



Department  
for Work &  
Pensions

# Child Maintenance and Other Payments Act 2008

## Post-legislative Scrutiny

## Memorandum to the Work and Pensions Select Committee

Presented to Parliament  
by the Secretary of State for Work and Pensions  
by Command of Her Majesty  
December 2014

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Any enquiries regarding this publication should be sent to us at

**Child Maintenance Group**  
**Department for Work and Pensions**  
**Zone C, 7th Floor**  
**Caxton House**  
**6-12 Tothill Street**  
**London SW1H 9NA**

**Email: [policy.development@dwp.gsi.gov.uk](mailto:policy.development@dwp.gsi.gov.uk)**

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## Contents

<b>Chapter 1</b>	<b>Introduction</b>	<b>4</b>
<b>Chapter 2</b>	<b>The Path to Reforming Child Maintenance in Great Britain</b>	<b>6</b>
<b>Chapter 3</b>	<b>Reviews of Child Maintenance since the 2008 Act</b>	<b>7</b>
<b>Chapter 4</b>	<b>Implementation of the Powers in the 2008 Act</b>	<b>9</b>
<b>Chapter 5</b>	<b>The Commission, its objectives and how its functions are now carried out</b>	<b>12</b>
<b>Chapter 6</b>	<b>Tackling the past</b>	<b>25</b>
<b>Chapter 7</b>	<b>Looking Ahead – A Review of Child Maintenance Reforms in 2016 and 2018</b>	<b>28</b>
<b>Chapter 8</b>	<b>Lump Sum Payments: Mesothelioma</b>	<b>29</b>
<b>Chapter 9</b>	<b>Statistical Data</b>	<b>33</b>
<b>Annex A</b>	<b>Child Maintenance Secondary Legislation</b>	<b>35</b>
<b>Annex B</b>	<b>Uncommenced Child Maintenance powers contained within in the 2008 Act</b>	<b>37</b>
<b>Annex C</b>	<b>Child Maintenance References</b>	<b>40</b>

# Introduction

# 1

1. This Memorandum has been prepared by the Department for Work and Pensions, and reports on the post legislative scrutiny of the Child Maintenance and Other Payments Act 2008 (“the 2008 Act”) in so far as the powers related to it have been commenced.
2. Parts 1-3 and 5 of the Act, cover the reform of child maintenance. Part 4 of the Act includes powers to introduce a new payment scheme for people diagnosed with diffuse mesothelioma and their dependants.
3. The child maintenance provisions of the Act arose from an independent review of the policy and delivery of child maintenance, conducted by Sir David Henshaw in early 2006.
4. The mesothelioma provisions amend the Social Security (Recovery of Benefits) Act 1997 in order to fund payments through a compensation recovery mechanism.
5. The Act received Royal Assent on 5 June 2008, and the provisions came into force on various dates following the Act’s enactment. The Act’s Public Bill page can be found on the parliament.uk website.
6. The Act extends to England, Wales and Scotland. There are a limited number of measures relating to the disclosure of information and some general provisions which also apply to Northern Ireland.

# The Path to Reforming Child Maintenance in Great Britain

# 2

Event	Date
Child Support Agency established (“the 1993 scheme”).	April 1993
Due to complexity of rules and failing IT system, Government publish a White Paper on plans to reform child maintenance.	July 1999
Child Support, Pensions and Social Security Act 2000 sets out new scheme for child maintenance (“the 2003 Scheme”).	July 2000
2003 scheme goes live.	March 2003
Planned transfer of 1993 scheme cases to the 2003 scheme postponed, due to problems with the IT system underpinning the new rules.	October 2003
Secretary of State announces a twin track approach to reforming child maintenance: <ul style="list-style-type: none"> <li>• Sir David Henshaw to undertake a review of child maintenance system and;</li> <li>• Operational Improvement Plan up to 2009 to stabilise the performance of the CSA</li> </ul>	February 2006
Henshaw report published, recommending: <ul style="list-style-type: none"> <li>• A system that allows parents to make their own arrangements</li> <li>• Removing compulsion for parents on benefits to use the CSA and for those who do, disregarding child maintenance from benefits calculations.</li> <li>• A new organisation to administer child maintenance, that delivers information and support, has tougher enforcement measures and is given the power to charge for its services.</li> </ul>	July 2006
White Paper on new system of child maintenance published.	December 2006

