



Child Support

Reply by the Government to the First Report
on the operation of the Child Support Act.

*Presented to Parliament by the Secretary of State for Social Security
by Command of Her Majesty February 1994.*

LONDON: HMSO

Cm 2469

The Operation of The Child Support Act 1991

1. The new child support scheme was introduced from April 1993 to ensure that more maintenance was obtained for more children, more reliably. It replaced the fragmented and largely ineffective system of arranging child support via the courts and DSS local offices. The intention is to provide a quick and accessible system giving consistent awards that are regularly reviewed. The Government is grateful to the Select Committee for its thoughtful and balanced report. In particular, it welcomes the Committee's continuing endorsement of the basic principles of the scheme; that parents should provide realistic financial support for their children where they can afford to do so, and that it is right that the costs to the taxpayer should be reduced wherever possible.

2. The Government has always said that it would keep the operation of the new system under review. Since the report was published, it has introduced a number of changes, which take account of representations received from Members of Parliament and the public, and which meet many of the recommendations of the Committee and, in some respects, go beyond them. These changes are designed to meet the major difficulties that have come to light in live running while preserving the basic principles of the Child Support Act. They balance carefully the needs of all parties — the children, the parent with care,¹ the absent parent and the taxpayer.

3. In the paragraphs which follow, the Government responds to all the recommendations made by the Committee, both on policy and on the operation of the scheme, and also justifies in detail the basis of the recent changes.

We recommend that a full explanation of the calculation of benefit savings and the target figure is published as soon as possible by the Department of Social Security (HC 983 paragraph 25)

4. The target figure for benefit savings was derived using a computer model and sample data — from the Department's Annual Statistical Enquiry, from the Family Expenditure Survey and from a special survey of absent parents — on:

- a) the distribution of income and employment status of absent parents and of parents with care;
- b) amounts of benefit in payment and length of time on benefit.

5. This was supplemented by assumptions, based on the best available evidence, about expected caseloads, about the degree of success in tracing absent parents, and about delays or non-compliance in payment. To some extent these derived from previous experience of the recovery of maintenance under the old system and from experience in other countries. With a brand new scheme such assumptions will need to be updated in the light of experience. The figures will obviously be kept under review as new data emerges.

¹ In this response the parent with care is referred to as "she" and the absent parent as "he". This simply reflects the most common arrangement, although in some cases the absent parent will be female, and the parent with care male.

We recommend that the Department of Social Security state whether the target of £320 million in benefit savings [for the Child Support Unit in 1992/93] was achieved (HC 983 paragraph 26)

6. Benefit savings in 1992/93 were £313 million; close to the target. The Child Support Unit achieved its other targets for the year, significantly exceeding the target for arranging maintenance for existing recipients of Income Support.

We recommend that if the absent parent returns the Maintenance Enquiry Form within two weeks of issue, liability for maintenance should begin from the date of assessment, rather than the date of issue (HC 983 paragraph 42)

7. The Committee argued that this was necessary to reduce the initial amounts that absent parents were required to pay whilst retaining an incentive for absent parents to co-operate with the assessment process. However, it could result in parents with care losing maintenance as a result of any delay in the assessment process. After careful consideration the Government has concluded that it is important to protect the interests of the parent with care and that, subject to the exceptions already provided for in regulations, it is right that absent parents' liability should begin from the time that they are notified that this liability exists. Once absent parents are aware of when liability is to start, it is reasonable to expect them to make provision from that date. Procedures are already in place to ensure that absent parents have the opportunity to pay any initial arrears gradually over a forward period, at a rate at which they can afford.

8. The recommendation would also increase administrative complexity significantly. If implemented, this concession could only apply where the enquiry form was returned fully and properly completed. The information required to assess maintenance is necessarily detailed because, as far as possible, the formula takes account of individual circumstances. In practice, this measure would be likely to act as an incentive to absent parents to return enquiry forms quickly, but not necessarily accurately completed. As a result the Agency would need to make additional follow up enquiries, in many cases, to obtain all the required information; a process that might well take several more weeks. It would also generate disputes about whether forms had been properly completed, or returned within specified time limits, and thereby qualifying for the later effective date.

