an impact assessment.

Impact on the public sector

Child Support Agency

59. People working in the Child Support Agency at the point of transfer to the new Child Maintenance Enforcement Commission (C-MEC) will transfer with the full protection required by the Transfer of Undertakings (Protection of Employment) Regulations as specified by the Cabinet Office's statement of

practice on staff transfers in the public sector. The Government will work closely with trade unions to develop plans for this transfer. Once the transfer is complete C-MEC will be responsible for making any future decisions on staffing levels.

Impact on business

60.C-MEC would take over any existing contracts from the Child Support Agency. Decisions on any future contracts that have an effect on business would be made by C-MEC, who would have the full autonomy regarding how best to deliver their services within the framework agreed by Parliament. All contracting would be carried out following Government best practice.

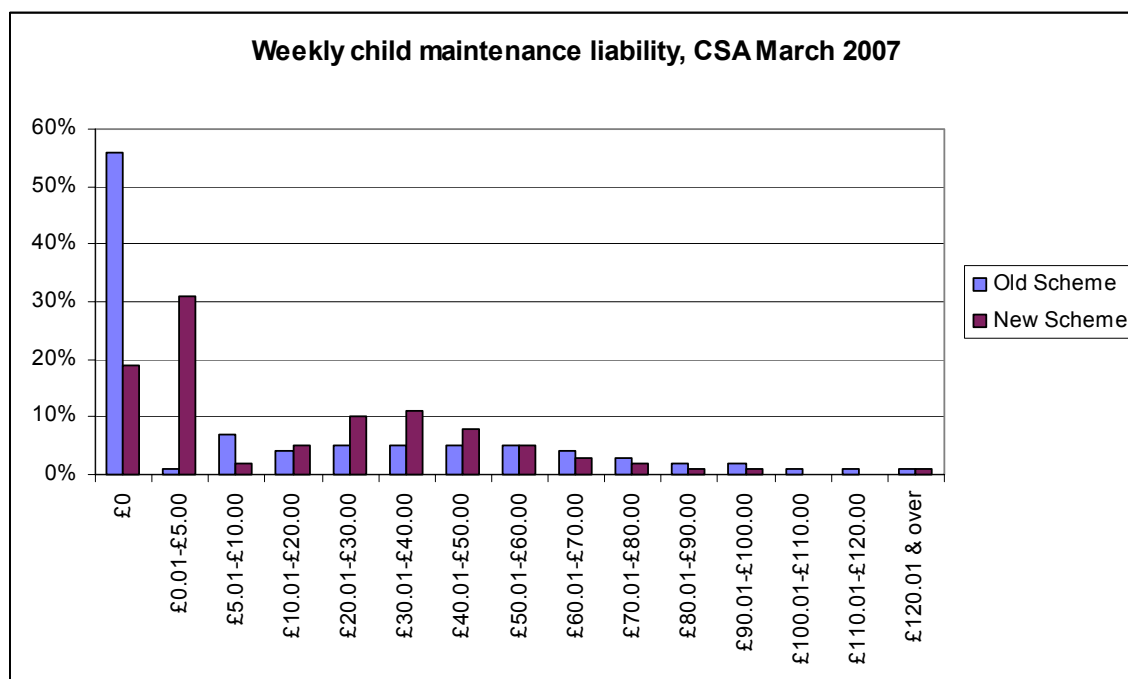
Simplifying and improving the child maintenance assessment process

61. The Bill contains a number of measures that would make the process for calculating child maintenance payments faster, more transparent and more accurate. These include C-MEC using information from HM Revenue & Customs, the calculation of maintenance with reference to gross income rather than net, and using the latest available tax-year information as the basis for calculating a child maintenance liability unless current income differs by at least 25 per cent. It is also proposed that the flat rate of maintenance payments is increased from £5 to £7 a week, the first increase since the flat rate was introduced in 2003.

Impact on individuals

62. Currently the mean liability (including nil liabilities) of non-resident parents using the Child Support Agency is £22 a week (see figure 2 for the distribution).

Figure 2: Distribution of weekly liabilities of non-resident parents using the CSA



Source: *Child Support Agency administrative data, March 2007*

63. The proposed rates for the new calculation rules are 12 per cent of weekly gross income for one child, 16 per cent for two children and 19 per cent for three or more children, with a second rate for any income between £800 and £3000 a week of 9 per cent for one child, 12 per cent for two children and 15 per cent for three or more children.

64. Table 2 below shows the hypothetical impact of the changes compared to the 2003 rules. Most non-resident parents under the new rules would have a higher liability than they have currently, but the changes are fairly small in most cases. For example, a non-resident parent with one qualifying child and a gross income of £450 per week would have to pay £54 per week under the proposed rules (12 per cent of £450). Under the 2003 they would have to pay 15 per cent of their net income (which would be around £340) giving them a liability of £51 per week.

Table 2: post-2003 scheme liabilities per week and the proposed liabilities at different levels of gross weekly income¹⁴

| Weekly gross income (£) | 1 qualifying child | | 2 qualifying children | | 3 qualifying children | |
|-------------------------|--------------------|----------------|-----------------------|----------------|-----------------------|----------------|
| | 2003 rules | Proposed rules | 2003 rules | Proposed rules | 2003 rules | Proposed rules |
| 50 | 5 | 7 | 5 | 7 | 5 | 7 |
| 150 | 14 | 16 | 17 | 20 | 21 | 23 |
| 250 | 31 | 30 | 41 | 40 | 51 | 48 |
| 350 | 41 | 42 | 55 | 56 | 68 | 67 |
| 450 | 51 | 54 | 68 | 72 | 86 | 86 |
| 550 | 62 | 66 | 82 | 88 | 103 | 105 |
| 650 | 72 | 78 | 96 | 104 | 120 | 124 |
| 750 | 82 | 90 | 110 | 120 | 137 | 143 |
| 1000 | 106 | 114 | 141 | 152 | 176 | 182 |
| 3000 | 283 | 294 | 377 | 392 | 471 | 482 |

65. Where current income is significantly different from the income information obtained from HMRC, C-MEC would adjust the liability.

66. The proposed change to remove tax credits as a source of income for non-resident parents would, other things being equal, reduce maintenance liabilities for non-resident parents who receive tax credits. This group would consist of non-resident parents who have low income, are disabled or have children.

67. Currently, arrears may accrue because the maintenance liability cannot be put in place until sufficient information is collected. Basing the maintenance calculation on the gross income of the non-resident parent would make it easier to collect the necessary information. This should reduce the likelihood of arrears accruing on the case and would reduce the amount of enforcement action necessary.

¹⁴ To calculate the 2003 rules liabilities, net weekly income has been calculated using the proposed 2008/9 tax rates and thresholds

Impact on the public sector

68. Countries which currently use income data from tax returns, such as Australia and New Zealand, have more efficient child maintenance systems than Great Britain. Using HMRC income information to make the calculation wherever possible would allow C-MEC to make calculations swiftly and efficiently, which would drive down the unit cost of each calculation made.

HM Revenue & Customs

69. C-MEC would rely on information from HM Revenue & Customs for its calculations to a much greater extent than the Child Support Agency currently does. There are considerable benefits to basing the calculation of income on HMRC data, such as faster access to reliable income information, and a single point of contact. These benefits should lead to much improved customer service compared with current arrangements.