## 6 Uncommenced child maintenance powers contained within the 2008 Act

Event	Date
Child Maintenance and Other Payments Act 2008 establishes a new NDPB “Child Maintenance and Enforcement Commission”.	July 2008
Child Maintenance Options service launched.	July 2008
End of compulsion for single parents applying for benefits to use CSA.	July 2008
Repeal of ‘Section 6’.	October 2008
Responsibility for child maintenance and the CSA transfers from the DWP to the Child Maintenance and Enforcement Commission.	November 2008
Operational Improvement Plan ends.	March 2009
Department for Work and Pensions implements a full child maintenance ‘disregard’.	April 2010
Coalition Government launches Green Paper ‘Strengthening families, promoting parental responsibility: the future of child maintenance’.	January 2011
Welfare Reform Act 2012 introduces the mandatory gateway.	2012
The new Child Maintenance Service launches to a pathfinder group of applicants.	December 2012
Applications to the CSA close, and the Child Maintenance Service opens to all.	November 2013
Charges for using the Child Maintenance Service are introduced and the start of closing cases managed by the CSA begins.	June 2014

# Reviews of Child Maintenance since the 2008 Act

# 3

1. In January 2011, the Coalition Government announced a further review of child maintenance in their Green Paper “*Strengthening families, promoting parental responsibility: the future of child maintenance*”. This outlined a radical re-shaping of the overall child maintenance system, to make clear the Government’s commitment to supporting and strengthening families.
2. This paper built on the commitments made by the previous government, by extending financial investment into more help and support for separated families to overcome a range of barriers to collaboration after separation, including child maintenance.
3. It also committed to providing, for those who needed it, a model for the statutory child maintenance system aimed at delivering high quality services, with better value for money for the taxpayer. This led to the introduction of fees for using the statutory service, the framework for which was set under section 6 of the 2008 Act. The regulations are detailed under the Child Support Fees Regulations 2014.
4. The 2011 Green Paper, also announced plans to introduce a ‘Gateway’ to the statutory system, aimed at encouraging and supporting choice for separating and separated parents by signposting them to support and information to enable them to make their own effective child maintenance arrangements.
5. The new legislative powers required to implement these additional reforms, were enacted under the Welfare Reform Act 2012 (“2012 Act”). The relevant sections of that Act, which either make amendments to, or expand on, powers contained within the 2008 Act, are as follows.
6. Section 136 of the 2012 Act inserts a new paragraph into Schedule 5, Paragraph 3 of the 2008 Act and provides for the mandatory gateway. Sections 140 and 141 of the 2012 Act also insert technical amendments under subsection 2 of Section 6 to allow for the apportionment of fees; and also inserts a new subsection after paragraph 3, to include the 30 month review of the introduction of fees.



## 8 Reviews of Child Maintenance since the 2008 Act

7. In July 2012, a consultation paper *Supporting Separated Families; Securing Children's Futures* was published, providing further detail on the implementation of the Government's vision. The Government's response to that consultation was published in November 2013.

