

# Government response to consultation on the abolition of CMEC

Government response to the consultation on the abolition of the Child Maintenance and Enforcement Commission and the transfer of its functions to the Secretary of State for Work and Pensions

March 2012

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# Ministerial Foreword by the Parliamentary Under Secretary of State and Minister for Disabled People

In introducing consultation on “Strengthening families, promoting parental responsibility; the future of child maintenance” (Cm 7990) I said that, when adult relationships break down, we need to support parents to think about their responsibilities to their children and to help them ensure their children come first, even during the most difficult times.

The change we are proposing in abolishing the Child Maintenance and Enforcement Commission (CMEC) and transferring its functions to the Secretary of State for Work and Pensions will enable Ministers to have more direct control, responsibility and accountability for the delivery of child support strategic and operational policy as well as ongoing and future reforms to child maintenance.

We are satisfied that the proposed change meets the criteria set out in the Public Bodies Review, in which the Government proposed to radically increase the transparency and accountability of all public bodies.

The Minister for the Cabinet Office set out three criteria for retaining public bodies, namely that they would have to meet one of these three tests:

- performing a technical function;
- requiring political impartiality; and
- needing to act independently to establish facts.

Whilst the child support reform agenda remains challenging, CMEC itself does not meet the criteria above. CMEC is not a technical or fact gathering body that needs independence, nor does it require political impartiality to discharge its responsibilities. It is clear that CMEC performs an administrative function which could be done within Government.

Given that CMEC does not satisfy any of the three tests and that Ministers believe that we should be directly accountable for the reforms set out in the Green Paper (“Strengthening families, promoting parental responsibility; the future of child maintenance”), we have concluded that CMEC’s functions do not need to be carried out by a non-departmental public body.

I am also satisfied that this change can be achieved at minimal cost and, indeed, that in the longer term there are efficiencies to be achieved as a result. I am convinced that the change will enable us to provide a better service to parents for the benefits of their children.

I have now considered the responses to this consultation, and I am grateful to all who took the time to share their views. Whilst not everyone welcomes the changes, and there was a particular desire – which I whole heartedly share – not to lose the recent performance improvements that CMEC has made, I am satisfied that proceeding as planned is the right thing to do.

I now propose to lay a draft Order, to be made under the Public Bodies Act 2011, in Parliament.

**Maria Miller**

**Parliamentary Under Secretary of State  
and Minister for Disabled People**

# Introduction

## Rationale behind the consultation

1. The Government went out to consultation regarding the abolition of the Child Maintenance and Enforcement Commission (CMEC) and the transfer of its functions to the Secretary of State for Work and Pensions on 10<sup>th</sup> October 2011. The consultation document and the draft order provided with it are attached at **Annex A**.
2. The Consultation started on 10<sup>th</sup> October 2011 and ended on 3<sup>rd</sup> January 2012.
3. As well as making the consultation available on-line, including the draft Order to take forward the abolition and transfer, we also alerted key organisations with an interest in child maintenance to the consultation document.
4. The consultation asked two questions:
  - Question one: In respect of our proposal to abolish CMEC as a non-departmental public body and to transfer its functions to the Department for Work and Pensions, please tell us if there are any other factors that you would like us to consider.
  - Question two: Please let us have any specific comments about the draft Order that you would like us to consider.
5. Only 11 responses were received, a rate which indicates that this is not a contentious change. Indeed the move from CMEC to DWP will not in itself change child maintenance policy, or its delivery to customers.
6. Five respondents agreed with and / or welcomed the change, although most had some additional concerns. Three respondents disagreed or asked for reconsideration and one other could also be classified as disagreeing. One respondent said that they were unable to comment and one response was about the consultation process itself.
7. A list of those who responded is attached at **Annex B**. We would like to thank the individuals and organisations who took time to consider this change for their helpful and thought-provoking comments. Nine of the responses were from external organisations, with the other two being from individuals.
8. The following narrative considers the main points raised by the consultation.

## Structure of this document

9. This publication summarises the main points made by respondents and provides the Government's response to the consultation on the abolition of

CMEC and the transfer of its functions to the Secretary of State for Work and Pensions. The Government's Order to bring about these changes will be laid out in affirmative regulations and introduced in Parliament over the coming weeks.

