



Department  
for Work &  
Pensions

Government response to  
the consultation

# Supporting separated families; securing children's futures

Presented to Parliament by the Secretary of State  
for Work and Pensions by Command of Her Majesty  
November 2013

Cm 8742

£10.75

# Government response to the consultation Supporting separated families; securing children's futures

Published 5 November 2013

Cm 8742 (Session 2013/14)

ISBN: 9780101874229

## Correction made to page 22, paragraphs 10, 11, 12, 13 replace:

10. **Gingerbread** suggested an automatic transfer to the 2012 scheme; with the case closed after six months should a family-based arrangement be made. As set out in our response to Question 6, we do not consider automatically transferring existing cases to the new scheme to be conducive to a successful family-based arrangement being made, since it would make remaining in the statutory scheme the default outcome rather than an active choice. Such an approach would risk the statutory scheme being once again the default for parents who could otherwise, with the right assistance and incentives, reach a family-based arrangement.
11. We realise family-based arrangements may be harder to establish in some instances, but we do not believe extending the six-month notice period, facilitated by a system of exceptional case review would be an effective solution. Managing the complete closure of the existing CSA caseload over a three-year period is a hugely complex undertaking – the creation of additional activity on the periphery of the closure process, for an indeterminate number of cases, would only make this task harder to achieve.

### Next steps

12. We remain of the view that six months is a reasonable notice period to existing CSA clients that their case will close. We will therefore press ahead with our original proposals in this respect, as set out in the consultation.
13. We have, however, revised our proposals concerning other aspects of the case closure process, in particular as a response to stakeholders' concerns on the risk of payment disruption. The detail of this is set out in our response to Question 9.

### with:

### Next steps

10. We remain of the view that six months is a reasonable notice period to existing CSA clients that their case will close. We will therefore press ahead with our original proposals in this respect, as set out in the consultation.
11. We have, however, revised our proposals concerning other aspects of the case closure process, in particular as a response to stakeholders' concerns on the risk of payment disruption. The detail of this is set out in our response to Question 9.

December 2013

LONDON: THE STATIONERY OFFICE



Government response to  
the consultation

# Supporting separated families; securing children's futures

Presented to Parliament by the Secretary of State  
for Work and Pensions by Command of Her Majesty  
November 2013

© Crown Copyright 2013

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/) or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication can be accessed online at:  
[www.gov.uk](http://www.gov.uk)

For more information about this publication, contact:

**Child Maintenance  
Department for Work and Pensions  
7th Floor  
Caxton House  
Tothill Street  
London  
SW1H 9NA**

Copies of this publication can be made available in alternative formats if required.

ISBN: 9780101874229

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office

ID 2599139                      11/13

Printed on paper containing 75% recycled fibre content minimum.

## Contents

Foreword by the Minister of State for Pensions	5
Executive summary	7
<b>Chapter 1 Consultation responses and the Government's response</b>	<b>10</b>
<b>Question One – Domestic violence</b>	<b>10</b>
<b>Question Two – Parent with care collection fee</b>	<b>13</b>
<b>Question Three – Enforcement fee levels</b>	<b>15</b>
<b>Question Four – Enforcement charges in the payment hierarchy</b>	<b>16</b>
<b>Question Five – Reactive case closure</b>	<b>17</b>
<b>Question Six – Case closure and the voluntary and community sector</b>	<b>18</b>
<b>Question Seven – Proactive case closure</b>	<b>20</b>
<b>Question Eight – Case closure and family-based arrangements</b>	<b>22</b>
<b>Question Nine – Case closure</b>	<b>23</b>
<b>Question Ten – The 30-month review</b>	<b>28</b>
<b>Chapter 2 Summary of changes</b>	<b>30</b>
<b>Annex A: List of respondent organisations</b>	<b>31</b>

## Foreword by the Minister of State for Pensions

The Fees and Ending Liability Regulations are the last major package of legislation in a long-term programme of child maintenance reform that began in 2006, when Sir David Henshaw delivered his independent report on the future of Britain's child maintenance system.

One of Sir David's key recommendations was to stop using the child maintenance system to recoup the cost of benefits, so that maintenance paid would go direct to children rather than disappear into the Exchequer. Another was to introduce charges for the statutory scheme to provide an incentive for both parents to collaborate and make their own arrangements.

The Government's subsequent programme of reform focused on introducing a better statutory service to replace the two failing Child Support Agency (CSA) schemes:

- ending the compulsion on parents on benefits to apply to the CSA
- securing primary legislative powers to charge for the new child maintenance system in 2008; and
- introducing a full disregard of child maintenance payments for the purposes of assessing benefit entitlement in 2010.

This Government has gone further. We will encourage parents to adopt a holistic approach to their family arrangements so they cover not only financial maintenance, but all aspects of bringing up children. Our premise is that children do better when both parents continue to parent, even when they no longer live together.

That is why we are seeking to rebalance the system away from the current adversarial model, where child maintenance is, by default, arbitrated by a government agency, to one where separated parents are supported to collaborate in the interests of their children.

Collaboration could take the form of parents making their own maintenance arrangements outside the statutory system, or it could simply mean parents using the statutory scheme to calculate the maintenance amount and then arranging payment between them.

Our charging proposals are intended to provide a financial incentive in support of this strategy and closing the existing CSA schemes is essential for our management of a single, efficient, and fit-for-purpose statutory scheme.

Charging parents, particularly charging parents with care, is not something we have done lightly, which is reflected in the extended period we have taken to finalise the details of how charging will work in practice.

At the moment, there is no financial incentive for parents to make their own arrangements or even to pay in full and on time within the statutory system. A system of fees will change this; application and collection fees will nudge parents to collaborate and non-resident parents will be faced with steep fees if they fail to comply.

In short, we are fundamentally changing Britain's approach to separated families, treating both parents as participants in their children's lives rather than one as a parent and the other simply as a financial provider. For those cases where a family-based arrangement is not possible, we are creating a more efficient, more sustainable, Child Maintenance Service that will provide the right level of high-quality service to those people who really do need to use it.



**Steve Webb, MP**  
Minister of State for Pensions

# Executive summary

1. On 19 July 2012, the Government published *Supporting separated families; securing children's futures* (Cm 8399), a public consultation on the draft Child Support (Fees) Regulations 2013 and the draft Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2013.
2. The consultation closed on 26 October 2012 having received a total of 90 responses: 51 from individuals; 37 from organisations; and 2 from employees of the Department for Work and Pensions (DWP) staff. A full list of organisations who responded can be found at Annex A.
3. Not all respondents chose to answer the specific questions asked and many people preferred to provide their views on the proposal in general. Where possible we have tried to include these responses in the appropriate sections.
4. The consultation consisted of ten questions covering exactly how the levying of fees will work and how the 1993 and 2003 CSA schemes will be brought to a close. The principles of closing the existing schemes and charging were not part of the scope of the consultation as we have already consulted on these<sup>1</sup>.
5. Further to the written ministerial statement tabled in Parliament on 20 May 2013, which summarised the Government's amended proposals following the consultation, this publication summarises the main points made by respondents and provides the Government's full response to them.

<sup>1</sup> Department for Work and Pensions, 2011, *Strengthening families, promoting parental responsibility: the future of child maintenance*, Cm 7990, TSO; and Department for Work and Pensions, 2011, *Government's response to the consultation on Strengthening families, promoting parental responsibility: the future of child maintenance*, Cm 8130, TSO.