# Implementation of the Powers in the 2008 Act

# 4

1. The 2008 Act received Royal Assent on 5 June 2008. Different parts have been commenced at different times over the past six years. Some powers remain uncommenced – further detail on these can be found at Annex B.
2. The first parts of the 2008 Act to be commenced related to the creation of the Commission (Part 1 of the 2008 Act) in the form of making appointments to it, namely a Chair, Commissioner and three Non-Executive Directors.
3. On 14 July 2008, the powers allowing the repeal of sections 6 and 46 of the 1991 Act came into force (part 3, section 15 of 2008 Act), allowing the Secretary of State to remove the compulsion for a parent with care receiving benefits to be treated as applying for maintenance (and as a consequence would not be ‘penalised’ for not doing so). Until October 2008 this only applied to new applications. After that date all those parents compelled to use the CSA, could choose to ‘opt out’. From October 2008, the Act also allowed for the Secretary of State to continue being able to seek to recover and retain arrears owed by non-resident parents.
4. On 24 July 2008, the remaining powers (Part 1 and Schedule 1 of the 2008 Act) relating to the creation of the Commission were commenced, with the exception of the provisions relating to the transfer of the statutory schemes from the Secretary of State to the Commission, which were commenced in November that year. This provided for the launch of Child Maintenance Options, the impartial information and support service for separating and separated parents and their families.
5. Also in November, the provisions (part 2, sections 13 and 14) transferring child support functions, property, rights and liabilities to the Commission, were brought into force. Schedule 6 of the Act was brought into force at this time, which gave the Commission the powers it needed to use and share information to discharge its responsibilities in relation to child support matters.

## 10 Implementation of the Powers in the 2008 Act

6. Part 4 of the Act, which relates to mesothelioma payments, commenced in the main, on 10 June 2008. Those provisions not in force on that date came into force in October 2008.
7. The powers allowing the Commission to make regular and lump-sum deduction orders as a collection method were brought into force for the purpose of making regulations in June 2009, and for all other purposes a month later.
8. The powers to make regulations relating to recovering arrears of child maintenance from a deceased persons estate, and those which allowed the offsetting of liabilities between parents, were brought into force in November 2009.
9. Amendments were made to the 2008 Act provisions in 2009, via the Welfare Reform Act of that year. The amendments made were to the powers to disqualify a non-resident parent from holding or obtaining a passport or driving licence, but to do so, without application to the court. Further information on this can be found at Annex B.
10. In April 2010, the power allowing the Commission to apply to a Court for an order preventing a non-resident parent from disposing of, or transferring, their assets to evade their child maintenance responsibilities were commenced.
11. In October 2012, regulation-making powers relating to the new statutory system (“the 2012 Scheme”) came into force in preparation for the launch of the new system to a pathfinder group of new applicants in December 2012. This included the commencement of section 16 and schedule 14 of the Act. This order also brought into force regulation-making powers for amending the child support definition of a child, to align with child benefit eligibility (increasing the age of a child from 18 to 20), and the power to write off arrears and accept part payment in full and final satisfaction of arrears.
12. In December 2012, the provisions relating to applying the new calculation rules came into force, as defined in the Child Support Maintenance Calculation Regulations 2012. Initially, these provisions applied to applications with at least four qualifying children to the same parents, and where there was no existing case with the CSA involving the same parents.
13. These rules also applied to any existing case managed on either the 1993 or 2003 schemes, where the non-resident parent named in the new application was also the non-resident parent to a different parent with care, or where the non-resident parent was the partner of a non-resident parent named in a new application, and either of those non-resident parents claimed a prescribed benefit.
14. At the same time, the powers relating to amending the definition of a ‘child’ and the ability to write off arrears and accept part payment in full and final satisfaction of arrears came into force for all purposes.
15. In 2012, to support the opening of the 2012 scheme, the Child Support Maintenance (Changes to the Basic Rate Calculation and Minimum Amount of Liability) Regulations 2012 were made under Schedule 4 to the 2008 Act to modify the provisions in Schedule 1 to the 1991 Act relating to the calculation of the basic rate of maintenance and the minimum amount of liability where the non-resident parent is party to another maintenance arrangement. This instrument also increased the flat-rate of maintenance from £5 to £7, and made a technical change to ensure that the flat rate of maintenance was kept at £5 until the new calculation rules came into effect for all new applications.