10 The document deals individually with the main themes arising out of the consultation. These were around:

- CMECs objectives
- Accountability and reporting;
- Reporting structure and continuity of service;
- Rationale for the change;
- Review of Crown Body Status;
- Fraud Referrals; and
- Returning the issue of child maintenance to the court system.

11. Given the short length of this document, and the limited number of responses and themes to address, there is no Executive Summary.

12. The original *Consultation on the abolition and transfer of functions of the Child Maintenance and Enforcement Commission* is available at:

<http://www.dwp.gov.uk/docs/cmec-abolition-consult.pdf>

and is annexed (**Annex A**) for ease.

13. Paper copies of this publication and the original consultation can be obtained from:

Department for Work and Pensions  
Child Maintenance Strategy Business Business Partner  
Area E, Level 7  
Caxton House  
Tothill Street  
London  
SW1H 9NA

# Government response

## CMEC objectives

14. At present, CMEC's objective set out in the Child Maintenance and Other Payments Act 2008 is to:

*Maximise the number of children living apart from one or both parents who have effective maintenance arrangements in place.*

15. This is supported by two 'subsidiary' objectives of:

*Encouraging and supporting the making and keeping of 'appropriate voluntary maintenance arrangements', and*

*Supporting the making of statutory maintenance applications and securing compliance with parental obligations as set out in the Child Support Act 1991.*

16. The Commission performs three functions:

- Promoting the financial responsibility that parents have for their children;
- Providing information and support on the different child maintenance arrangements available; and
- Providing an efficient statutory child maintenance service, with effective enforcement.

17. Concern was expressed that the Order does not transfer the statutory objectives. While the objectives themselves do not transfer to Ministers, Ministers do not need such statutory objectives to be able to promote child maintenance arrangements. Ministers have assured Parliament, during the passage of the Welfare Reform Bill that they will be aiming to maximise the number of effective maintenance arrangements.<sup>1</sup>

18. Respondents to the consultation suggested that in the future Ministers might decide to change the central objective, that there may be mission creep (such that work to maximise the number of effective arrangements in place would be diluted by attempts to, for example, support parents to avoid family breakdown), and thirdly that pressure to reduce expenditure within DWP could potentially drive DWP to neglect harder to reach cases.

19. We believe that is unlikely that Ministers now, or in the future, will change their minds on this point. There is no incentive for the Secretary of State to do anything other than to maximise the number of effective arrangements in place. For example, a reduction in payments by non-resident

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<sup>1</sup> Welfare Reform Bill Public Committee, 24/5/2011, col 1103.

<http://www.publications.parliament.uk/pa/cmpublic/welfare/110524/am/110524s01.htm>

parents could increase child poverty and increase the overall benefit bill. For similar reasons, we do not believe that seeking to prevent family breakdown would dilute efforts to maximise the effectiveness of maintenance arrangements.

20. For these reasons the draft Order, as consulted on, has not been amended in this regard.

## **Accountability and reporting**

21. The consultation made no reference to reporting mechanisms. A number of respondents felt that this was an omission, and that it was not clear what steps would be taken to measure and publish data to demonstrate the continued commitment to maximise the number of effective maintenance arrangements. In addition it was mentioned that there should be improved accountability for the day-to-day administration and delivery of child maintenance in line with the transparency agenda.

22. The Order will abolish the obligations of CMEC with regard to its annual report. Ministers do not require legislation to set out reporting requirements as they already have the powers to make this information available.

23. All DWP business units report on their effectiveness, and we agree on the importance of good, regular data on the effectiveness of maintenance arrangements.

24. The Department will continue to publish the quarterly summary of statistics which details the performance of the Child Support Agency and will continue to publish details of key contracts and spend in line with the transparency agenda and with other parts of DWP.

25. In order to measure and gather information about maintenance arrangements outside the statutory service, the Department will be adding a series of questions about child maintenance to the large scale Economic and Social Research Council-led survey 'Understanding Society'.

26. It is also worth clarifying that as family support is a devolved matter, reporting in many of these areas at a UK level would not be the sole responsibility of the Secretary of State. We continue to work with counterparts in the devolved administrations as they look at implications for family support services in their respective jurisdictions.