70. This proposal would enable maintenance to flow to families faster than is currently the case. There would be some initial set-up costs met by the Department for Work and Pensions. It is estimated that improvements to the application process would result in claims being processed 20 per cent quicker than is currently the case.

Impact on business

71. Under current legislation, the Child Support Agency may need to collect information from a number of sources in order for a maintenance calculation to be made. This means the parent with care, the non-resident parent and often the employer of the non-resident parent need to provide income information. Using HMRC information would lessen the need to contact the employer of the non-resident parent, thus reducing the administrative burden on business.

Small firms impact test

72. Small firms often have fewer resources available to deliver the day-to-day running of their operations. Therefore, requests for information from the Child Support Agency on the income details of employees can create a larger burden on small business. Using HMRC data can therefore be expected to benefit small employers disproportionately more than larger employers.

Tougher enforcement and improvements in the collection and recovery of debt

Enforcement

73. The Bill includes new measures to establish reliable collection as quickly as possible, and to take firm enforcement action at the earliest possible opportunity against non-resident parents who do not fulfil their responsibility to pay child maintenance.

74. These measures include:

- Deduction from earnings orders as the first means of collecting maintenance - to be piloted;
- removing the requirement to apply to the courts for a Liability Order before proceeding with enforcement action and replacing it with a swifter and more effective administrative process;
- making more use of information exchanged with, and drawn from, financial institutions and credit reference agencies in order to trace non-resident parents and collect and enforce maintenance;
- introducing powers to collect maintenance and/or arrears directly from current accounts, and to make lump sum deductions of arrears from savings accounts or financial resources
- extension of the term 'earnings' to include all pension payments with respect to deduction from earnings orders;
- administratively disqualifying a non-resident parent from holding a travel authorisation, or applying to the court to impose a curfew on them if they fail to pay child maintenance.

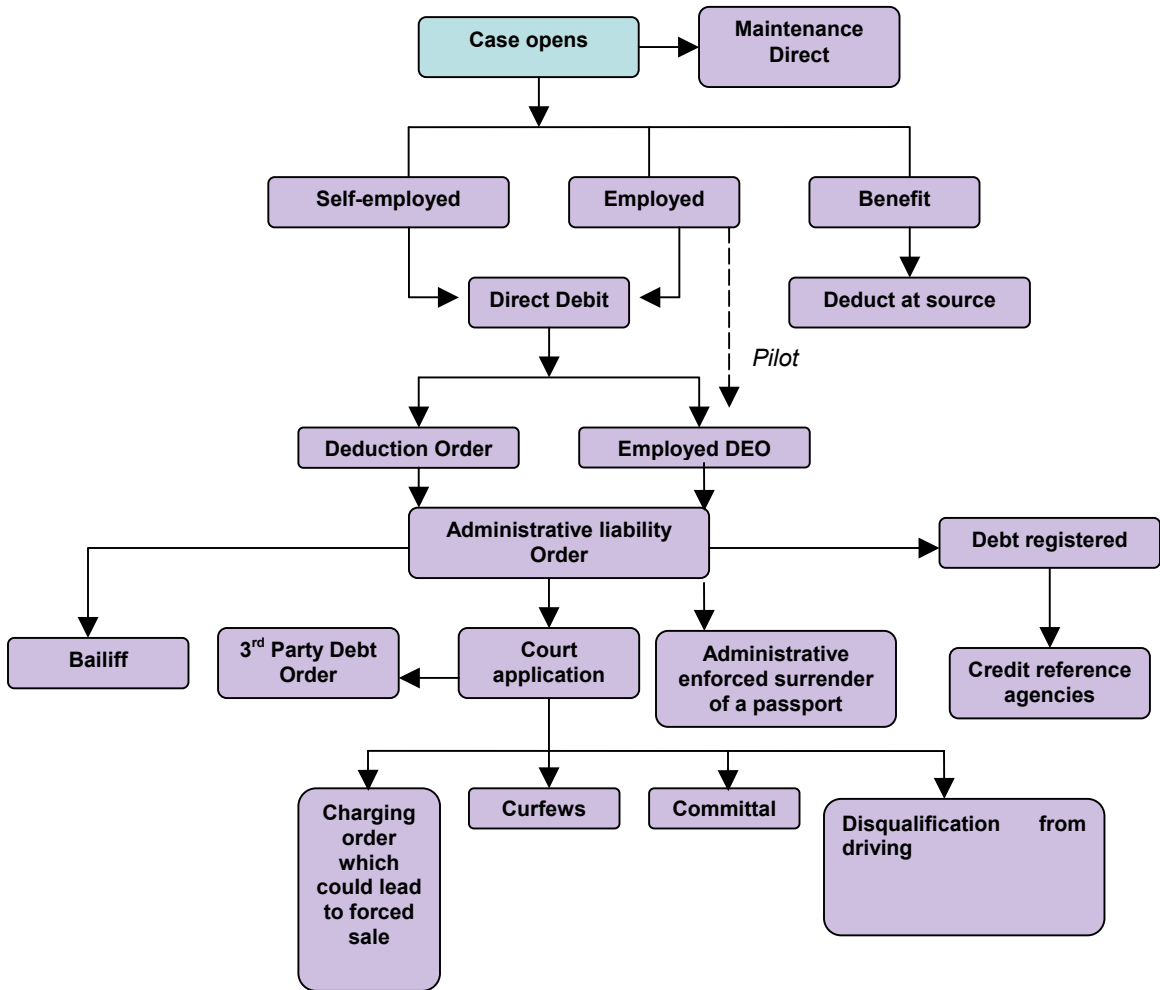
Impact on individuals

75. Currently the Child Support Agency uses the court service to implement a number of enforcement measures. It also has a major administrative enforcement tool in deduction from earnings orders. Measures set out in the Bill will increase the powers available to the courts; convert the highest volume court process to an administrative one and streamline the process leading to enforcement through the courts; and introduce new administrative measures. The combined effect of this is to make enforcement a quicker and more efficient process. More effective enforcement would mean that parents

with care would be more likely to receive maintenance owed to them and to receive it more quickly.

76. The pilot to use deduction from earnings orders as the first means of collecting maintenance would impact on a relatively small number of non-resident parents. It would take into account of the impact on those who are prepared to pay by other means and consider grounds for exempting individual non-resident parents.

Figure 3: Proposed administrative framework for collecting and enforcing child maintenance



77. The table below sets out the number of enforcement processes that the CSA undertook in the year February 2006– January 2007.

Table 4: Enforcement processes undertaken February 2006-January 2007

| | |
|--|--------|
| England & Wales | |
| Liability orders granted | 12,490 |
| Distress actions (Bailiffs) | 12,985 |
| County Court Judgement orders | 1,840 |
| 3rd Party Debt orders | 1,995 |
| Charging orders | 1,685 |
| Scotland | |
| Liability orders granted | 845 |
| Attachments | 255 |
| Arrestments | 615 |
| Bills of Inhibition | 850 |
| England & Wales and Scotland | |
| Suspended committal sentences | 385 |
| Committal Sentences | 40 |
| Suspended driving licence disqualification sentences | 30 |
| Driving licence disqualification sentences | 5 |

Source: *Child Support Agency administrative statistics, March 2007*

Impact on the public sector

Ministry of Justice and the Scottish Executive

78. The enforcement measures should lead to more administrative rather than court-based action, and therefore could be expected to reduce the workload of the Ministry of Justice and the Scottish Executive.