## 8 Executive summary

6. Respondents were largely supportive of our proposed approach to support victims of domestic violence through a simple, declaration-based, application fee waiver. However, concerns were raised that:
  - the waiver could incentivise or facilitate false accusations of domestic violence;
  - the list of organisations to which an applicant may have self-reported domestic violence needed expanding; and
  - the waiver should be extended to include a waiver from collection fees.
7. In our response, we have extended the list of reporting organisations to include local authorities, legal professionals and specialist support organisations. We have also clarified the status and purpose of the self-declaration as being something that exists to remove a barrier to the statutory service and which in no way accepts or implies that any given party is guilty of abuse. We also clarify that the child maintenance service will adhere to the cross-government definition of domestic violence, which includes financial abuse.
8. With some notable exceptions, most respondents did not find 7 per cent to be an appropriate level for the parent with care collection fee. Some organisations opposed any level of collection fee on the parent with care.
9. We recognise that the parent with care collection fee is controversial and, although we continue to believe it is vital to the functioning of a system that will deliver long-term benefits for children, we have decided to reduce the proposed level of collection fee to just 4 per cent.
10. There was substantial support for placing enforcement fees low in the payment hierarchy, but only qualified support for the proposed tariff of enforcement charges. Concerns were raised that enforcement fees may fail to be effective at driving behaviour change and, in some cases, could more often result in greater levels of debt rather than greater levels of compliance.
11. In response, we reiterate how, in order to prioritise incentive effects over the full recovery of costs, the levels of charge are substantially lower than the actual costs of enforcement.
12. Most respondents did not find our proposed 30-day notice period for cases entering reactive case closure to provide a reasonable balance between the interests of the existing parent with care and the new applicant. However, respondents were roughly evenly split on whether this period was too long or too short, with some respondents suggesting alternatives such as transitioning cases automatically into the new scheme and waiving all fees.
13. The split response to this question reflects the difficult balance that we must strike between the interests of an existing parent with care and that of a new applicant to the system. Furthermore, to transition reactively closed cases automatically into the 2012 scheme would lead to excessive complexity and confusion, and undermine the Government's fundamental commitment to offering a fresh choice to all parents, including the possibility of a collaborative arrangement.
14. Respondents saw a significant role for the voluntary and community sector in supporting parents through the case closure process. We have already worked closely with the voluntary and community sector to ensure parents have accurate and up-to-date information on the new Child Maintenance Service. The briefings and training that we have provided will be a foundation for continuing, and expanding, co-operation to support parents through this period.
15. In addition, we set out how our Help and Support for Separated Families initiative is providing a framework for better co-ordination of the services that the voluntary and community sector provides, to make it easier for parents to navigate the available support.

16. Respondents were less concerned about the length of the six-month notice period given to parents as part of the proactive case closure process than they were about what happens to payments when a case closes on the 1993 or 2003 schemes and the parent applies to the 2012 scheme. Respondents were concerned that, under the clean slate approach proposed by the consultation document, some non-resident parents who are currently paying through enforced payment methods would opt for Direct Pay in the 2012 scheme and then fail to comply with that arrangement.
17. We intend to tackle the risk of payment disruption head-on through two significant changes in policy and design. First, we will introduce a positive test of compliance behaviour for non-resident parents on enforced methods of payment or, where there is ongoing enforcement action, as their cases are closed as part of the proactive case closure process. Non-resident parents who fail this test will be subject to the same enforced method of payment on the 2012 scheme as they had been on the 1993 or 2003 scheme.
18. Non-resident parents whose cases are closed reactively, where they are named in a new application, but have an existing CSA case, will only receive 30-days' notice that their existing case will close. This means there will be insufficient time to provide for a positive test of compliance behaviour. To address the risk of payment disruption in reactive case closure, i.e. where the non-resident parent is subject to enforcement action in the CSA currently, we will conduct an unlikely to pay test based on the behaviour of non-resident parents in the 1993 and 2003 schemes.
19. Secondly, we will also be reordering the proactive case closure process so that cases where there is most likely to be a break in payment are moved to the back of case closure order. Leaving these cases unaffected for as long as possible will allow compliance to be firmly established before they are closed. It will also mean that more of these cases will reach their natural end on the legacy schemes without any risk of payment disruption.
20. By taking these two steps, we will be doing everything practicable to minimise payment disruption.
21. Amended draft Fees and Ending Liability Regulations will be laid before Parliament later this year. The charging of fees and ending liability in existing cases will subsequently commence later in 2014, once we have been able to gather and analyse suitably robust data on the operation of the new scheme to show that it is working well. Once we are assured of the quality of the data, statutory child maintenance scheme statistics will also be made publicly available.

# Consultation responses and the Government's response

# 1

1. This section is structured around each consultation question, with each question re-stated, followed by a summary of stakeholder responses, the Government's response and proposed next steps.

## Question One – Domestic violence

**Is our 'self-declared' approach, guarantee of no contact with ex-partners and exemption from the upfront charge sufficiently inclusive to ensure that there are no barriers to victims of domestic violence?**

2. Overall, most respondents were satisfied with the approach. **Families Need Fathers** felt the proposed measures were sufficiently inclusive. The **Social Security Advisory Council** response stated: 'The fast-track system and removal of the application fee for victims of domestic violence should remove any barriers to using the new service'.
3. **Gingerbread** stated: 'We welcome the 'self-declaration' approach'. **Scottish Women's Aid** broadly agreed with the proposed approach. Several respondents suggested further additions to the list of organisations to which domestic violence had to have been reported:
  - **Barnardo's** suggested adding places of religious worship.
  - **Mother's Union** suggested religious ministers, a solicitor or any support/advisory service.
  - **Resolution** suggested adding family lawyers.
  - The **Church of England** suggested adding solicitors/barristers, council/housing services, employment services and child contact services.

- **Centre for Separated Families** were happy that there were no barriers for victims of domestic violence, but raised their own experiences of false allegations in family courts. They suggested the inclusion of differentiation between different types of domestic violence may help prevent false allegations.
4. **National Association for Child Support Action** wanted assurances that a comprehensive investigation would be initiated to verify any claim to avoid abuse of the process. The **Family Law Bar Association** mentioned family lawyers were excluded from the list and the proposal lacked appropriate checks and balances. For example, they suggested an incentive would exist for applicants to self-declare themselves to be victims of domestic violence in order to save money and receive a fast-tracked service, thereby creating a backlog that would impact the Gateway service provided to genuine victims. **The Law Society** also questioned if there was a danger self-declaration could be wrongly used as a way to bypass the application fee.
  5. The **NSPCC** asked us to consider that professionals providing information to victims of domestic violence should be well trained and information should also be provided on where young people can obtain support.
  6. Stakeholders who expressed concerns with the self-declared approach included **One Parent Families Scotland** and **Women's Aid** whose recommendation was that: '... victims can disclose on point of entry to the system'. **4Children** were concerned that the proposals may fail to capture all families who have experienced violence as they are likely to turn first to extended family members or friends. They identified that contact with the statutory service: '... is a key opportunity to trigger specialist support and we must make sure that this is possible'. **OnePlusOne's** view was that the self-declared approach: '... will be far from sufficient' as much domestic violence goes unreported.
  7. Several respondents raised concerns over the money transfer option. **Gingerbread** believed the Government may have overlooked the role that money plays as a weapon of control and intimidation. **Barnardo's** asked the Government to reconsider the policy as they were concerned that it would leave: '... previous victims of financial abuse open to further manipulation'. **Gingerbread** and **Resolution** raised similar concerns that the parent with care was being put under pressure by the Child Maintenance Service as: '... to give the abuser another chance, is to risk perpetuating the abuse'. **Mother's Union** stated: '... it is also important that victims are not pressured into the Direct Pay system but freely given the choice to use the maintenance collection service'.
  8. While the waiver from the upfront application fee was widely supported, many respondents expressed concerns over collection fees for victims of domestic violence, including **Barnardo's**, **Gingerbread**, **CHILDREN 1ST**, **One Parent Families Scotland**, **Relationships Scotland** and **Resolution** who were: '... concerned that victims of domestic violence can only be exempt from the application fee, with no provision provided for free access to the collection service, regardless of the type of abuse which has taken place'.