9. There are already provisions within the scheme to encourage prompt return of forms, and the Government believes that these measures are adequate. For all these reasons, therefore, it does not accept this recommendation.

We recommend that the Child Support Agency make it a priority for assessments to be made as quickly as possible. The range for assessments is six to twelve weeks and every effort must be made to achieve the lower end of that range. Twelve weeks is simply too long (HC 983 paragraph 42)

10. The Agency originally expected, once fully operational, that it would take 6 to 12 weeks to clear straightforward cases. More difficult ones would take longer. Operational experience is showing that the assessment process is more time consuming than expected.

11. The formula for assessing maintenance is necessarily detailed as it has to take full account of individual circumstances. A great deal of information is required to ensure the assessment is fair and realistic, and accurately reflects the circumstances of both parents. It is inevitable therefore that the entire process will take time.

12. The Agency expected to deal with around one million cases in the first year, and has made significant progress, taking on over 710,000 cases by the end of December, by the issue of a Maintenance Application Form. In total over 200,000 had been cleared, including over 120,000 resulting in maintenance assessments; the balance being cases where eventually the application was either found to be ineligible or withdrawn. The Agency is however, still building up to full capacity, and it is clear that both staff and clients are taking longer than expected to get to know the new procedures. Once the Agency is fully operational, it will generally take less time to settle maintenance than it did under the old court based system.

13. In the meantime all aspects of the Agency's operations are under constant review to ensure that the most effective means of handling cases are identified and changes made where this process can be improved.

We recommend that information on the time taken to process appeals is made available as soon as possible (HC 983 paragraph 43)

We recommend that the figure of 28 days for appeals be included in the citizen's charter for the Agency. If the appeal is decided in favour of the applicant, a reimbursement of the excess paid should be made within 5 working days. This should also be part of the citizen's charter for the Agency (HC 983 paragraph 44)

14. The Government agrees that it is important for appeals to be completed promptly so that applicants can benefit quickly from decisions made in their favour. The figure of 28 days mentioned in the report, is, in fact, the time limit within which clients who wish to appeal against a decision of a Child Support Officer must write to the clerk to the Child Support Appeal Tribunal. There is presently no target for the time taken to complete the whole process, from an appeal being lodged to being heard and decided upon, as this is primarily a matter for the Independent Tribunal Service which is an Independent Statutory Authority. It would not be appropriate, therefore, to include this as part of the Agency's charter. The Agency does have its own internal target — currently 18 days — for the time it takes to respond to an appeal lodged with the Independent Tribunal Service.

15. The Government has also considered carefully the Committee's recommendation that a reimbursement is made within 5 working days if an appeal is decided in favour of an applicant, but does not believe that this would be workable. It must be remembered that the Agency does not hold funds of its own and acts only as an intermediary in arranging maintenance between the parties. It would be unreasonable to expect a parent with care to refund what may be a sizeable sum, in 5 working days. Similarly, if an absent parent were required to pay a higher amount as a result of a successful appeal by a parent with care, the Agency could not realistically expect all the arrears to be paid over in 5 working days. There are procedures in place which ensure that any retrospective underpayment or overpayment of maintenance is adjusted over a forward period at a rate that is reasonable for both the absent parent and the parent with care. The Government cannot, therefore, accept this recommendation.

We recommend that in all cases the Child Support Agency ensures that the names of children shown on its documentation are the children's correct legal names (HC 983 paragraph 45)

16. The Committee expressed concern that the Agency relied upon information given on the Maintenance Application Form to ascertain the surname of the child or children, which may not be the legal name or that of the father.

17. The administrative consequences of having to check every case where the children's names differed from the absent parents would be immense. There are many naming conventions. Although the majority of children are given their

father's surname, children of never married parents may be given either the mother's or father's surname or indeed, a combination. In cases where parents separate, children are often given their mother's maiden name. Furthermore, some ethnic communities have different naming conventions, and it is possible for children of the same family to have different surnames. There are also parents with care whose children are given a new partner's surname through adoption or other legal means.