79. The largest change would be the removal of the requirement to apply to the courts for a Liability Order before proceeding with enforcement action, and replacing it with an administrative process. Over 13,000 Liability Orders were granted to the CSA in Great Britain in the year to January 2007. This proposal, along with removing the requirement for C-MEC to apply for a county court order before an application for a charging order or third party debt order can be made to the same court, would reduce the caseload of the courts.

80. The Legal Aid and Administration of Justice impact test, set out in Annex A, assesses the impact and implications of these new Government proposals on the courts, tribunals and the judiciary.

Home Office

81. Existing contracts with firms providing electronic monitoring services can be used to enforce child maintenance curfew orders in England and Wales. Due to the low numbers anticipated this would result in a negligible impact on the Home Office.

Impact on business

Deduction orders

82. The power to collect ongoing maintenance and arrears from current accounts and collect lump sum payments of arrears from other financial resources are being introduced because deduction from earnings orders cannot be used where the non-resident parent is self-employed (around seven per cent of the Child Support Agency's caseload).

83. It is estimated that around 50 per cent of self-employed men aged between 30 and 50 have a bank account in their own name¹⁵. Where these parents do not comply, deduction orders may be imposed. It is estimated that there could be around 9,000 deduction orders each year.

84. These proposals have been developed in consultation with the British Bankers' association, the Building Societies Association, the Financial Services Authority and other representatives of the financial services industry. Consultation would continue, including around our proposals to allow financial institutions to recover some of their administrative costs.

Closer links with credit reference agencies

85. The measures enabling information on a non-resident parent's liabilities and compliance record to be made available to credit reference agencies reflect the Government's view that, when non-resident parents do not fulfil their responsibility to pay maintenance, this should affect their ability to obtain credit. Conversely, compliant non-resident parents should benefit from improved creditworthiness.

¹⁵ *Family Resources Survey 2005*

86. Giving C-MEC access to information held by credit reference agencies on the bank accounts of non-resident parents, and on their regular and ongoing financial commitments, would support the administrative deduction of the maintenance from financial institutions as well as more robust debt repayment negotiations with those non-resident parents who have built up arrears.
87. This would mean an increased role for the credit reference agencies, benefiting those agencies and lenders as they would gain a more accurate picture of the financial obligations of their client base. There has been ongoing consultation with the credit reference industry throughout the development of these proposals.

Deduction from earnings orders as the first means of collecting maintenance

88. Parents will have the choice on how to arrange maintenance. Many parents who would currently use the Child Support Agency would be able to make arrangements amongst themselves. Piloting deduction from earnings orders as the first means of collecting would affect only those parents who choose to use the statutory maintenance scheme that is administered by C-MEC, and are involved in the pilot.
89. Deduction from earnings orders are a powerful enforcement tool with current compliance rates of around 75 per cent. Some North American states treat deduction from earnings orders as the automatic method of collection. Evidence suggests that this has helped to increase the extent to which non-resident parents comply with their maintenance obligations. Our proposed pilot is aimed at testing whether this would lead to an increase in compliance in the United Kingdom.
90. There would be close consultation with employers throughout the design of this pilot to ensure that the impact is kept as low as possible. Before taking this proposal forward, the Department for Work and Pensions would carry out research later in 2007, in order to gain a better understanding of the views and concerns of employers and inform a proportionate impact assessment. This research would inform the ways in which wage withholding could best be piloted. Piloting itself would be undertaken with a full programme of evaluation and impact assessment in order to quantify more clearly the costs for employers and ensure the key policy objective is feasible.
91. C-MEC would publish a full evaluation and impact assessment of any pilot before considering whether to move to using deduction from earnings orders as the initial method of collecting maintenance from employed non-resident parents.

Small firms impact test

92. The banking sector is predominantly made up of large firms and institutions hence deduction orders are not likely to have a significant impact on small businesses.
93. Increased access to information in order to assess the creditworthiness of people is likely to benefit credit reference agencies and the lenders that use this information. Increased information on creditworthiness would help to inform their lending strategies.
94. Small firms often have fewer resources to deliver the day-to-day running of their operations, for example they are less likely to have automated payroll services. Because of this, using deduction from earnings orders as the first means of collecting maintenance would be expected to disproportionately increase their administrative burden.
95. Small firms have been consulted throughout the development of proposals in the Bill. An Employer Forum with representatives from the Institute of Payroll Professionals and Pensions Management and the Federation of Small Businesses provided an opportunity to take employers through the proposals and discuss how they may effect on them. The Government is committed to ensuring that that small business is consulted throughout the development of this pilot and that their needs, alongside those of parents, are considered. The pilot would be fully evaluated before taking decisions on whether to rollout the pilot more widely.

Increasing efforts to collect and reduce debt

96. The Bill contains measures to collect and reduce debt more effectively and deliver better outcomes for parents with care. These include powers:

- to negotiate the settlement of arrears of child maintenance;
- to write off of historic debt in very limited circumstances;
- to sell debt;
- to recover arrears from the estate of a deceased non-resident parent; and
- to offset child maintenance liabilities.

Impact on individuals

97. The measures in the Bill would enable more parents with care to receive the maintenance that is owed to them.

98. There are currently around 960,000 cases owing some maintenance with approximately 45 per cent owing over £1,000. Of all cases owing debt, almost one in 10 cases owes between £10,000 and £50,000. The vast majority of these cases are old scheme cases.

99. In relation to the recovery of debt from the estate of a deceased non-resident parent, legislation would create a duty on the part of a personal representative to pay arrears of child maintenance out of the estate for which they are responsible. It is expected that the number of individuals that would be affected would be extremely small.

Impact on the public sector

100. Increased collection of debt would result in more maintenance owing to parents with care flowing and the increased recovery of money owed to the Exchequer in respect of any debt arising before the repeal of Section 6.

Impact of the legislation on other sectors

Impact on devolved administrations

101. The Bill raises a number of issues that are devolved to Scotland. It would be for Scottish Ministers and the Scottish Parliament to determine how to respond to these matters.
102. The Bill contains no measures which are devolved to Wales, although the proposals have been developed in concert with the Assembly Government given the broader social and economic implications.
103. The Bill does not extend to Northern Ireland and as is the convention it is assumed that parallel legislation would be introduced. Child Maintenance is a transferred matter under the Northern Ireland Act 1998, but there is a long standing policy of parity in this area.

Impact on competition

104. Completion of the competition filter (from the guidelines for competition assessment) found that the proposals would be unlikely to affect the competitive process.

Impact on third sector

105. There would be an increased role for the voluntary sector in working with C-MEC to provide information and support to parents. C-MEC would draw on best practice from the public, private and third sectors in order to deliver its services.