16. The proposed increase of the flat rate was included in the Child Support Maintenance Calculation Regulations 2012 consultation which ran from 1 December 2011 to 23 February 2012. In response to the consultation there was a general recognition that the current flat rate of £5 had not changed in more than 10 years and an increase to £7 was not considered to be unreasonable. There was some support for an increase beyond £7, but there were concerns that such an increase would place an excessive burden on the poorest non-resident parents, so £7 was the agreed rate.
17. Six months after its initial pathfinder introduction, a number of measures to improve the efficiency and effectiveness of the new calculation rules were introduced. These amendments:
  - enabled the use of current income information as the basis of a maintenance calculation when HMRC information is not available
  - allowed previously agreed variations to child maintenance liability to be re-instated automatically in appropriate circumstances and;
  - enabled a 'nil income' figure from HMRC to be used to calculate child maintenance liability.
18. The instrument also made changes to all three child maintenance schemes, following changes to Child Benefit eligibility for higher income earners, to ensure that those parents on higher incomes who were no longer entitled to receive child benefit, continued to be eligible for child maintenance.
19. Finally, in 2012 two of the most fundamental changes to the reform of the child maintenance system, as provided for in the 2008 Act, were introduced. Charges to use the statutory system and the ending of all liabilities in cases managed by the CSA.
20. The regulations to support the closure of CSA cases, are made under section 55(3) and (4) of, and paragraphs 2, 3, 5, 6 and 7 of Schedule 5 to the 2008 Act. Alongside the regulations the Department published a scheme which details how the Secretary of State will end liability in these cases and in which order.

## The Commission, its objectives and how its functions are now carried out

# 5

1. The Secretary of State (SoS) made separate commitments to Parliament on the review and assessment of the impact of child maintenance reforms on wider society (see Section 7). This memorandum will therefore focus on:
  - a. How the 2008 Act provisions sit within the wider reforms set out by the Coalition Government in 2011.
  - b. How the Child Maintenance and Enforcement Commission's functions are now exercised, following its abolition.
  - c. A full evaluation of the Act and subsequent reforms will be available in line with public commitments.
2. Although there is limited statistical data currently available, this memorandum does seek to make a preliminary assessment of those powers which have been in force for some time.

### **Establishing the Child Maintenance and Enforcement Commission (“the Commission”)**

3. The Commission was established under Section 1 of the 2008 Act as a Crown non-departmental public body.
4. It was sponsored by, and funded through, the Department for Work and Pensions (DWP). The SoS was accountable to Parliament for the Commission's activities and performance. The Permanent Secretary of DWP, as the Department's Principal Accounting Officer, was responsible for ensuring the standard of financial management.

5. The Commission was governed by a Board comprising the Chair, the Commissioner, and a number of executive and non-executive directors who were responsible for developing the overall vision, strategy and policy of the Commission as well as for the governance, risk management and internal control of the organisation and the implementation of the reforms. It was specifically responsible for monitoring operational performance and establishing and taking forward the strategic aims of the Commission, consistent with its overall statutory objectives.
6. The Non-Executive Directors of the Commission were appointed by the Chair of the Commission with the approval of the SoS under paragraph 3(2) of Schedule 1 to the 2008 Act. The appointments were all made on a fixed-term basis.
7. The remuneration of the Non-Executive Directors was, in accordance with paragraph 4(2) of Schedule 1 to the 2008 Act, set by the Chair with the approval of the SoS.
8. The Board had a number of committees which assisted in ensuring that the Commission ran with propriety and good governance; was effective in delivering public service; and demonstrated good value for money for the taxpayer. These committees consisted of the Remuneration and the Audit Committees which were overseen by a Non-Executive Functions Committee.
9. The Chair was responsible to the SoS for ensuring that the Commission's policies and actions supported the wider policies of the SoS and that its affairs were conducted with probity.
10. In addition, the Chair had the specific responsibility for ensuring that the Commission fulfilled the functions set out in the 2008 Act; and an obligation to ensure that the work of the Board and its members was reviewed, and that the Board was working effectively.
11. The Commissioner was designated by the Permanent Secretary of DWP as the Commission's Accounting Officer. The appointment was for a fixed term under the terms of the Schedule 1 Paragraph 9(4) (a) of the 2008 Act. On appointment the Commissioner's pay was determined by the Secretary of State in line with the Civil Service pay arrangements.
12. The Commissioner was responsible for: safeguarding public funds for which he had charge; ensuring propriety and regularity in the handling of those funds; and, for the day-to-day operations and management of the Commission.
13. The Commissioner was responsible to Parliament for the Commission's accounts, internal controls and procedures; to the Department for corporate and business planning and informing it of progress in achieving agreed objectives and targets; and for advising the Board on the discharge of its responsibilities and for executing Board decisions.