### Government response

9. We were encouraged that there has been strong support for our self-declared approach to domestic violence. This means an applicant can be exempted from the application fee and fast-tracked through the Gateway conversation by declaring that they had previously reported themselves to be a victim of domestic violence to one of a list of organisations.

## 12 Consultation responses and the Government's response

10. It should also be noted that we have adopted the current cross-government definition of domestic violence in full, which includes financial abuse.
11. Some stakeholders have suggested extending the list of organisations to which domestic violence has to have been reported. In taking these proposals forward we have worked with stakeholders to make sure that the list is a good representation of the sorts of organisation to whom victims are likely to have reported violence. We want it to be as inclusive as possible to ensure there are no barriers to victims accessing the scheme and we intend to extend the list to include local authorities, legal professionals and specialist support organisations.
12. We recognise the concerns of stakeholders over the dangers of false allegations of domestic violence and we are absolutely clear that the waiver does not in any way seek to satisfy the veracity of a claim. The waiver simply focuses on whether an applicant has declared they have previously reported domestic violence to one of a list of organisations. The process is about removing a potential barrier for vulnerable applicants and is not a means of inferring that any named party has committed an offence – that is something that requires an evidence-based process of investigation and adjudication, and is therefore a matter for the police and the courts, not the Child Maintenance Service.
13. Moreover, given the reduction in the application fee from £100 to £20, we are satisfied that the risk of false reporting is very low, although we plan to monitor the number of exemptions in order to ensure the policy is working as intended.
14. While the light touch, self-declared approach to the application fee waiver has been welcomed by many stakeholders, some stakeholders have also argued that the waiver should be extended to include the ongoing collection fees. We do not accept this argument.
15. The Government was faced with two choices:
  - a. either have an approach that would require the applicant to produce evidence which demonstrates they have been the victim of domestic violence, a process that would be time consuming, distressing for the applicant and would exclude many applicants, but thereafter waive all fees; or
  - b. adopt a low-threshold, declaration approach that does not put any evidential burden on the applicant, but only exempts them from the application fee while alternative measures are put in place to ensure they are not at a disadvantage, compared to other parents, in receiving payments through Direct Pay.
16. Listening to the concerns of stakeholders that an evidence-based approach could disadvantage victims, since many alleged incidents of domestic violence may never have resulted in a conviction, we chose the latter approach and have focused on ensuring that victims of domestic violence are not disadvantaged within the child maintenance system.
17. We have deliberately adopted a low-threshold approach to ensure the qualifying process for the domestic violence exemption does not delay or stand in the way of an application to the statutory scheme. We recognised that, once within the statutory system, victims of domestic violence could have been vulnerable or at a disadvantage in using Direct Pay (and thereby avoiding any fees) because it may be inappropriate for the other party to have their contact details.

18. To address this, we have worked with the financial services industry to ensure parents will be able to access appropriate banking services to receive direct payments (i.e. not via the collection service) without having to reveal their personal details such as their address or region etc. to the non-resident parent. Rather than creating a new government service per se, this facility simply introduces parents to existing commercial banking services.
19. We believe that, taken together, the waiver from the application fee combined with a safe method of using Direct Pay means victims of domestic violence will not be disadvantaged compared to other statutory scheme parents.

### Next steps

20. We will continue to work with financial services providers to ensure appropriately confidential banking services are available ahead of the introduction of fees and we will proactively communicate their availability to applicants who have declared themselves to be victims of domestic violence.
21. We are considering introducing regulations to compel, where appropriate, non-resident parents using Direct Pay to make payments through such banking services. These services will be free of charge to both parents.
22. We will extend the list of organisations to which domestic violence may be reported in order to qualify for the waiver from the application fee to include local authorities, legal professionals and specialist support organisations.

## Question Two – Parent with care collection fee

<p><b>Is 7 per cent an appropriate level of charge for this personalised service?</b></p>
---

1. **The Social Security Advisory Committee** response stated: ‘... the balance between resident and non-resident parent seems reasonable at this stage without concrete evidence of impact’ and **Families Need Fathers** stated: ‘... close attention will have to be paid to ... this balance of charges’, whilst the **Church of England** acknowledged the level was reasonable, given the economic climate and the original 7 to 12 per cent range the Government indicated.
2. However, there was widespread opposition to the introduction of any level of collection fee, including from **Barnardo’s**, **Mother’s Union**, **Women’s Aid**, **One Parent Families Scotland** and the **Family Law Bar Association** with several expressing similar sentiments to the **Mother’s Union** response that it was: ‘... especially unfair if the PWC has tried to make private arrangements but the NRP has refused to co-operate’. **Gingerbread** stated: ‘... a 7 per cent collection fee, which essentially penalises the child for the non-resident parent’s non-paying behaviour, is wrong in principle. It is neither fair nor appropriate’ and suggest it should be waived when the non-resident parent refuses to co-operate. **CHILDREN 1<sup>ST</sup>** disagreed with any fee for parents with care, considering them: ‘... completely at odds with the child-centred focus outlined in the Ministerial foreword’. **The Welsh Government** (Gwenda Thomas) considered the 7 per cent collection fee to be inappropriate and: ‘... would welcome the removal of this charge altogether’.

## 14 Consultation responses and the Government's response

3. **Resolution** raised the issue of parents with care whose calculation is based on the non-resident parent having the maximum income of £3,000 per week paying £1,834.56 per year in fees. **OnePlusOne** would only support the 7 per cent collection fee: '... if it includes a built-in, transparent sliding scale for those on low income or at risk of poverty' **Children in Scotland** were concerned about the implications for extremely low income families: '... where the 7 per cent reduction may translate into their basic needs not being met' and suggested a safeguarding mechanism to prevent (or at least delay) fees where they would lower the household income for parents with care below a level where their basic needs could be met.
4. **SEEDS Devon** disagreed with the consultation paper's contention that child maintenance can be used as a weapon of revenge: '... the outcome of maintenance payments surely results in the non-resident parent either paying in full and on time, or not paying. It is difficult to credit how the parent with care can use child maintenance as a weapon of revenge'. **Women's Resource and Development Agency** expressed concerns with the proposed reforms to the statutory service: '... there is more concern with raising revenue than the welfare of children'.
5. **The Law Society** identified the difficulties of providing a sufficient incentive without being detrimental to the welfare of parents with care and children: '... the 7 per cent charge is both too low to create a real incentive and too high a cost on the parent with care'. **NACSA** queried whether the 7 per cent fee is appropriate if a personalised service is not provided, citing difficulties involved in dealing with a workload of over a million cases.

### Government response

6. Collection fees are intended to provide an ongoing incentive for both parents in the collection service to consider making payments direct rather than via the Government, as evidence shows that collaboration results in the best outcome for children<sup>2</sup>. The collection fees work as a percentage surcharge on top of maintenance liability for the non-resident parents and as a small deduction from maintenance otherwise received for the parent with care.
7. Although this consultation did not cover the principle of charging itself, as this has already been consulted on extensively<sup>3</sup>, many stakeholders' took the opportunity to underline their opposition to charging the parent with care any level of collection fee, as they felt this would effectively penalise children when a non-resident parent failed to pay maintenance.
8. We recognise the concerns stakeholders have raised on the principle of charging, but we continue to believe it is essential that both parents are liable to pay collection fees so there is an ongoing incentive for both parents to move their case into Direct Pay, where collection fees do not apply. Direct Pay is still part of the statutory scheme, with collection and enforcement mechanisms available should they be required.
9. Where non-compliance results in a case moved into the collection service, it should be recognised that it is the non-resident parent who faces by far the highest charges, both through the 20 per cent collection fee and also through enforcement charges if they continue to fail to comply. To not charge the parent with care risks locking the non-resident parent into the collection service, as the parent with care would have no incentive to collaborate or agree to a Direct Pay arrangement in the future. This would be unfair for the non-resident parent.