18. While the Agency will make every reasonable effort to use the correct name, it would not be right for the Agency to intrude on the parent with care's right to have her child known by any name she chooses. The Agency recognises that there will be a small number of cases where the absent parent will not know the names, and arrangements are already in place for dealing with cases where there is a doubt about paternity.

We recommend that in cases where the Agency is not collecting maintenance on behalf of the parent with care, no collection fee should be payable (HC 983 paragraph 49)

19. The Government accepts the force of argument behind this recommendation, and implemented it as part of the recent package of changes. A collection fee will now be payable only where the Secretary of State either collects maintenance on behalf of the parent with care, or has to take action to ensure that regular payments are made direct to the parent with care.

We recommend that the Government should consider raising the £8 marginal element contained in the protected income to £20, £30 or even £40 (HC 983 paragraph 63)

20. The Committee considered in some detail how to ensure that the assessment formula protects incentives to work. The Government welcomes their conclusion that it would be wrong to attempt to achieve this by allowing for specific expenses, such as costs of travel to work, within exempt income. To do so would herald a return to the problems which prevailed under the court system, where the duty to provide basic maintenance for a child was pushed further and further down the priority list by other expenses, and resulted in inadequate levels of maintenance payments.

21. The Government agree that child maintenance, in the form of money, should have first call on a parent's income. We also agree with the Select Committee's conclusion that the best method of ensuring that absent parents have sufficient income to meet other commitments, whilst also enhancing incentives to work, is to increase the protection offered by the protected income provisions. This part of the formula ensures that absent parents, after paying maintenance, retain more money than they would if they were not working and receiving income support. The Government has accepted the Committee's recommendation and has increased the basic margin from £8 to £30 above income support levels.

22. The Government also attaches considerable importance to increasing the incentive for working parents to improve their living standards. Under the previous provision the protected income assessment included an additional margin of 10 per cent of the difference between the basic protected income and the family's disposable income level. This margin has been increased from 10 per cent to 15 per cent thereby ensuring that the absent parent keeps a larger proportion of any increase in income.

23. This change is in addition to the Committee's recommendation, and the Government believe that both measures together represent a significant improvement in work incentives, and will provide a considerable increase in the income available to absent parents for meeting specific expenses.

We recommend that the Government consider reducing the element in the Maintenance Requirement that relates to the person with care once children have reached age 11, as discussed in the White Paper (HC 983 paragraph 78)

24. The Government welcomes the Committee's endorsement of the important principle that the formula should contain an element to reflect the day to day care needed by children. We are also pleased to note that the Committee has not accepted the argument that such an element represents spousal maintenance rather than the care needs of the child. It accepts the recommendation and has brought in changes which reduce the carer element by 25 per cent when the youngest child reaches age 11, and by a further 25 per cent at age 14. This reflects the gradual reduction in the level of care needed as children become more independent.

We recommend that a standard addition should automatically be made to the absent parent's income if that parent is a step-parent (HC 983 paragraph 81)

We recommend that no distinction be drawn between step-children and natural children in the allowance of housing costs in exempt income (HC 983 paragraph 82)

25. These recommendations run contrary to one of the fundamental principles of the Child Support Act: that parents' first responsibility is to their own natural children. To make allowances within exempt income would, in effect, give step-children priority in all cases. This could not be justified; in the first instance their maintenance should be met by their own natural parents. The protected income provisions ensure that the needs of the step-family are safeguarded. In all cases where the protected income assessment abates the amount of maintenance payable then the needs of the second family, including any step-children, are placed before the needs of the first family.

26. It is also important to recognise that the formula assesses the ability of both parents to contribute to the maintenance of their children. Any allowances in exempt income apply equally to both absent parents and parents with care. Where the parent with care has repartnered and the new partner has children, the Committee's recommendations might actually result in an absent parent paying more maintenance.

27. The Government cannot, therefore, accept these recommendations. It remains convinced that the best way to ensure that the concerns of step-families are met is through the extension of the provisions for phasing in new amounts of maintenance, and the significant increases in the protected income provisions, which have been introduced.