## 14 The Commission, its objectives and how its functions are now carried out

### Members of the Commission's Board during the period

Name	Role	Date of appointment
Dame Janet Paraskeva	Chair	19 November 2007
Stephen Geraghty CBE	Commissioner	1 January 2008 – 6 May 2011
Noel Shanahan	Commissioner	9 May 2011
Deborah Absalom	Non-Executive Director	10 June 2008
Rosemary Carter	Non-Executive Director	10 June 2008
Bill Griffiths	Non-Executive Director	10 June 2008
Maeve Sherlock	Non-Executive Director	10 June 2008 (to 31 July 2010)
Heather Jackson	Non-Executive Director	1 September 2008
Alan Hardy	Executive Director	1 July 2008 (to 23 April 2012)
Susan Park	Executive Director	1 July 2008
Ian Wright	Executive Director	1 February 2011
Stephen Leonard	Executive Director	1 June 2009 (to 28 May 2010)
Keith Woodhouse	Executive Director	1 August 2008 (to 11 March 2011)

14. The Commission's Executive Team was responsible for the executive management of the Commission and supported the Commissioner in discharging his responsibilities.
15. The Commission recruited staff for its central office in Leeds soon after it was established. The Commission also had a smaller office in London. These employees were responsible for the planning and delivery of the new statutory system and undertaking wider Commission responsibilities, related to its functions. When the Commission assumed responsibility for the CSA in November 2008, its people and estate moved with it. They retained their civil service terms and conditions.
16. Pursuant to Section 9 and 18(2) of Schedule 1 to the 2008 Act, the SoS directed the Commission to prepare, for each financial year, a statement of accounts in the form and on the basis set out in the Accounts Direction.
17. The Accounts were prepared on an accruals basis and gave a true and fair view of the state of affairs of the Commission at the year-end and of its net operating cost, changes in taxpayers' equity and losses and cash flows for the financial year.
18. All Annual Reports and Accounts published by the Commission can be found in the National Archives. These reports also give further detail as to the Commission's successes in meeting its objectives, during its tenure.
19. DWP was the Commission's sponsoring department and the Commission was accountable to DWP and its Ministers for its performance and use of resources. The corporate governance arrangements between DWP and the Commission were set out in a Framework Document.
20. The Commission submitted monthly data to DWP on its forecasts for, and use of, resources, and quarterly on its operational performance. This data was incorporated into DWP Executive Team Reports and Quarterly Data Summaries.

21. Sir David Henshaw recommended in his 2006 report, that the Commission should “*retain responsibility for strategy and performance but commission delivery of services from a range of providers in the private and wider public sectors.*”
22. Sections 7 and 8 of the 2008 Act, permitted the Commission to make arrangements to ‘contract out’ or use and share expertise from private and public industry, in delivering its business.
23. The Commission’s plan was to establish a commissioning-type body; specifying, contracting for, and managing the performance of, service delivery from both in-house and outsourced providers. The in-house providers would have included the Child Support Agency (until it completed its work).
24. The Commission outsourced the Child Maintenance Options service to Ventura, a subsidiary of Next plc and its debt collection to external debt collection agencies such as Eversheds. The management of CSA cases which have to be maintained off the main computer system was also an outsourced function, operated at the time by Vertex. These functions are still managed by external organisations (G4S for Child Maintenance Options and SERCO for “off-system” cases) but DWP now has overall responsibility for those contracts.
25. In the Public Bodies Bill Review (14 October 2010), the Government proposed to increase the accountability and transparency of all public bodies. As part of that proposal, it was decided that the Commission would be abolished and the SoS would exercise its functions, thereby bringing the delivery of child maintenance strategic and operational policy back under Ministerial direction.
26. The Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 provided for its abolition and for its functions to be transferred to DWP. This transfer took place on 1 August 2012.
27. The staff and operations of the Commission were transferred into DWP as a separate operational business unit reporting directly to the DWP Permanent Secretary. The integration was completed on a low cost basis. There will be future costs incurred as system, budget and people alignments take place, however it is hoped that over time this will be off set by the savings from full integration.
28. The statutory objectives given to the Commission, its duty to promote financial responsibility and to provide information and support were not transferred to the SoS by the 2012 Order. This is because it was believed that the SoS already had sufficient powers to meet these objectives.
29. Assurances were provided during the debate of the Public Bodies Bill that the SoS would, as part of the process for managing the transfer, consider the measurement and reporting of success against these objectives. In the next section, further detail on exactly how the SoS continues to deliver these functions can be found. The reporting of success will be measured in line with the soon to be published ‘*Child Maintenance Reforms Evaluation Strategy*’.
30. As the successor organisation, DWP prepared the closure report and accounts for the Commission as directed under the 2012 Order, and the Permanent Secretary of DWP signed off the accounts as the Principal Accounting Officer. This document includes detailed commentary on the success of the Commission against its objectives, before its functions transferred to the SoS.