<sup>2</sup> Mooney et al., 2009, *Impact of Family Breakdown on Children's Well-Being* <http://dera.ioe.ac.uk/11165/1/DCSF-RR113.pdf>

<sup>3</sup> Department for Work and Pensions, 2011, *Strengthening families, promoting parental responsibility: the future of child maintenance*, Cm 7990, TSO; and Department for Work and Pensions, 2011, *Government's Response to the consultation on Strengthening families, promoting parental responsibility: the future of child maintenance*, Cm 8130, TSO.

10. The Government believes a significant non-resident parent collection fee is necessary to create the right incentive to comply fully with Direct Pay. However, the Government has listened to concerns that deducting 7 per cent from persons with care may be too high a figure and we have therefore decided to reduce the proposed parent with care collection fee to just 4 per cent.
11. We believe 4 per cent is the absolute floor at which the parent with care collection fee can be set while still providing any sort of incentive effect, something which is vital for the new child maintenance system to work.

### Next steps

12. Our draft regulations will provide for a 4 per cent fee to be deducted from maintenance paid through the collection service to the parent with care.
13. This consultation did not address the collection fee of 20 per cent for non-resident parents. We remain confident this offers the right level of financial incentive for non-resident parents to pay their maintenance on time, every time and move into a payment arrangement which does not attract fees.

## Question Three – Enforcement fee levels

**In focusing on the severity of the enforcement action, rather than the actual cost, have we adopted the right approach to enforcement charging?**

1. There was qualified support from some stakeholders for enforcement fees, but most raised concerns that ultimately they could lead to further non-payment and increased arrears.
2. **The Law Society** supported the proposals as they agreed they seemed proportionate and effective.
3. **The Social Security Advisory Committee, Families Need Fathers and Mother's Union** were moderately supportive of the proposals noting the deterrent effect of enforcement fees, but expressing concerns that they could ultimately lead to the debt increasing and further non-compliance.
4. There was opposition for a variety of reasons. **Resolution** raised strong concerns – they considered the consultation to be contradictory over the charges for the various types of enforcement actions and asked: ‘... is it the case that the higher charge has been attributed to the enforcement action which by far secures the most applications?’ **Barnardo's** were concerned the system should be effective but: ‘... not so punitive as to put the poorest non-resident parent under severe financial strain’. **Gingerbread** floated the idea of a: ‘... parallel strategy to engage with recalcitrant non-payers ... rather like a speed awareness course’. **NACSA** did not support the proposals, providing examples of enforcement action, taken where it was not justified, or to enforce debt accrued through CSA error or delay.

## 16 Consultation responses and the Government's response

### Government response

5. Currently, there is little or no financial incentive for non-resident parents to pay in full and on time, whether directly to the parent with care or via the Government's collection service. Where a non-resident parent fails to make child maintenance payments on time, this money owed simply becomes arrears.
6. Enforcement fees are not dissimilar to bank charges in that they are intended to encourage people to comply with their commitments and off-set the cost of administrative action to enforce compliance. We therefore believe non-resident parents should contribute to the cost of enforcement action, which is expensive and is only taken where we believe non-resident parents have failed to meet their obligations to pay child maintenance.
7. Some stakeholders raised concerns that enforcement fees could ultimately lead to further non-payment and increased arrears, or place an additional burden on the lowest income non-resident parents, or that the fees are some sort of revenue raising scheme.
8. We recognise that charging non-resident parents the full cost of enforcement action could result in untenable debt or impact disproportionately on low income non-resident parents, and for this reason we have set the fees below their actual cost. For example, a liability order costs around £600 to put in place, but we would only charge non-resident parents £300.
9. We also recognise the appeal of **Gingerbread's** idea of a parallel strategy of engaging recalcitrant non-payers with the equivalent of a speed awareness course. While beyond the scope of this consultation, this suggestion is a reminder of the important role that the Innovation Fund has played in providing funding to test similarly innovative ideas that may be effective in supporting separated parents.

### Next steps

10. We will introduce draft regulations proposing that the following enforcement charges will apply to non-resident parents who fail to comply:

Deduction from Earnings Order or Request (DEO/R)	£50
Regular Deduction Order (RDO)	£50
Lump Sum Deduction Order (LSDO)	£200
Liability Order	£300

## Question Four – Enforcement charges in the payment hierarchy

### Have we taken the right approach to enforcement charges within the payment hierarchy?

1. Most respondents, including the **Social Security Advisory Committee, Barnardo's, Families Need Fathers, The Law Society, Mother's Union** and **Women's Aid**, supported the proposed policy that we will not collect enforcement charges until all ongoing maintenance and arrears have been satisfied. No respondents objected to the policy.
2. **4Children** suggested all the fees for either parent: '... should be collected only once the liability to the parent with care has been paid in full'. **Children in Scotland** agreed in principle to the approach, but raised concerns that dependent children in a non-resident parent's second family should be considered.

## Government response

3. The Government is pleased that most stakeholders supported our approach to allocating money between maintenance and enforcement charges.
4. However, we do not believe it would be practical to only collect the collection fee once the liability for the parent with care has been paid in full. This would mean creating a complex and opaque system for accruing overall liability over the lifetime of a case, with the potential for very large debts for the non-resident parent once their ongoing maintenance ceases. We believe that a system where maintenance and fees are kept in a standard proportion to each other offers a simpler, more transparent system.

## Next steps

5. We will ensure enforcement fees are placed below ongoing maintenance and collection fees in the payment hierarchy.

## Question Five – Reactive case closure

### Is 30-day notice period a reasonable balance in reactive case closure?

1. Most stakeholders did not agree with the 30-day notice period, but there was a fairly equal balance between respondents who believe this is either too long for applicants to wait on the one hand and respondents who believe that this is not long enough to allow those with existing CSA cases to discuss making their own arrangements.
2. **The Social Security Advisory Committee** stated: '... it may be 30 days is not sufficient ... during the transition phase some limited flexibility may be appropriate in certain cases'. **Gingerbread** stated: 'Our suggestion would be to automatically transfer a 'reactive closure' case into the new system whilst giving the existing parents a transition period of six months without charging'.
3. **Mother's Union** raised concerns that 30 days may not be long enough if, for example, one parent was away on holiday, although noted a longer period could leave some parents with care in a vulnerable position during this period if they do not have access to the statutory scheme. **Resolution** were concerned applicants to the new scheme would have to wait 30 days without maintenance. They also raised an issue that we had to ensure the contact details we used for existing non-resident parents and parents with care were current.
4. **Women's Aid** stated: 'We cannot comment until the system has been in operation and has been evaluated'. **4Children** suggested the application fee should be waived for parents with care who have to wait 30 days following their application due to a linked case.
5. **Children in Scotland** considered there should be: '... safeguards in place to ensure that children's basic needs can be met throughout this notice period'. **The Family Law Bar Association** were concerned 30 days could be too short a time frame to make an informed decision. The Law Society proposed transfers from CSA cases to the new system should be automatic, with the fees being applied, but with an opt-out if a family-based arrangement can be made.
6. However, **Families Need Fathers** considered: '... the 30-day notice period in reactive case closure strikes a reasonable balance between the needs of both new applicants and existing clients'.