Effect on the wider economy

106. The Bill and flanking measures are intended to provide a framework for the improved flow of maintenance from non-resident parents to parents with care, bringing long-term benefits to the economy and helping to lift children out of poverty. By improving their lives when they are young, children will then have better opportunities to achieve their full potential in later life.

Gender impact

107. Clearly most non-resident parents are men, and most parents with care are women. It should be noted, however, that the child maintenance measures in this Bill are intended to improve income flows and support for children.

Impact on ethnic minority groups

108. Research shows that lone parents from black and minority ethnic groups are likely to have low awareness about the role of the Child Support Agency. The poor perceptions and expectations towards the CSA mean that people from black and minority ethnic groups are less likely to seek maintenance through it. These families may not benefit from the maintenance that they are entitled to.¹⁶
109. Increased support in the form of an information and support service, a more effective administrative organisation, and improved collection and enforcement measures are expected to result in more people, including those of black and minority ethnic origin, receiving maintenance.

Impact on people with disabilities

110. One parent with care in twenty claims a Disability Premium within Income Support. Improved provision of information and support services would help to ensure that these disabled parents with care are informed about how to make effective maintenance arrangements.

Implementation and delivery plan

111. The expected implementation timetable is set out in the White Paper 'A new system of child maintenance', December 2006. In summary:

2007–08: Key appointments would be made on a provisional basis pending Royal Assent, to ensure that C-MEC's prospective board members can have input into the preparatory work necessary to launch the new organisation.

2008–09: C-MEC would be in place with statutory authority. Repeal of Section 6 and the extension of the £10 disregard to all child maintenance schemes.

2009–10: Parents would be supported to make choices – existing clients would have the options available outlined to them.

¹⁶ Pettigrew N, 2003, Experiences of lone parents from minority ethnic communities, Department for Work and Pensions Research report No 18R7

2010–11: New applications would be accepted under the new calculation rules regime. The significantly higher disregard for all parents with care claiming benefits would be introduced. The transfer process for existing clients would begin: the transfer period is expected to take around three years.

2012–13: All clients would be on a single set of rules managed by a single organisation.

Post-implementation review

112. C-MEC would be required to submit both an annual report and accounts to Parliament through the Secretary of State. The sponsoring Government Department would have a stewardship role in relation to the Commission.

Summary

Table 5: Summary of costs and benefits of child maintenance proposals

| Measure | Benefits | Costs |
|--|--|---|
| Encouraging parents to make their own arrangements | | |
| No longer treating parents with care on benefit as applying for child maintenance | <p>Parents with care on benefits have the choice on how best to arrange their child maintenance.</p> <p>Reduced flows to C-MEC lead to a lower caseload, reducing costs to the exchequer.</p> | <p>Initial Information Technology costs to Jobcentre Plus.</p> <p>An increase in the number of child maintenance arrangements made through the courts, incurring costs for the Ministry of Justice.</p> |
| A new system of delivery | | |
| Creation of the Child Maintenance and Enforcement Commission (C-MEC) to deliver child maintenance | A new delivery body would see a clean break from the past. | Initial implementation costs and costs involved in transferring cases across to the new scheme. |
| Simplifying and improving the child maintenance calculation process | | |
| Using gross income information supplied by HM Revenue & Customs as the basis for the child maintenance calculation, with awards lasting one year unless current income differs by more than 25 per cent. | Would enable calculations to be processed faster than is currently the case. | Initial Information Technology costs for C-MEC and relatively minor on-going monitoring costs for HM Revenue and Customs. |
| Tougher enforcement | | |
| Increasing the range of powers available to C-MEC and increasing the use of administrative powers. | <p>Would lead to increased compliance with the new calculation rules, and where compliance breaks down, faster recovery of payments.</p> <p>Enables enforcement action to be undertaken more quickly than is currently the case.</p> | <p>Small costs incurred by the banking sector.</p> <p>Increased workload to the Tribunals Service.</p> |

| | | |
|--|--|--|
| | Reduces the workload of the Ministry of Justice. | |
| Impact on business focussing on small firms | The use of income information supplied by HM Revenue & Customs would reduce the burden on employers to provide income information. | <p>There would be a small additional role for the financial services sector in administering deduction orders/lump sum deduction orders. Provisions for this would continue to be developed with close consultation with business.</p> <p>The proposal to use deduction from earnings orders as the basic method of payment would increase the burden on business. We are piloting these powers to ensure that this cost can be managed.</p> |
| Impact on the Ministry of Justice | Reduced work load due to a reduced number of court based enforcement actions. | Increased number of people using the courts to agree child maintenance on the repeal of Section 6. |
| Impact on Jobcentre Plus | Increased role in the provision of information and support to Jobcentre Plus customers seeking to make child maintenance arrangements. | On repeal of Section 6, Jobcentre Plus will no longer need to treat those on benefit as also using the statutory maintenance scheme. This will reduce work load. |
| Impact on HM revenue and Customs | Costs to HMRC of increased sharing of their data with C-MEC. | |

Benefits

113. The measures in the Child Maintenance Bill would see more parents receive maintenance than under the current system of child maintenance. The changes are shown in the table below and are steady-state estimates. These increases are driven by:

- Increase in the numbers making voluntary arrangements which have higher compliance rates;
- Movement of the cases which opt to use the statutory service administered by C-MEC to calculate maintenance using information obtained from HMRC;
- Higher compliance rates through the more effective enforcement measures.

Table 6: Number of parents with care receiving maintenance

| | Number of parents with care receiving maintenance | Proportion of total |
|---|--|----------------------------|
| Current policy | 750,000 | 30% |
| Post OIP | 1,100,000 | 42% |
| Post implementation (steady state) | 1,400,000 | 55% |

114. The increased number of parents with care receiving maintenance, alongside the introduction of the £10 disregard for old scheme cases in 2008-09 and a higher disregard introduced in 2010-11 would lift an estimated 100,000 additional children out of poverty.

115. The table shows that under the current policy around 100,000 are lifted out of poverty through the receipt of child maintenance. The Operational Improvement Plan is expected to lift a further 30,000 - 40,000 children out of poverty and these reforms lifting an additional 100,000 children out of poverty. Once the reforms are bedded in, the receipt of child maintenance is expected to lift around a quarter of a million children out of poverty.

Table 7: Children lifted out of poverty through the receipt of child maintenance

| Policy | Children lifted out of poverty |
|----------------------------------|---------------------------------------|
| Due to current system | 100,000 |
| Due to OIP | <i>additional 30,000-40,000</i> |
| Due to Child Maintenance reforms | <i>additional 100,000</i> |

Costs

116. The proposed changes are anticipated to reduce annual administration costs by around £200m once transition is complete compared to continuing with current policy. These cost reductions are driven by:

- Repealing Section 6, thereby not mandating parents with care claiming income related benefits to use the statutory scheme.
- An information and support service to encourage parents to make voluntary arrangements;
- A more efficient calculation process enabling maintenance liabilities to be set-up more quickly than is currently the case.