## The Commission's objectives and operations

1. The main objective of the Commission, as defined by the 2008 Act, was to:

**Maximise the number of children living apart from one or both of their parents for whom effective maintenance arrangements are in place. This objective will be supported by the following subsidiary objectives:**

- **to encourage and support the making and keeping by parents of appropriate voluntary maintenance arrangements<sup>1</sup> for their children; and**
- **to support the making of applications for child support maintenance under the Child Support Act 1991 and to secure compliance when appropriate with parental obligations under the Act.**

To achieve this, the Commission had three core functions:

- a) To promote the financial responsibility that parents have for their children;
- b) To provide information and support about the different child maintenance options available to parents; and
- c) Provide an efficient statutory child maintenance service, with effective enforcement.

## The First Core function: Promoting Financial Responsibility

1. The Commission was required to promote child maintenance and the financial responsibility that separated parents have for their children, whether or not they live with them. Section 4 of the 2008 Act required the Commission to:

**'take such steps as it thinks appropriate for the purpose of raising awareness among parents of the importance of:**

- a) taking responsibility for the maintenance of their children, and**
- b) making appropriate arrangements for the maintenance of children who live apart from them.'**

2. Following a programme of qualitative research (interviews with parents and people who influence them) the Commission undertook a wide range of specific targeted engagement and 'outreach' activities. These were designed to promote child maintenance as well as to raise awareness amongst professionals and parents of both the importance and the benefits of making child maintenance arrangements. This included:

- a. The Child Maintenance Options service established partnership arrangements with a range of organisations to ensure that information about child maintenance was included on their websites. This included holding successful online clinics with Netmums and Dad.info. It upskilled influential intermediaries such as Citizens Advice and Money Advice Service to promote parental responsibility following separation.
- b. Developing relationships with voluntary and community sector organisations and ensuring information was included both in client-facing materials and in the practical face to face support and services used by their clients.

<sup>1</sup> The adopted term used for describing a 'voluntary or private' arrangement, is a 'family-based arrangement'.

- c. External engagement with key professionals, such as health care professionals and those working in early years settings or who provide support services more generally to families.
  - d. A social media strategy using twitter, forums and a Child Maintenance Options blog to raise awareness of the benefits of child maintenance.
  - e. Articles in lifestyle magazines and publications read by professionals
3. At a local level, the Commission set out to provide and promote messages around child maintenance through the broader Family Information Services provided by local authorities. This work involved delivering training sessions to Family Information Service staff as well as children's centres, Jobcentre Plus lone parent advisers, health visitors and Citizens Advice in their local areas.
  4. The Commission worked closely with the Department for Education (DfE) to ensure that the narrative on child maintenance was consistent with wider messaging around families and relationships and that child maintenance was seen as an important part of co-operative parenting and post-relationship arrangements.
  5. It also engaged with partners across government departments to ensure that activities to promote child maintenance amongst parents and to deliver the Help and Support for Separated Families initiative were appropriately linked into their key initiatives including: the reform of the family justice system; wider relationship support policies and the health visitor training programme.
  6. Since the abolition, the 'Promoting Child Maintenance' function has continued to support the overall aim of increasing the total number of effective child maintenance arrangements, by maintaining partnerships with a range of intermediaries in the public, voluntary and community sectors who can provide the necessary interventions and act as trusted 'messengers'.