## 18 Consultation responses and the Government's response

### Government response

7. The relatively even split in responses between those who believe 30 days is too long and those who believe 30 days is too short reflects the difficulties of finding a solution that best protects the interests of both the new and existing parent with care.
8. As we set out within the consultation, what we are seeking to achieve is a balanced approach, whereby the existing parent has some time to consider whether a family-based or statutory arrangement is best for them; and the new applicant is not unduly delayed in having their child maintenance liability established.
9. More than one response suggested an alternative along the lines of the existing CSA case being automatically transitioned to the new statutory maintenance scheme. However, we are firmly of the view that there should be no automated transferral of existing CSA cases to the new scheme after the introduction of charging. To do this would fundamentally undermine the Government's efforts to encourage parents to think again and consider family-based arrangements.

### Next steps

10. We remain of the view that cases must close reactively where a new application is linked to an existing CSA case, and that the 30-day notice period to existing CSA clients is the right balance between the interests of both parents with care and those of the non-resident parent.

## Question Six – Case closure and the voluntary and community sector

**How can we best harness the expertise of the voluntary and community sector and other partners to ensure that the right help is provided to clients during the period of case closure?**

1. Stakeholders responded at length on this topic, with suggestions of how to involve the voluntary and community sector, and for the Government to recognise that additional resources would be required.
2. **Social Security Advisory Committee** stated that voluntary and community sectors: '... will need to work together and with the statutory services (such as social services and Cafcass)' and suggested: 'It may be helpful if one agency takes the lead in developing and overseeing a comprehensive network of support during the transition period and that their work is guided by a steering group of appropriate voluntary and community sector organisations'.
3. **Barnardo's** response stated: 'The decision to automatically close existing Child Support Agency cases is of significant concern to **Barnardo's**'. However, if the process goes ahead they stated it was important the Government's: 'system of everyday touch points, including schools, hospitals, GP surgeries etc. includes material specifically aimed at this group'. They also noted families who have been separated for some time, or whose children are older: '... are unlikely to be accessing other support services for separating families – the core business of many voluntary organisations in this sector. The Government may therefore want to consider whether it is possible to commit small amounts of extra funds which will specifically be aimed at providing advice to this group'.

4. **Gingerbread** identified three types of organisations the Government had to make aware of the case closure process and timetable: 'Organisations providing money or debt advice, organisations providing family support services to separated families and organisations working with parents or which come into contact with parents who are separating or who have separated'. But they also noted the: 'Government too has a responsibility to provide practical and clear information and guidance'.
5. **Mother's Union** and **Resolution** both made similar representations that information and training for the partner organisations advising clients during the period of case closure would be welcomed to ensure all relevant organisations have the necessary knowledge to advise their client base. **Mother's Union** also felt the Government needs to recognise: '... the sector will need additional resources, such as staff and money to support the extra work that this would create'.
6. **Women's Aid** stated: '... it is vitally important for the Department to work with the voluntary and community sector to ensure that victims of domestic violence are protected when moving to the new system'. They also stated they would make separate representations to the DWP on the Help and Support for Separated Families Mark referred to in the consultation document.
7. **CHILDREN 1<sup>ST</sup>** stated that if their organisation and helplines, like ParentLine Scotland, are to provide support they need to be adequately resourced, which includes financial support as well as having the relevant information. They would welcome the creation of a training module.
8. **Children in Scotland** thought the quality marking and evaluation plans in the consultation document were a positive addition, but warned against inadvertent discrimination against small-scale local providers who may have a strong track record in providing support.
9. **Family Law Bar Association** thought not enough consideration had been given to parents receiving legal advice during the period of case closure – particularly around the limited options for legal enforcement outside the statutory scheme.
10. **Scottish Women's Aid** were concerned the onus on collaboration and reducing conflict could compromise the safety and well-being of victims of domestic abuse, so suggested the quality marking and evaluation should specifically include safeguarding vulnerable adults as part of the quality standard to protect the vulnerable when collaboration is not appropriate.

### Government response

11. We have already harnessed the expertise of key voluntary and community sector organisations by getting their input into the communications we will be sending to CSA clients to inform them their liabilities will be ending.
12. In order to support the production of briefing and training materials referred to in Question 8, we will be working with key voluntary and community sector organisations to ensure the materials produced meet the needs of affected CSA clients.
13. In addition, the Government's investment of up to £20 million in the Help and Support for Separated Families programme is designed to help streamline and co-ordinate support services that already exist, including those in the voluntary and community sector, but which can be difficult for parents to navigate. The elements of the programme help to signpost separated parents consistently to the expert support they need.

14. This programme includes the following elements:
  - a. Sorting out Separation, a web application launched in November 2012, that provides diagnosis, information and signposting to relevant support services.
  - b. The Help and Support for Separated Families Mark, launched in March 2013. This is being awarded to organisations who can demonstrate that they promote collaboration and reduce conflict in the best interests of children. The Mark will help parents understand which organisations they can trust to help them make their own arrangements.
  - c. Training for agents of existing telephone help lines working with separated families, so different providers can deliver a consistent message about the benefits of working together.
15. The Innovation Fund: Help and Support for Separated Families is testing new and creative ideas to help parents work together in the interests of their children.
16. The first round of this fund, announced in April 2013 made awards to seven organisations to give around 280,000 separated families creative and targeted help to collaborate in their children's interests. The second round of bidding opened in July 2013, with awards expected to be announced later in the year. This second round includes a separate procurement lot for projects aimed specifically at working with long-term separated parents.

### Next steps

17. We will be continuing our regular discussions with voluntary and community sector organisations in the run-up to, and throughout, the case closure process. These discussions will inform our communications, the support provided to clients and our processes.
18. We will continue to work with the voluntary and community sector to expand and enhance the content and reach of the Sorting out Separation web application and ensure it reflects emerging and changing support services, sources of information and the needs of separating and separated parents.

## Question Seven – Proactive case closure

**Is six months a reasonable period in proactive case closure cases, where we end liability in the existing Child Support Agency case?**

1. Stakeholders expressed a variety of concerns about how the case closure process would operate. They also believed there was potential for payment continuity to be broken where a case is due to close and money is flowing as a result of an ongoing enforced method of payment such as a Deduction from Earnings Order.
2. **Barnardo's** expressed significant concern, stating: 'We would urge the Government to consider the feasibility of an exemption for parents on the older schemes, allowing them to stay within the previous system unless parents choose to migrate' – issues they raised as major concerns were access to the collection service where a non-resident parent is unlikely to pay direct, for example, in cases of recent non-payment, and the treatment of arrears built up on CSA cases. **Women's Aid** said: '... we remain cautious about agreeing six months is a reasonable period as it implies that both parents can approach child maintenance arrangements in a rational and non-abusing manner'.

3. **Gingerbread** raised the issue of Section 4 of the Child Support Act 1991, under which officials have the power to veto the use of Direct Pay if satisfied that the non-resident parent is unlikely to pay maintenance. They argued that, to be fair to both parties, the Child Maintenance Service should listen to representations from both before making the decision (for example, based on what the non-resident parent has said to the parent with care, or previous attempts to make a family-based arrangement) although they accepted there will be evidential issues.
4. In relation to applications to the 2012 scheme following case closure in the legacy schemes, **Gingerbread** argued that where an applicant had previously used the CSA, the Child Maintenance Service would have evidence available about the propensity of the non-resident parent to pay child maintenance. **Gingerbread** suggested: '... to ignore evidence of a non-resident parent's past payment record within the Child Support Agency – however poor this may have been ... is to fail to give proper weight to the interests of the child' and they suggested it may possibly be open to legal challenge for limiting the considerations taken into account under Section 4 of the Child Support Act 1991.
5. **4Children** had concerns that the planned closure of all CSA cases would result in: '... significant numbers of parents with care missing out on maintenance they are due', since the DWP's own projections show half of all CSA cases will re-apply to the new scheme: 'Where the Department holds the information it must be possible to open a case under the new scheme, and to simply transfer that information ... This would also avoid non-resident parents with a history of repeatedly failing to pay the maintenance they owe one more chance when they apply under the new scheme Officials at the Child Support Agency should be given discretionary powers to transfer new cases directly on to the statutory scheme where they feel there is a reasonable judgement that non-resident parents will not meet their obligations'
6. Several stakeholders agreed six months was a reasonable period, including **Families Need Fathers**, the **Social Security Advisory Committee**, **Mother's Union** and **Resolution**. **Gingerbread** stated: '... for proactive closure cases, we think six months' notice will give parents sufficient time to come to terms with the implications of case closure and to fully consider their options'. **The Law Society** believed six months was a reasonable period, but would prefer cases to be transferred by default and then only be closed if a family-based arrangement can be made. One **Parent Families Scotland** thought six months adequate in most cases, but wanted an exceptional case review system to allow families with complex issues additional time to consider their options.
7. Additionally, several respondents mentioned communication with clients during this time was very important, including **the Family Law Bar Association** who reiterated their point concerning the lack of thought which had been given to parents receiving legal advice during this time. **Children in Scotland** thought it appeared, on the face of it, to be appropriate – but recommended we put the best interest and welfare of children as factors explicitly at the heart of any decision.