27. Finally, we do not believe it is sensible to put significant detailed reporting requirements into legislation as this reduces flexibility and could result in a disconnection between reporting, objectives and measurement of success.

28. For these reasons the draft Order does not need amending.



## **Reporting structure and continuity of service**

29. Concern was expressed that no information was provided in the consultation document regarding the exact future structure of CMEC and its reporting lines into DWP. The concern raised was that this information was central to determining whether or not the transfer would actually improve CMEC's operational effectiveness, its accountability to Ministers and value for money.

30. We agree that determining the right reporting structure is important to realise efficiencies. However, we also recognise that CMEC has a number of large challenges, such as the delivery of the new statutory scheme and that significant change could have a destabilising effect.

31. It is for this reason that the initial transfer of CMEC into DWP will simply transfer CMEC's staff into DWP without major change. This will ensure continuity and enable DWP to focus on the delivery of the new statutory scheme later this year.

32. We note that stakeholders feel that the non-executive board has been effective in holding CMEC to account. One respondent suggested that we should consider maintaining the current non-executive board to oversee the transition and maintain governance for the first year back under DWP control. Once CMEC has moved into DWP then the Secretary of State assumes responsibility for its work and it is for the Secretary of State to determine how best to manage this. Whilst the Secretary of State might opt to retain the advice of Board members, this would be in an advisory capacity.

33. Future efficiencies in the medium term will be focused on areas where there is a duplication of corporate functions between CMEC and DWP and on strengthening accountability and efficiency.

34. For these reasons, we do not believe there a need to amend the draft Order.

## **Rationale for the change**

35. Concern was expressed as to whether there was sufficient evidence to provide justification for this change, and if the change would provide value for money for the taxpayer and be in the best interests of parents.

36. A number of respondents noted the improvement in the delivery of child maintenance thanks to the work of CMEC and were concerned that this improvement should not be jeopardised by a Machinery of Government change.

37. The change will involve minimal cost to the tax payer. Indeed the aim is that by moving CMEC into DWP, some costs will be reduced. For example there will no longer be a need for separate non-executive Directors or a Commission. Where functions are duplicated, for instance with regard to central enabling functions such as Finance, Human Resources or Information

Technology, there will be opportunities over time to amalgamate these with the Department's services to generate efficiencies.

38. The National Audit Office (NAO) is shortly to report on its value for money audit. We will review its recommendations to consider any further steps that can be taken to drive forward efficiencies.

39. The movement to DWP will not directly affect parents as there is no change in policy directly attached to it. Some stakeholders expressed concern that there was a risk of a temporary decline in performance if a big change to staff working in the organisation were to be made. However, CMEC will be transferred into DWP without further changes to reporting structures or responsibilities in child support operations, at least until the new statutory scheme has commenced and is judged to be functioning well.

40. Some of the benefits of moving CMEC into DWP will, therefore, not be seen immediately as we manage the transition carefully to avoid disruption. However in the longer term value for money and efficiency will improve as duplication is eliminated.

41. We are satisfied that the change meets the criteria announced as part of the Public Bodies Bill Review (14 October 2010) and subsequently in the Public Bodies Act 2011, and subsequently in the Public Bodies Act 2011, in which the Government proposed to radically increase the transparency and accountability of all public bodies.

42. The rationale behind the proposal is that CMEC did not meet any of the three criteria as set out by the Minister for the Cabinet Office, that retained bodies have to meet one of the following three tests:

- performing a technical function;
- requiring political impartiality; and
- needing to act independently to establish facts.

43. CMEC is not a technical or fact gathering body that needs independence, nor does it require political impartiality to discharge its responsibilities. It is clear that CMEC performs an administrative function which could be done within Government.

44. Given that CMEC satisfies none of the three tests and Ministers believe they should be directly accountable for the reforms set out in the Green Paper ("Strengthening families, promoting parental responsibility; the future of child maintenance"), it was concluded that CMEC's functions did not need to be carried out by a non-departmental public body.

## **Review of Crown Body status**

45. The Child Maintenance and Other Payments Act 2008 required the Secretary of State to review the status of CMEC as a Crown Body as soon as practicable after three years.