117. It is estimated that these drivers lead to a steady state caseload using the statutory maintenance scheme of around 1 million cases. This figure is based on an annual inflow of 100,000 cases with calculations being made compared with 130,000 new calculations being made with the Child Support Agency each year. These estimates are subject to significant behavioural uncertainties and may change due to future changes in policy. The costs are responsive to the caseload estimates: For instance, a 10 per cent increase in the estimated caseload could be estimated to increase annual administration costs by around £20m.

Introducing a Mesothelioma Lump-Sum payment scheme and changes to the Social Security (Recovery of Benefits) Act 1997 in order to make payments to all people diagnosed with mesothelioma:

Proposal and objective

118. To extend payment of compensation to all people suffering from mesothelioma by creating a new scheme and make a compensation payment to all people suffering from mesothelioma. To do this the Government proposes to provide a new scheme and to provide for the recovery of compensation payments from any later award of civil compensation in respect of the Pneumoconiosis etc. (Workers' Compensation) Act 1979 ("the 1979 Act") and new scheme payments. This would mean that people who have been exposed to asbestos through no fault of their own, and who currently cannot claim compensation under the 1979 Act, would be able to receive compensation. These changes would ensure that sufferers of mesothelioma receive compensation whilst they themselves can still benefit from it.

Background

119. The 1979 Act provides lump sum compensation to workers, whose former employers have gone out of business, if they suffer from certain dust-related diseases including mesothelioma. The legislation would provide for payments to be made to people not covered by the 1979 Act scheme, who have been diagnosed with mesothelioma. The intention is to fund this change by making these payments, and those under the 1979 Act, subject to compensation recovery as described below.

120. Under the Social Security (Recovery of Benefits) Act 1997 the Government can recover most social security benefits from compensation that is awarded in the civil courts, or from settlements made out of court, for the accident, injury or disease that has caused the disablement. This was introduced on the principle that, since a person should not be doubly compensated for the same occurrence, the state, not the person liable for damages, should benefit from the amount paid by way of benefits. The compensation recovery scheme is administered by the Compensation Recovery Unit (CRU) which is part of DWP.

121. The current legislation does not allow for payments made under the 1979 Act to be recovered from later awards of compensation made under civil law. The proposal is to introduce a scheme, so that government can recover from any payments made through civil compensation, and use this to pay compensation to all people suffering from mesothelioma who are not covered by the 1979 Act. Therefore changes need to be made to the Social Security (Recovery of Benefits) Act 1997 to allow recovery of payments made under the 1979 Act and the new scheme from later awards of civil compensation,

those made on an extra-statutory basis following the rejection of a claim made under the 1979 Act, and the new scheme from later awards of civil compensation.

122. Government would meet the additional costs of extending payments to people not covered under the 1979 Act by recycling compensation recovery payments to those who currently do not receive a payment under the 1979 Act but at a rate based on the compensation recovered and increasing over time to equal other 1979 Act payments. Because compensation payments under the 1979 Act are not currently recovered from later civil compensation payments, the defendants' insurers benefit because the civil compensation award is often adjusted downwards to reflect the payment to defendants under the 1979 Act.
123. The annual number of mesothelioma deaths increased from 153 in 1968 to 1633 in 2000 to 1969 in 2004¹⁷. The annual total number of mesothelioma deaths in Great Britain is predicted to peak during the period 2011 to 2015 at a level up to 2450 deaths per annum. The Government needs to take action now so that systems are in place well before the peak is reached. Mesothelioma has a very strong association with exposure to asbestos and, in adults the malignant form probably does not occur in its absence. It is believed that nearly all adult deaths in the UK caused by mesothelioma are linked to asbestos exposure. It is estimated that around 1 per cent of all males born between 1940 and 1950 will die of the disease due to asbestos exposure¹⁸.

Rationale for Government Intervention

124. The Government proposes to put in place a long term solution to ensure that, wherever possible, people with mesothelioma can receive compensation in life.
125. Government is proposing to treat mesothelioma differently to other asbestos-related diseases because mesothelioma is a special case with a particularly poor life expectancy compared with other cancers. The other diseases paid under the 1979 Act are not always terminal. Mesothelioma is almost always fatal. Median survival from diagnosis varies from study to study, but is mostly within the range of 6 to 9 months although some studies show a range up to 14 months. Unlike mesothelioma, there is no evidence that the other 1979 Act diseases can be acquired through contact with an exposed person who has the noxious substance on his body or clothing.

¹⁷ HSE data

¹⁸ Peto, J., Hodgson, J.T., Matthews, F.E., Jones, J.R. Continuing increase in mesothelioma mortality in Britain. *Lancet* 1995; **345** (i): 535-539

126. The Department for Work and Pensions (DWP) has been told by stakeholders, for example sufferer's support groups that, once sufferers and relatives have absorbed the initial impact of the diagnosis, financial security becomes a key concern. The Government believes that a lump-sum payment is the quickest way to allay that concern at a time when sufferers themselves can still benefit from a payment. It would also give them a measure of confidence that their families would be helped in the future. This reflects the particularly poor life expectancy compared with other cancers and illnesses and the need for a simple and quick payment.

127. The proposal is that payment would be made whether or not there is a claim for damages under the civil law of negligence. Where there is such a claim, the payment would be recovered from any damages which are awarded.

Consultation

Within Government

128. DWP set up a government working group, including HM Treasury, Ministry of Justice, Department of Trade and Industry (DTI), Ministry of Defence (MoD), Department for Social Development Northern Ireland, Jobcentre Plus and the Scottish Office. This group had input into the development of the proposals and full agreement was reached on the final proposal

Public consultation

129. A consultation period ran from 4 September 2006 to 26 November 2006. Meetings with stakeholders took place in London, Leeds and Glasgow. Stakeholders included the Association of British Insurers (ABI) and other insurance companies, the Association of Personal Injury Lawyers (APIL) and others from the legal profession, employer organisations, support groups for people suffering with mesothelioma, and medical experts. A summary of responses was published on 1 March. In addition a mesothelioma summit was held in London on 13 March to discuss the proposals with stakeholders.

130. The proposals put forward received widespread support. DWP has collected and analysed data from several sources including the Health and Safety Executive and Jobcentre Plus as well as external experts, see footnote 2. By extensive consultation with stakeholders DWP has been able to create a rounded picture of the mesothelioma compensation issue and how best to address this

Options

131. Option 1. To do nothing. After consideration it has been found that this does not meet the policy objective; therefore the Government has decided not to follow this option.

132. Option 2. To extend payments of compensation to all people suffering from mesothelioma. Government would pay for this by amending the Social Security (Recovery of Benefits) Act 1997 to allow recovery of payments made under the 1979 Act and the new scheme from later awards of civil compensation.

Sectors and groups affected

Impact on individuals

133. These changes would ensure that all people diagnosed with mesothelioma, an invariably fatal disease, would receive compensation whilst they themselves can still benefit from it.

134. The changes would also mean that payments under the 1979 Act and the new scheme would be recovered from compensation under civil law. It is more usual for the compensator to ask the courts to reduce their liability on the basis that the injured person has already received a lump sum from the State so there would be no loss to the individual in these circumstances. There may be some cases where this does not happen and a person who is compensated twice would lose that double compensation, for example when the defendant's solicitor does not ask the court to deduct the amount of compensation paid under the 1979 Act from the amount of compensation awarded by the court.