### Government response

8. We understand and acknowledge there is a risk the closure of all existing CSA cases, and the subsequent need for parents to reapply to the new statutory maintenance scheme, may disrupt cases where maintenance is currently flowing as a result of an enforced method of payment. We have addressed these issues in our response to Question 9.
9. However, specifically in response to the question posed here, i.e. whether six months is a reasonable notice period for cases closed proactively, a number of respondents agreed this was a reasonable period.

## 22 Consultation responses and the Government's response

10. **Gingerbread** suggested an automatic transfer to the 2012 scheme; with the case closed after six months should a family-based arrangement be made. As set out in our response to Question 6, we do not consider automatically transferring existing cases to the new scheme to be conducive to a successful family-based arrangement being made, since it would make remaining in the statutory scheme the default outcome rather than an active choice. Such an approach would risk the statutory scheme being once again the default for parents who could otherwise, with the right assistance and incentives, reach a family-based arrangement.
11. We realise family-based arrangements may be harder to establish in some instances, but we do not believe extending the six-month notice period, facilitated by a system of exceptional case review would be an effective solution. Managing the complete closure of the existing CSA caseload over a three-year period is a hugely complex undertaking – the creation of additional activity on the periphery of the closure process, for an indeterminate number of cases, would only make this task harder to achieve.

### Next steps

12. We remain of the view that six months is a reasonable notice period to existing CSA clients that their case will close. We will therefore press ahead with our original proposals in this respect, as set out in the consultation.
13. We have, however, revised our proposals concerning other aspects of the case closure process, in particular as a response to stakeholders' concerns on the risk of payment disruption. The detail of this is set out in our response to Question 9.

## Question Eight – Case closure and family-based arrangements

**How can we ensure that voluntary and community sector, and other partners are aware of the closure process to enable them to provide support for parents to reach their own collaborative, family-based arrangements?**

1. Stakeholders suggested the Government should provide a variety of supporting materials, nationwide training events and regional co-ordinators or training courses for the voluntary and community sector.
2. **The Social Security Advisory Committee** response noted: 'Parents with care could be put under pressure by non-resident parents to opt out of a statutory service (to avoid charges etc) thus putting them at risk of not securing regular payments'.
3. **Families Need Fathers** suggested: '... the earlier voluntary and community sector services involved are informed of the precise timetable for the closure process, the better they can prepare for the expected increased volume of enquiries'.
4. **Gingerbread** made several suggestions concerning the content and format of supporting materials the Child Maintenance Service and Options should produce and **Gingerbread** said: '... it is important that the Government sets out a strategy for ensuring that families do not lose out on maintenance altogether, in situations where private collaborative arrangements are not a realistic option'. They also said: 'It will be particularly important to target parents with care who fare badly under the Child Support Agency (for example, because their assessment is out of date, because they are an old scheme case with a nil assessment, because their ex-partner is self-employed or has earnings which are currently excluded), but whose maintenance assessment under the new scheme is likely to be more'.

5. **Resolution** stated they will: '... continue to work with the Child Support Agency at stakeholder and other meetings' and reiterated their response to Question 6 calling for information and training to be made available.
6. **The Centre for Separated Families** suggested training events for the voluntary and community sector should be held across the country.
7. **One Parent Families Scotland** referred to a highly effective, one-day, free of charge course provided by Her Majesty's Revenue and Customs about the then new tax credits system and suggested DWP should provide funding for a similar course for voluntary sector participants.
8. **Children in Scotland** suggested Regional Co-ordinators, if funding was available, could be used as umbrella organisations to provide training and information to smaller organisations.
9. **The Family Law Bar Association** thought recipients of the quality mark should have had sufficient training (akin to that of lawyers) to ensure parents were sufficiently advised as to the legal ramifications of their agreements.

### Government response and next steps

10. We have put a plan in place to ensure all relevant voluntary and community sector organisations are fully briefed in the run up to and throughout the case closure period. Information will be provided on the internet, by e-mail, and through briefing events.
11. In addition to briefings we will also produce training and materials so the voluntary and community sector can provide accurate information to CSA clients on what case closure is, how they will be affected and what they need to do to put a new child maintenance arrangement in place.
12. We will also explain how they can help those who are unable to make a family-based arrangement to apply to the Child Maintenance Service. This work will build on similar, successful work we did to inform our voluntary and community sector stakeholders about the introduction of the Child Maintenance Service at Commencement 1 and 2.
13. The Government has decided not to go ahead with a new network of regional co-ordinators as, following further consideration, it was decided this resource would be better focused in other areas of Help and Support for Separated Families. However, we are exploring the most efficient and cost-effective way of achieving consistent co-ordination at local level working through existing government infrastructure.
14. In developing this programme of work, we will take account of respondents' views and work with these stakeholders to meet their information needs.

## Question Nine – Case closure

**Once cases being managed manually have been closed, we are proposing to close the remaining 'on system' cases on the basis of 'oldest first'. Is closing on system cases on the basis of age of case the right approach?**

1. Some stakeholders recognised the cost benefits of closing clerical cases first, however, nearly all suggested alternative approaches to closing the oldest cases first approach, mainly to take into account individual factors such as age or complexity of the case.

## 24 Consultation responses and the Government's response

2. The **Social Security Advisory Committee** agreed that there was a logic to dealing with the oldest cases first, provided all the necessary information and support networks are firmly established. They also referred to the additional challenge of these changes taking place in the wider context of the transition to Universal Credit.
3. **Families Need Fathers** and the **Mother's Union** also agreed with closing the oldest cases first. **Resolution** considered it perhaps the fairest approach, though noted that, whatever system is adopted, unfairness will be felt by some individuals and recommended: '... as an exception to the oldest cases being transferred first ... cases with arrears of over £10,000 should be fast tracked to the new scheme as a means of establishing priority for these cases'.
4. **Gingerbread** suggested a mixed bag approach might lead to quicker results and a greater success in the uptake of family-based arrangements. Their concerns were that the new statutory scheme could become bogged down with the oldest and most complex cases, leading to delays, and that the Gateway and various relationship support services may become demoralised by initially dealing only with the more complex and difficult cases.
5. **Barnardo's** suggested an alternative approach looking at the profiles of all cases and: '... considering such factors as the likelihood of the parents reaching a voluntary agreement, the risk of maintenance payments ending before the children reach adulthood etc. before coming to a conclusion'.
6. **Women's Aid** expressed concern that the: '... most complex cases and/or those which involve the highest levels of abuse may be closed first', and recommended the Department review this on an ongoing basis. They recommended: '... victims of domestic violence currently using the system should have the option of being fast tracked into the new collection system'.
7. **CHILDREN 1<sup>ST</sup>** felt that, rather than using a blunt rule based on age of case, cases with a history of default should be moved last. They mentioned that the Government must be aware, from the experience of the CSA, that there is a minority of non-resident parents who are unlikely to comply with voluntary maintenance arrangements without considerable input and effort from support providers and the case closure process should take this into account.
8. **Children in Scotland** stated the best interest and welfare of children should be the explicit key deciding factor in the design of the case closure process, but did not provide any further suggestions.