46. Stakeholders suggested that this review should be abandoned. We agree with this suggestion.

## **Fraud referrals**

47. One respondent working in DWP's Fraud Team noted that when the functions transfer from CMEC to the Secretary of State, it may be easier to pass data for the purposes of fraud investigations. They felt there had been more referrals when the Child Support Agency, which was part of DWP, existed. A request was made to reinstate this process.

48. This proposal appears to confuse arrangements in place previously where child maintenance payments could affect benefit payments. Under previous regulations, the parent with care (PWC) was required to declare all maintenance received to the benefit authorities, and any maintenance received could reduce the amount of benefit that they were then paid. This created considerable potential for fraud when maintenance was received but not declared.

49. However, this is no longer the case and there is no requirement to declare any maintenance received by the PWC to the benefit authorities and they now keep all awards of benefits as well as any maintenance received. As such there are minimal risks of a material fraud taking place.

50. For these reasons, we do not intend to further examine this option.

## **Returning child maintenance to the court system**

51. A suggestion was made by one respondent that DWP completely withdraw from the provision of child maintenance and return it to the court system.

52. This suggestion assumes that delivery of child maintenance is the entirety of everything the Commission does and that the CSA would fit within a court context. This is far from the case. CMEC's functions include the promotion of the financial responsibility that parents have to their children and to provide information and support to parents on their child maintenance options. These functions would not sit easily with the court system, and it may be that the court system would not have the powers or resources to fulfil them.

53. More importantly, our aim is to provide parents with the support they need to make family-based arrangements and to move them away from potentially confrontational situations. Encouraging parents to have recourse to the courts is unlikely to promote family-based arrangements and shared parenting. It is also likely to increase how long it takes for effective child maintenance arrangements to be put in place and increase the burden, both financial and administrative, on the court service.

54. For these reasons, we do not intend to further examine this option.

# Annex A: The consultation

This can be found at:

<http://www.dwp.gov.uk/consultations/2011/cmec-abolition.shtml>

# Annex B: Respondents

The consultation was aimed primarily at those organisations that have a professional relationship with the Child Maintenance and Enforcement Commission, although all views were welcomed.

These organisations were alerted by e-mail and meetings offered to a number of those to discuss the consultation proposals in more detail:

- 4Children
- Action for Children
- Barnardo's
- Centre for Separated Families
- Centre for Social Justice
- Child Poverty Action Group
- Children Need Families
- Children's Society
- Citizens Advice
- Citizens Advice Scotland
- CIVITAS
- The Faculty of Advocates
- Families Need Fathers
- Families Need Fathers Scotland
- The Family Parenting Institute
- Family Links
- Fatherhood Institute
- Fife Gingerbread
- Fyfe Ireland Solicitors
- Gingerbread
- The Institute of Payroll Professionals
- Law Society
- Law Society Scotland
- The low Income Tax Reform Group
- MATCH
- Mumsnet
- NACSA
- National Family Mediation
- One Parent Families Scotland
- One Plus One
- Policy Exchange
- Refuge
- Relate
- Relationship Scotland
- Resolution
- Deidre Sanders

- ScoopAid
- Tavistock Centre for Couple Relationship
- University of York
- Working with Men

Communications to both CMEC and DWP staff were published on the 10<sup>th</sup> October.

The Consultation ran from the **10<sup>th</sup> October 2011 to 3<sup>rd</sup> January 2012** and was made available on line at

<http://www.dwp.gov.uk/consultations/2011/cmec-abolition.shtml>

### **The breakdown of responses**

We asked for the responses by e-mail and post. The following table provides a breakdown of the responses received.

<b>Breakdown of responses</b>	<b>Number received</b>
External Organisations	9
Members of the public	2
Child Maintenance and Enforcement Commission staff	0
<b>Total</b>	<b>11</b>

### **Responses were received from:**

The Mission and Public Affairs Council of the Church of England

DWP member of staff

Ministry of Justice member of staff

Mumsnet

MATCH Mothers

4 Children

Gingerbread

PCS Union

Resolution

Families Need Fathers

The Law Society

Plus a NIL response from the Faculty of Advocates.