Gender impact

135. Currently the 1979 Act makes a one off lump sum payment of compensation to people who are suffering from certain dust related diseases including mesothelioma and where these people cannot find a former employer to sue. The majority of people making a claim under the Act are men, this is because the occupations that occasioned asbestos exposure were mainly those of men (it is the asbestos fibres that cause the mesothelioma), e.g. shipbuilding and construction. The proposals would extend payment to all people suffering from mesothelioma including those who were environmentally exposed to asbestos and those who had para-occupational exposure to asbestos. This latter group is often made up of women who were exposed to asbestos fibres when they washed the working clothes of their husbands who worked with asbestos. Without these proposals this group which includes many women would be unlikely to get any compensation unless they could successfully sue a former employer of their husbands.

Impact on ethnic minority groups

136. The industries mainly associated with exposure to asbestos were the heavy industries of shipbuilding and construction. Because of the long latency of mesothelioma people being diagnosed now will mainly have been exposed to asbestos in the 1950s, 1960s or 1970's. The numbers of people from ethnic minorities who worked in these industries in these decades is not available. However, figures for 1979 show that 1% of people working in shipbuilding and marine engineering were from ethnic minorities and 1% of people working in construction were from ethnic minorities. Therefore the majority of people who benefit from the change would not be from ethnic minorities. Overall around 600 people a year would be likely to benefit from the changes with fewer than 6 of these being from ethnic minorities. Jobcentre Plus does not collect figures for numbers of people from ethnic minorities making a claim under the 1979 Act and HSE statistics on mesothelioma mortality do not give an ethnic origin breakdown.

Impact on people with disabilities

137. All the people who are diagnosed with this disease will very quickly, if not at the time of diagnosis, become disabled to some degree or other. Their average life expectancy from diagnosis is on average about nine months. While this proposal would not alter their life span it would enable these people to have some financial security while still alive.

Impact on the public sector

138. These proposals may have a small impact on those government departments that hold asbestos-related liabilities (such as MoD or DTI) in their role as employers or managers of liabilities arising from nationalisation or privatisation, who could be subject to compensation recovery in these areas. The impact would be minor when compared to their overall asbestos-related liabilities. Any additional costs would only arise as a result of negligence so it would not be appropriate for them to be met by the Department for Work and Pensions. DWP officials have been working with others across Government on the detail of the changes and would continue to do so. DTI estimate their costs to be £0.6m per year.

Impact on the Department for Work and Pensions

139. The proposals would add approximately £95,000 (2008/09) and £40,000 (2009/10 onwards) to DWPs administration costs.

Impact on devolved administrations

140. DWP has involved officials from the devolved administrations and from Northern Ireland in this work. The Department for Social Development in Northern Ireland also ran a consultation exercise for Northern Ireland on improving claims handling for mesothelioma cases. The major issue that arose from this was what appears to be differences between Great Britain and Northern Ireland on claims handling best practice. Officials from the Department for Social Development are in contact with the Association of British Insurers, the Association of Personal Injury Lawyers and other interested groups to ensure that sufferers in Northern Ireland would be afforded the same treatment as sufferers in the rest of the UK.
141. The Scottish Executive's position is that they are keeping a watching brief on reserved aspects of the proposals but are, of course, pleased that the benefits would extend to Scotland. There are no additional costs to Scotland and Wales.

Impact on business

142. These proposals would mean that employers and their insurers would not be able to deduct the 1979 Act payments from their settlements of civil compensation; this includes other government departments who have liability for 1979 Act diseases, and the total cost is about £12m per year. The present value of the cost of the proposal over 10 years at 2005 prices is around £100m. This cost can be taken in the context of the Employers' Liability Compulsory Insurance (ELCI) market of about £1 billion per year. The Association of British Insurers is aware of these proposals and has indicated that the legislative timetable should provide its members with the time to make any necessary adjustments to pricing. Although 1979 Act payments would not normally apply where there is an extant employer, there may also be a few cases where an employer comes to light later where, again, they would now be asked to meet their full legal liability. Some large businesses are likely to self-insure and compensation recovery would have the same impact on them as it would have on the insurance industry, but they should not have been benefiting from these payments. There are no records kept of how many firms self-insure. There are no additional information requirements as businesses are already required to notify DWP of any claims and settlements for industrial accidents/diseases for the purposes of Industrial Injuries Disablement Benefit compensation recovery.

Impact on the third sector

143. There is no impact on the third sector. Welfare Rights groups and charities were involved in the consultation exercise. Several were represented at the mesothelioma summit and welcomed the proposals on behalf of their customers.

Effect on the wider economy

144. The additional money DWP are proposing to pay out would come from DWP's budget but would be recovered from any civil compensation payments that are subsequently paid to the individual. In the longer term this would be cost neutral to DWP. In terms of the wider economy the sums of money are very small and these proposals would have no effect on the wider economy.

Small Firms Impact Test

145. The main impact on business of these proposals would be on the insurance industry. As all employers must have ELCI and only large firms self-insure any liability for mesothelioma would be met by a small firm's insurers.

Competition Assessment

146. The proposals in the Bill may affect the competitiveness of the small number of insurers who underwrite for asbestos liabilities. This relates to differential effects, i.e. about issues of competitiveness (the ability of firms to compete relative to each other) rather than the degree of competition in the market as a whole. However, the small amounts of money concerned in relation to the market as a whole means there are unlikely to be any implications for competition. Completion of the competition filter (from the guidelines for competition assessment) found that the proposals would be unlikely to affect the competitive process.

Enforcement, sanctioning and monitoring

147. There are no penalties or sanctions requiring monitoring or enforcement.

Implementation and delivery plan

Delivery objectives and outcomes

148. To make a compensation payment to all people suffering from mesothelioma and to recover compensation payments from any later award of civil compensation in respect of 1979 Act and new scheme payments.

Success criteria

149. DWP want to pay a compensation payment to all people suffering from mesothelioma. Success would be defined by the number of people that are paid under the new scheme. DWP have estimated 1400 additional claims in 2008/2009 and then 600 additional claims in each subsequent year until 2015/2016.

Consultation

150. Discussions with Jobcentre Plus, who would administer the scheme and with Compensation Recovery Unit are ongoing.

Implementation and delivery

151. Jobcentre Plus and Compensation Recovery Unit would implement and deliver the initiative. DWP are in ongoing discussions about the detail of this. DWP are also talking to other government departments, for example DTI that would be involved.

Resource requirements and costs

152. Discussions are ongoing with Jobcentre Plus and Compensation Recovery Unit.

Communication strategy

153. DWP are talking to all stakeholders and would continue to do so throughout implementation and delivery.

Post-implementation review

154. The Department for Work and Pensions would measure the effectiveness of the legislation through a review after three years.

Summary and recommendation

155. Option 2, to extend payments of compensation to all people suffering from mesothelioma and to finance this by introducing compensation recovery is recommended. It provides early access to a lump-sum payment of compensation until compensation under civil law may be paid, at which time the payment made under the 1979 Act and the new scheme would be recovered. It ensures that sufferers of mesothelioma receive compensation whilst they themselves can still benefit from it.