### Government response

9. We have carefully considered stakeholders' concerns about the closure of all existing CSA cases, not only in terms of the order in which they close, but wider concerns such as how the case closure process is communicated and the risk of payment disruption in those cases where payment is only flowing as a direct result of enforcement.
10. While we remain of the view that all existing CSA cases must be brought to an end, and within the timetables we consulted on previously, we accept that, where practicable, we must do more to protect the interests of parents whose cases close on the 1993 and 2003 schemes and then open on the 2012 scheme. To this end we are proposing:
  - a. to change the order of case closure, so those cases where money is flowing as a result of an ongoing enforced method of payment close last;

- b. to introduce a stronger unlikely to pay test in proactive case closure, so that parents who are currently subject to ongoing enforcement action in the CSA schemes will need to prove their ability to comply before being allowed to choose Direct Pay on any subsequent 2012 scheme case; and
  - c. to review our communications strategy to ensure parents have been given ample information about their options and what will happen once the case closure process begins.
11. Each of these measures is explained in more detail below.

### Case closure order

12. Rather than simply closing clerical cases first, followed by the remaining cases on an oldest first basis as previously proposed, we will divide the caseload into five segments and then close them sequentially. Our focus is on maximising the flow of new money to children upfront and minimising the likelihood of disrupting ongoing payments in established enforced payment cases.
13. The following outlines the proposed order and contents of each of the five segments:
- a. Segment 1: Nil assessed cases.
  - b. Segment 2: Nil compliant cases.
  - c. Segment 3: Cases handled off system.
  - d. Segment 4: Remaining system cases.
  - e. Segment 5: Cases with ongoing enforcement action.
14. Closing nil-assessed cases upfront is likely to mean an immediate increase in the number of positive maintenance liabilities, since many of these cases will not have been assessed for some years. We estimate that around 50,000 cases could move from being nil-assessed to being positively assessed should they apply to the 2012 scheme.
15. Closing nil-compliant cases, where no maintenance is flowing despite there being an underlying liability, may seem counter intuitive, but it is precisely these cases that will benefit from an opportunity to consider afresh the options for maintenance open to them. Parents who decide to use the 2012 statutory scheme will experience a more efficient framework and transparent maintenance liabilities.
16. Cases handled off-system are those that the 2003 computer system was unable to administer on system. This segment excludes those cases that are currently the subject of ongoing enforcement, which are dealt with below **Resolution** agreed it is: ‘... appropriate to seek to reduce the problems associated with manual cases as the parents involved are likely to have suffered a reduced level of service’.
17. The fourth segment will see the closure, on an oldest first basis, of remaining cases other than those that are currently the subject of ongoing enforcement, which are dealt with below.
18. The final segment is the most challenging as this will contain all those cases where an enforced method of payment such as a Deduction from Earnings Order is in place; or where we are pursuing other forms of enforcement in an attempt to establish payments. The conclusion of segment 5 will mean that all ongoing maintenance cases will have been closed and, where parents choose to reapply, replaced by new cases on the 2012 scheme.

## 26 Consultation responses and the Government's response

19. After all the existing CSA cases with ongoing maintenance liabilities have been closed, we will then move all remaining arrears-only cases, for example, where there is no ongoing maintenance liability because the children have come of age, off the 1993 and 2003 computer systems so these systems can be turned off. These arrears will remain outstanding and the Child Maintenance Service will continue to work these cases as resource allows.

### Payment continuity

20. In a change from our previous clean slate approach to all non-resident parents entering the 2012 scheme, we will ensure that non-resident parents who are in enforced methods of payment, or who are subject to ongoing enforcement action, whose cases are proactively closed will have to pass a positive compliance test. This is in order for these non-resident parents to be allowed to exercise the choice to pay via Direct Pay and thereby avoid collection fees, if a case is opened on the 2012 scheme.
21. It must be recognised that not all cases that are in enforced methods of payment are there because of recent non-compliance. It is, therefore, only fair that we apply a positive filter mechanism to ensure that those parents who are willing to pay through an unenforced method of payment are given a fair chance to do so and thereby avoid collection fees.
22. We will write to parents in segment 5 before their case is due to close to inform them the non-resident parent is to be given a compliance opportunity through which they will be able to demonstrate a willingness to comply voluntarily over a period of six months leading up to the closure of the case. We believe that a six-month test period strikes a sensible balance between ensuring the non-resident parent is capable and willing to pay voluntarily and ensuring all parties to the case are able to benefit from the new scheme without undue delay.
23. Depending on the characteristics of the case, we intend to offer the following three variants of compliance opportunity:
  - a. where there are arrears – the non-resident parent may agree to make regular, defined, voluntary payments to reduce these arrears. This would be on top of the continued enforced collection of ongoing maintenance;
  - b. no arrears – if the non-resident parent has no arrears, in addition to ongoing maintenance they will be given the opportunity to pay part of their ongoing maintenance voluntarily, while continuing to pay the balance by the enforced method; or
  - c. alternatively, we will also work with the banks to investigate the viability of freezing a lump sum surety from a credit card in a similar manner as car hire companies already do, thereby allowing the non-resident parent to pay the full ongoing liability via an unenforced method of payment but, in the event of non-payment of maintenance, we would deduct maintenance from that surety.
24. We will adopt a zero-tolerance approach within the compliance opportunity and it will be for the non-resident parent to ensure they make agreed payments in full and on-time. If they fail, without good reason, to pay in full and on time throughout the entire period they will be returned to an enforced method of payment in the CSA scheme and deemed unlikely to pay for the purposes of the 2012 scheme. Similarly, if the non-resident parent fails to take up the compliance opportunity, they may likewise be deemed unlikely to pay.
25. Non-resident parents who are deemed unlikely to pay will then be placed directly into the 2012 scheme collection service with the same method of enforced payment as they were subject to in the 1993 or 2003 schemes, thereby minimising disruption to continuity of payment as parents move from the older schemes into the 2012 scheme.

### Communicating case closure

26. For parents in segment 5, where the non-resident parent is currently in an enforced method of payment, we will write to both parents before their case is due to close, explaining the compliance opportunity and providing a clear step-by-step guide to what will happen next.
27. Starting before the issue of the first case closure letters, we will be raising awareness that cases will close, informing clients how they will be affected, and letting them know what they will need to do. This will be achieved through:
  - written and face-to-face briefings for the voluntary and community sector;
  - the provision of information on the gov.uk and child maintenance options websites; and
  - the use of paid-for and social media.
28. All new Great Britain clients on the 2012 scheme have been told the Government plans to introduce charging in 2014. At least six weeks before collection fees start we will write to tell both parents the rates and amounts of fees that could apply to their case and the date from which they will apply. Except where non-resident parents are considered unlikely to pay, we will advise clients how they may avoid collection fees by switching to Direct Pay or a family-based arrangement.