Clean Break Settlements

28. In addition to their formal recommendations for changes to the assessment formula the Committee also considered in detail whether the formula should take account of previous property settlements, commonly known as 'clean breaks'. The Government welcomes the Committee's recognition of the fact that it never has been possible to preclude the possibility of further claims for child maintenance simply because of the existence of a clean break settlement. There has always been provision within Social Security legislation for the Secretary of State to seek further child maintenance, where the taxpayer has an interest. Clean break settlements are between the partners themselves and not a replacement for child maintenance.

29. In many cases a property settlement is not in fact the transfer of a complete asset; rather it involves the transfer of a debt in the shape of mortgage repayments as well as the passing on of some equity in the home. Where the parent

with care is on Income Support, as the vast majority are, much of this debt is met by the taxpayer. And where the absent parent has been paying lower child maintenance because of a property settlement, the result will frequently have been that the taxpayer has provided for the day to day costs of bringing up his children, who have not shared improvements in his own standard of living. Indeed, had maintenance been paid at the appropriate amount over a period of time, it may well be that the absent parent would have paid more in maintenance than the value of the equity he transferred from the former home.

30. It is important to be clear that the maintenance formula assesses what parents can afford to contribute to maintenance, in their current circumstances, and thus normally will reflect the consequences of transferring the family home to the parent with care. The absent parent's costs in rehousing himself (and any new children), whether they are in the form of a new mortgage or rent, are deducted from his income before maintenance is assessed. Where he has not taken any equity from the home it is likely that his housing costs will be higher and this will therefore reduce the amount of maintenance he has to pay.

31. The Government does not, therefore, propose any change to the way that clean breaks are dealt with for child support purposes. It also endorses the Committee's conclusion that there is no sensible way of placing a current value on settlements made in the past to give some notional figure for current income which could be taken into account in the formula.

We recommend that the scope of the modified assessment arrangements is extended. The Government should consider allowing the rules to apply to assessments that are above £60, and phasing in a higher assessment over a period of time greater than one year. Ideally, the new amount of maintenance payable should be phased in several steps over a period of up to two years (HC 983 paragraph 85)

32. After careful consideration the Government has concluded that there is scope to extend the transitional protection offered to absent parents with second families or day to day care for children, to allow sufficient time for parents to adjust to their new liability. However, as made clear in evidence to the Committee, it is important to recognise that any increase in transitional protection for absent parents results in a decrease in maintenance for parents with care. The Government has been careful to ensure that the extension of the phasing provisions balances the interests of both parties.

33. There was already provision for phasing in maintenance payments where the new amount was £60 or less. Now, absent parents who have second families or day to day care of a child, and whose assessment is more than £60 may also benefit from transitional protection. This applies where there is a court order or written agreement made before 5 April 1993, which is still in place at the time the child support assessment comes into effect. In such circumstances, the new liability will be phased in, in six monthly steps, over a period of up to 18 months. The increase for each step will be limited to £20, or 25 per cent of the difference between the old and new liabilities if this is higher.

34. The Government has also introduced a further measure to benefit absent parents with high maintenance assessments, by implementing changes to the way in which any amounts above the basic maintenance requirement are calculated. The assessment formula contains a component known as the additional element which ensures that those parents who can afford to do so pay more than just the basic requirement, so that children can share in their parent's increased prosperity as they would if they still lived together. This was previously calculated at a rate of 25 per cent of available net income, subject to an overall maximum. The recent changes have reduced the rate of contribution to 15 per cent where there is only one child involved and to 20 per cent where there are two. It remains at 25 per cent where there are three or more children. This reflects the fact that, generally, in larger families, parents will spend a greater proportion of their available income on their children. The overall maximum has not been changed.

35. The Government has dealt now with all the specific recommendations of the Select Committee, and are pleased that the Committee's findings were very much in line with its own review of policy. It has not accepted all the recommendations for the reasons set out above, but has introduced two additional changes, beneficial to absent parents, not recommended by the Committee. The Government believes that the recent package of changes meets the spirit of the Committee's recommendations although they have not all been followed to the letter.



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