Table 7: Summary of costs and benefits of introducing a Mesothelioma Lump-Sum payment scheme

| Option | Total benefit per annum: economic, environmental, social | Total cost per annum: - economic, environmental, social - policy and administrative |
|--|--|--|
| 1 To do nothing. | <p><u>Economic</u> On business: amount paid from 1979 Act and not recovered £26m</p> | <p><u>Economic</u> On Government: amount paid from 1979 Act and not recovered £26m</p> <p><u>Social</u> Those with mesothelioma wait an average of 12 - 24 months for settlements under civil law</p> |
| 2 To extend payments of compensation to all people suffering from mesothelioma. Government would pay for this by recovering payments made under the 1979 Act and the new scheme from later awards of civil compensation. | <p><u>Economic</u> On individuals: £37m from 1979 Act and new scheme is paid to 2,700 people early but £15m is eventually recovered from civil compensation. 360 individuals would receive no civil compensation and keep the New scheme award of £6,000 (2008/09) £17,000 (2009/10) £19,500 (2010/11)</p> <p><u>Social</u> On individuals: those with mesothelioma receive compensation whilst they themselves can benefit from it.</p> | <p><u>Economic</u> On business: £15m is paid from 1979 Act and new scheme and recovered</p> <p><u>Social</u> Those with mesothelioma wait an average of 12 - 24 months for settlements under civil law</p> |

Declaration and publication

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.



Lord McKenzie of Luton,
Parliamentary Under Secretary (Lords)

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Annex A: Child Maintenance Bill – Judicial Impact Assessment

The Legal Aid and Justice Impact Test

1. The following paragraphs identify those proposals in the Child Maintenance Bill that may have an impact on Courts, Tribunals, the Judiciary or Legal Aid system and provide a judicial impact assessment of those proposals. The proposals may marginally increase inflow into the judicial system or, in most cases, reduce it.

2. The measures set out in the Bill have been developed in close consultation with the Ministry of Justice and were published in a White Paper and therefore subject to a public consultation exercise

3. The proposals in the Child Maintenance Bill which have a potential judicial impact are:

- Clause 15 which repeals Section 6 of the Child Support Act 1991 (which treats benefit parents with care as applying for child maintenance);
- Clause 23 which makes provision for administrative liability orders;
- Clause 24 which removes the requirement to apply to the county court before making an application for a charging order or third party debt order;
- Clause 19 which enables the use of deduction from earnings orders as an initial method of collection. The intention is to pilot this change;
- Clause 26 which enables an application to be made to court to apply a curfew order against a non-resident parent who refuses to pay child support maintenance;
- Clause 24 which enables the enforced surrender of a passport, where a non-resident parent is subject to an administrative liability order and an amount of arrears under the order remains
- Clause 21 which enables the application of a current account deduction order to continuously collect arrears and regular maintenance payments from the current account of a non-resident parent who has failed to pay child support maintenance; and

- Clause 22 which enables the application of a lump sum deduction order to collect an amount of arrears from the savings accounts or financial resources of a non-resident parent who has failed to pay child maintenance.

Clause 15 which repeals Section 6 of the Child Support Act 1991

4. Under Section 6 of the Child Support Act 1991, if a parent with care is paid or has claimed Income Support, or income based Jobseeker's Allowance (or one of those benefits has been claimed or is paid in respect of that parent), they are treated as though they have applied for child maintenance.

5. The repeal of Section 6 would mean that parents with care in receipt of (or applying for) prescribed benefits would not be treated as applying for child maintenance

6. The effect of this is that parents with care on benefit would have the same choices about how to arrange child maintenance as other parents. They would no longer be required to use the Child Support Agency nor would they be required in the future, to use the statutory scheme administered by the Child Maintenance and Enforcement Commission (C-MEC). Parents would be able to choose whether to agree a child maintenance arrangement together, use C-MEC or to make no arrangement at all if this is what they wish.

7. Some parents, who have other financial matters to settle on divorce or separation, may choose to include child maintenance in a court order. The courts do not have jurisdiction to settle issues of child maintenance, other than in exceptional circumstances outside the scope of the 1991 Act, for example, if a non-resident earns more than £2000 per week or to meet the needs of a disabled child. However, parents may draft a written maintenance agreement, often with the help of a solicitor, which covers a number of financial issues and may be registered as a court order. This type of order is known as a consent order. The process for making consent orders would remain the same as it is now.

8. Currently only a minority of parents choose to agree a written maintenance agreement, usually with the help of a solicitor, and register it as a court order. Consent orders are generally made by divorcing couples and may cover a whole range of financial issues as well as child maintenance.

9. If Section 6 is repealed it is possible that some parents with care, who were subject to Section 6 and therefore treated as applying for child maintenance, may instead choose to settle their arrangements by consent order.

10. In the light of this it is anticipated that a maximum of approximately 10,000 parents with care in receipt of prescribed benefits would use the courts to settle child support maintenance by consent order. The estimated combined

costs to the court and legal aid budget, agreed with the Ministry of Justice, would be around £4.8 million and a transfer of funds for this amount has been agreed. This amount is estimated to cover the increase in the number of consent orders, the increase in Appeal Tribunal cases, the cost of a review of the impact of these changes and a baselining exercise.

Clause 23 – Administrative liability orders

11. Currently, in cases where a non-resident parent fails to pay child maintenance and a deduction from earnings order is not appropriate or effective, the Child Support Agency has to apply to a magistrates' court (or, in Scotland, the sheriff) for a liability order before enforcement action, such as use of bailiffs or applying a charging order on land or property, can be taken.

12. The Bill would enable a liability order to be made administratively, without applying to a court. This would ratify the debt owed and would be the first step to further enforcement action.

13. It is estimated that the number of applications to a magistrates' court or sheriff would reduce by around 14,500 per year. Appeals, which can only be made on specific grounds, would be to the Tribunal Service. These grounds of appeal would be limited to those which the magistrates court or sheriff currently has jurisdiction to hear, that is:

- They are not the person who has failed to pay an amount of child maintenance; and
- That the amount stated as owing in the order was incorrect at the time it was made.

14. A new fast track appeals process is proposed, administered by the Tribunals Service, where only cases that are within the specified grounds would be heard. The increase in appeals hearings should be negligible. It is estimated that prior to the initial sift there may be around 5,000 cases but only 1,700 would go on to a full appeal hearing.

15. Once non-resident parents understand the appeals process fully it is anticipated that the number of appeals would drop considerably. This proposal is a significant easement as far as the courts are concerned with a major reduction in the number of cases heard by the magistrates' or sheriff and with an impact on Appeals Tribunals hearings.

Clause 24 – Enforcement in county courts

16. Under Section 36 of the Child Support Act 1991 the Child Support Agency has to obtain an order from the county court under Rule 70.5 of the Civil

Procedures Rules before applying to that court for a charging order or third party debt order¹⁹. This additional step adds several weeks to the enforcement process and gives notice to the liable person of what action the Child Support Agency is considering taking, allowing them time to sell or transfer assets before the application for a charging order or third party debt order can be made.

17. It is proposed to remove the requirement to apply for a county court order before an application for a charging order or third party debt order can be made. This would reduce the county courts caseload by around 5,000 orders per year.