### Next steps

29. We will introduce draft regulations and a subsequent scheme to allow for an amended order of case closure. We will also amend enforcement regulations in order to minimise payment disruption between an enforced method of payment ending on the 1993 and 2003 schemes, and a case opening on 2012 scheme.
30. Building on the success of the Pathfinder introduction of the 2012 scheme, we will introduce a form of Pathfinder to support CSA case closure. In summary:
  - a. a small number of clients with segment 1 cases will receive notification that their CSA maintenance liability is ending a few weeks prior to the bulk of segment 1 cases;
  - b. during the bulk closure of segment 1 cases, we will contact a small number of clients with segment 2 (non-compliant) cases, advising them their CSA liability will be ending; and
  - c. during the bulk closure of segment 2 cases, we will contact a small number of clients within segment 3 – 4 (remaining off-system and on-system) cases, advising them that their CSA liability will be ending.
31. We anticipate around 500 cases, per segment, being made subject to the Pathfinder approach as outlined above, although we will keep the number of cases in the Pathfinder under review. The purpose behind the Pathfinder for case closure will be to provide assurance that the IT system is operating effectively, and to test and learn from our approach to each segment, prior to contacting parents in bulk.
32. We do, of course, recognise the need to balance the benefits of any Pathfinder approach with the risk of disrupting enforced-compliant cases in the CSA currently. The Pathfinder will not therefore include the segment 5 (ongoing enforcement) caseload.

## Question Ten – The 30-month review

**What evidence should the Government consider as part of the 30-month review? Which variables and criteria would you consider to show success of the new scheme?**

1. Nearly all of the respondents made multiple suggestions of factors to monitor, with many suggesting a study of whether a higher proportion of children in separated families are benefiting from effective maintenance arrangements as a result of the reforms. **Barnardo's**, for example, commented: '... the biggest single criteria of success in the new scheme will be that children in separated relationships are getting sufficient money to meet their needs'.
2. The **Social Security Advisory Committee's** response suggested 11 factors which should be considered in the 30-month review, but also noted: 'We trust that this will not prevent ongoing monitoring from the start' while the **Mother's Union** asked the Government to monitor levels of child poverty amongst children of separated parents.
3. **Gingerbread** stated they would like to see a study commissioned into non-resident parent attitudes, both now and in 2015, to see how the 20 per cent collection fee has influenced behaviour.
4. **Children in Scotland** suggested to link in with other relevant national data sets, including the Scottish Government's Growing Up in Scotland (GUS) longitudinal study.
5. **Resolution** suggested the 30-month review should be brought forward, while **Families Need Fathers** made several suggestions, including a geographical analysis of child maintenance arrangements.

### Government response

6. We have made a commitment in the Welfare Reform Act to deliver a report on charging 30 months after charging begins. The Government has also publicly committed to evaluating the impact of the wider policy reforms the 2012 scheme has introduced. We intend to produce and publish these reports on broadly the same timescale.
7. We believe the intention to publish our report on charging 30 months after charging begins allows for an appropriate time scale for the full 2012 scheme to expand and for the Government to collect and analyse a sufficient quantity of data to allow for robust findings. We do not intend to bring the report forward.
8. However, we agree monitoring should be ongoing and not simply focused on a single review and therefore regular monitoring and reporting will take place as soon as is practicable from the start of each policy implementation.
9. We plan a general release of official statistics after the scheme is opened to all applications, when the caseload will begin to become more representative, and only then once DWP statisticians are assured of the appropriate quality of the data
10. However, we will consider releasing specific sets of official statistics ahead of this provided DWP statisticians are assured of the quality of the data. Any official statistics released before the scheme is open to all applications will be representative only of the intake they relate to and will be suitably annotated.

11. Once we are assured of the quality of the data, statutory child maintenance scheme performance data will also be available through the quarterly summary of statistics, with views invited on the content.
12. Quarterly survey reports of outcomes for clients of child maintenance options will be redesigned to include the impact of the Gateway and charging from the point that these policies are introduced. As one of the policy objectives of the reforms is to increase collaboration between parents and increase the overall number of effective maintenance arrangements, key success criteria will include the number of children benefiting from an effective family-based arrangement.
13. These sources of information will be complemented by the publication of individual quantitative and qualitative research findings on a periodic basis, as well as use of wider surveys including Understanding Society to estimate the impact of reform on the wider child maintenance population.

### **Next steps**

14. We published a strategy<sup>4</sup> for the publication of information about the 2012 scheme on 18 July 2013 and it is anticipated that management information reporting capability will become available from 2014, although we intend to publish suitable data prior to this on an ad hoc basis.
15. We have a legislative duty to present a report on charging 30 months after charging goes live. We are working to a similar timetable for the production of a wider evaluation of our overall child maintenance reforms.

<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/223513/2012\\_scheme\\_public\\_info\\_strategy.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223513/2012_scheme_public_info_strategy.pdf)

# Summary of changes

# 2

1. We have extended the list of organisations that domestic violence can be reported to in order to qualify for the application fee waiver and updated our definition of domestic violence to keep it in line with the current Home Office definition (which includes financial abuse). We have also reduced the proposed parent with care collection fee from 7 per cent to just 4 per cent.
2. We have changed the order of case closure so those cases where an enforced method of payment is in place, or enforcement action is ongoing, are moved to the back of the case closure order, with these non-residents parents subject to a compliance test before they are allowed to exercise Direct Pay choice. By bringing nil assessed cases up front we estimate that around 50,000 cases could move from being nil-assessed to being positively assessed should they apply to the 2012 scheme.
3. In summary, we recognise from the response that stakeholders continue to have concerns around both charging of fees and ending liability in existing cases, and we have attempted to meet those concerns while preserving the Government's fundamental intent to rebalance the overall landscape so that:
  - a. parents who are able to make their own arrangements do so rather than default into the statutory service;
  - b. parents who need a little more help are able to access an efficient statutory service where payments are made direct between themselves; and for intractable cases
  - c. an efficient and effective collection service is available as a backstop with appropriate incentives so that this is a transient rather than an enduring situation.
4. Amended draft regulations will be laid before Parliament later this year and charging of fees and ending liability in existing cases will commence later in 2014, once the 2012 scheme has been shown to be working well.

# Annex A

## List of respondent organisations

4 Children	Law Society
Association of School and College Leaders	Law Society of Scotland
Barnardo's	Magistrates Association
Buckinghamshire County Council	Mankind Initiative
Cafcass	Mothers Union
Centre for Separated Families	National Association for Child Support Action
Children 1st	NSPCC
Children in Scotland	One Parent Families Scotland
Church of England	One Plus One
Committee for Social Development NI	Parenting NI
Department of Health, Social Services and Public Safety NI	PCS and NIPSA
Families Need Fathers	Relationships Scotland
Family Law Bar Association	Resolution
Family Mediation NI	Scottish Womens Aid
Gingerbread	SEEDS Devon
Gwenda Thomas AC/AM	Social Security Advisory Committee
Jewish Unity for Multiple Parenting	UK Border Agency
Justices Clerks Society	Women's Aid and Rights of Women
	Women's Resource and Development Agency



information & publishing solutions

Published by TSO (The Stationery Office)  
and available from:

**Online**

**[www.tsoshop.co.uk](http://www.tsoshop.co.uk)**

**Mail, telephone fax and email**

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/general enquiries:  
0870 600 5522

Order through the Parliamentary Hotline

Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

Email: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Textphone: 0870 240 3701

**The Houses of Parliament shop**

12 Bridge Street, Parliament Square,  
London SW1A 2JX

Telephone orders/general enquiries:  
020 7219 3890

Fax orders: 020 7219 3866

Email: [shop@parliament.uk](mailto:shop@parliament.uk)

Internet: <http://www.shop.parliament.uk>

**TSO@Blackwell and other accredited agents**

This publication can be accessed online at:

**[www.gov.uk](http://www.gov.uk)**

For more information about this publication,  
contact:

**Child Maintenance**

**Department for Work and Pensions**

**7th Floor**

**Caxton House**

**Tothill Street**

**London**

**SW1H 9NA**

Copies of this publication can be made  
available in alternative formats if required.

Department for Work and Pensions

November 2013

**[www.gov.uk](http://www.gov.uk)**

ISBN 978-0-10-187422-9



9 780101 874229