Clause 27 – Curfew orders

18. The Bill would provide powers to apply to court for a curfew order to be made against a non-resident parent who fails to pay child support maintenance. To make a curfew order the court must be of the opinion that the non-resident parent has shown “wilful refusal or culpable neglect” to pay maintenance.

19. Currently, the Child Support Agency is only able to apply to the courts to commit a non-resident parent to prison (for up to 42 days) or disqualify them from driving (for up to 2 years).

20. In 2008/09 (the earliest possible date for introduction) it is estimated that up to 800 applications to the court for Great Britain as a whole would be made (90 per cent to magistrates’ courts in England and Wales and 10 per cent to the sheriff in Scotland). Around 750 such applications would concern curfews; the remainder would be on committal.

21. Appeals would be to the high court, on the grounds of error in law or jurisdiction – as per Section 111 of the Magistrates’ Courts Act 1980. This does not represent any changes to the existing child support appeal rules concerning committal to prison or disqualification from driving. Curfew orders would be a further alternative and the process would broadly mirror criminal legislation currently used for imposing curfews.

Clause 25 – Disqualification for holding travel authorisation

22. The Bill would enable an order to be made to enforce the surrender of a passport of a non-resident parent where they are subject to an administrative liability order and an amount of arrears under that order remains unpaid.

23. In 2008/2009 (earliest possible date for introduction) it is estimated that around 70 orders would be made across Great Britain as a whole (90 per cent would be in England and Wales, 10 per cent in Scotland).

¹⁹ A charging order allows a debt to be registered against certain assets, such as land, stocks and shares. A third party debt order can be used to access monies owed to an NRP by a third party.

24. Court involvement would only be required where there is an appeal or if a prosecution is needed to enforce the surrender of documentation.

25. It should be noted that the non-resident parent would have 28 days from the order being served to make an appeal to the courts against the order. The order would be suspended while an appeal is being heard. The court would affirm, vary or revoke the order, and if affirmed or varied the non-resident parent could become liable for all costs.

Clause 22 – Current account deduction orders

26. At present the Child Support Agency is able to apply a deduction from earnings order (DEO) against a non-resident parent who fails to pay child maintenance, which deducts money directly from their earnings. The Bill would introduce a new measure to enable a deduction of arrears and/or regular maintenance directly from the current account of a non-resident parent, on an on-going basis. These orders would not be made against business or joint bank accounts.

27. As with DEOs, this enforcement measure would be carried out administratively. It is estimated that there would be around 8,500 current account deduction orders each year. The appeals process would be through the magistrates' court or sheriff, using the same process as appeals against DEOs.

28. During an appeal against a current account deduction order, the magistrates' court or sheriff prevented from questioning the amount within the deduction order, or the maintenance calculation from which it is derived.

29. Consultation with representatives from banks and building societies has taken place and they are content with these proposals.

30. Due to the nature of customer base for which this enforcement measure would be used, there are unlikely to be any in receipt of benefits and therefore we do not expect any impact upon requests for Legal Aid. In summary, it is anticipated that there would be little impact upon the court, judicial or Legal Aid services as a result of this legislation.

Clause 22 – Lump sum deduction orders

31. Similar to the current account deduction order, the lump sum deduction order would enable the deduction of a one off amount of arrears from savings accounts or financial resources held by a non-resident parent who has failed to pay child maintenance. The order can also collect money from deposit takers who hold financial assets on behalf of a non-resident parent. It is estimated that there would be around 700 lump sum deduction orders each year.

32. This enforcement measure would also be administrative and the appeals process would be through the magistrates' court or sheriff. However, as the number of orders expected to be made is low, it is anticipated that the number of appeals would also be low.

33. As with current account deduction orders, during an appeal the magistrates' court or sheriff is prevented from questioning the amount within the deduction order, or the maintenance calculation from which it is derived. Restricting the grounds under which an appeal can be made and further reducing the number of appeals.

34. Consultation with representatives from banks and building societies has taken place and they are content with these proposals.

35. Due to the nature of customer base for which this enforcement measure would be used, they are unlikely to be in receipt of benefits and therefore it is not expected to have any impact upon requests for Legal Aid.

36. In summary, little impact upon the court, judicial or Legal Aid services as a result of this legislation is anticipated.

Annex B: Research Commissioned by the Department for Work and Pensions

The following research has been used by the Department for Work and Pensions to ensure that the policy proposals are supported by a body of good quality research:

Child Support Policy: An International Perspective. Research Report 405 by Christine Skinner, Jonathan Bradshaw, Jacqueline Davidson. March 2007. ISBN 978184712116

Future policy options for child support: The views of parents Research Report No 380 By Adele Atkinson, Stephen McKay and Nicola Dominy July 2006 ISBN 1 84712 085 7

Families with children in Britain: Findings from the 2004 Families and Children Study (FACS) Research Report No 340 By Nick Lyon, Matt Barnes and Daniel Sweiry July 2006 ISBN 1 84123 995

An investigation of CSA Maintenance Direct Payments: Qualitative study Research Report No 327 By Alice Bell, Anne Kazimirski, Ivana La Valle March 2006 ISBN 1 84123 977 1

Investigating the compliance of Child Support Agency clients Research Report No 285 By Adele Atkinson and Stephen McKay October 2005 ISBN 1 84123 889 9

Child Support Reform: The views and experiences of CSA staff and new clients Research Report No 232 By Adele Atkinson and Stephen McKay March 2005 ISBN 1 84123 789 2

Attitudes towards child support and knowledge of the Child Support Agency, 2004 Research Report No 226 By Victoria Peacey and Laura Rainford November 2004 ISBN 1 84123 755 8

National survey of Child Support Agency clients Research Report No 152 By Nick Wikeley, Sarah Barnett, James Brown, Gwynn Davis, Ian Diamond, Teresa Draper and Patten Smith October 2001 ISBN 1 84123 398 6

Future research

The Department has a range of current research programmes underway in order to inform the design and delivery of our proposals. These include:

- **Child Support Agency client survey:** this is a sizeable survey (approximately 1,200 telephone interviews) across the Child Support Agency's client base. It will enable us to gather evidence on the likely behavioural responses to the new proposals and will help inform our understanding of the potential movements of the current Child Support Agency client base under the future system. This research is likely to be published in summer 2007.
- **'Relationship separation' survey:** this is a large (approximately 2,500 face-to-face interviews) statistically representative survey. It will capture both Child Support Agency and non-Child Support Agency customer groups, in order to profile the child maintenance 'population', and further inform estimates with regard to likely customer flows and where support services could be tailored to meet the needs of specific customer groups. This is due to be published in spring 2008.
- **Joint birth research:** this is a research project to examine factors that may lie behind sole birth registration and to identify barriers to joint birth registration. This is likely to be published during summer 2007.
- **Disregards and work incentives:** this will provide modelling and analysis to assess the potential impact of different maintenance disregard levels on work incentives. It is likely to be published during autumn 2007.
- **Information and support needs:** this research is designed to examine and understand information and support needs, how it may be tailored to the needs of specific client groups and the types of delivery mechanisms that may be most appropriate. It is likely to be published in autumn 2007.