## The Second Core function: Providing Information and Support

1. In July 2008, a month after the 2008 Act received Royal Assent, the Child Maintenance Options service was launched to Jobcentre Plus clients to coincide with the repeal of Section 6 of the 1991 Act. It enabled those parents newly claiming benefits and who were no longer compelled to use the CSA, to consider all their child maintenance options including making their own arrangements, where appropriate. It was accessible to all parents and their extended families, as well as practitioners, from October 2008. Its objective was to fulfil the second of the Commission's core functions – to provide information and support about the different child maintenance options available to parents.
2. In order to raise awareness of the service, and increase the number of effective family based arrangements made by parents, the Commission ran a national campaign in 2010, following a regional trial in 2009. The campaign included using television, radio, online and print media and generated over 65,000 calls and nearly 300,000 visits to its website. The campaign was particularly successful in raising awareness amongst men, non-resident parents and family and friends.
3. Following the campaign, the number of successful contacts made stood at just over 285,000 and following a series of internal surveys to look at the number of children benefiting from those contacts, it was estimated that 60,000 children were benefiting from an effective family-based arrangement in the financial year ending March 2010.<sup>2</sup>

<sup>2</sup> The Commission's Annual Report and Accounts 2010/11

## 18 The Commission, its objectives and how its functions are now carried out

4. The Child Maintenance Options service provides free, impartial information and support to help parents make an informed choice about their child maintenance arrangement and consider making a family-based arrangement where it is safe to do so.
5. The service is delivered through a national telephone helpline (outsourced to G4S), a website which includes a Live Chat service and email, and a face-to-face service for the most vulnerable. As well as parents, it is also available to family, friends and other practitioners who work with separating families.
6. It was designed through a unique government, private and voluntary sector partnership to maximise expertise and continues to engage with key stakeholders to constantly improve the service and support it offers to parents.
7. Between its launch in 2008, and up to the point at which the Commission was abolished, the service had handled over one million telephone calls and received over 1.8 million unique visitors to its website.
8. Overall client satisfaction stood at 96%, with 99% willing to recommend the service to a friend or family member; quality scores were also consistently high with overall performance at 95% in July 2012. In November 2012, the Department published “*A survey of Child Maintenance Options Outcomes*” which reported on the service’s performance against its objective to maximise the number of children benefitting from a family-based arrangement, during the Commission’s tenure.
9. The survey results showed that by the end of March 2012 an estimated 140,000 children were benefitting from an effective family-based arrangements made or changed following contact between a parent and Child Maintenance Options. This increased to 149,000 children benefitting until the end of July 2012 (when the Commission was abolished). The Department have recently published updated experimental statistics on the number of children benefitting up to March 2014, which incorporates the period of time since the Commission’s functions were transferred to DWP.
10. This new data shows that over the course of 2013/14 **41,000 children** benefited from an effective family-based arrangement, secured after contact with Child Maintenance Options. Which means that a total of 183,000 children have benefited in this way since the creation of the Child Maintenance Options service, in 2008. Child Maintenance Options has maintained a steady performance over 2013/14, despite becoming the mandatory gateway for accessing the statutory Child Maintenance Service. This data shows us that **15%** of parents who get in touch with Child Maintenance Options choose an effective Family-based arrangement. Further information on these statistics can be found online.
11. Child Maintenance Options has also supported the Commission’s first function through its proactive partnership programme.
12. There are videos available on the Child Maintenance Options website<sup>3</sup>, from people who have used the service and who have found it invaluable in obtaining information about the options available to them. Some quotes from those videos are below.

“I just thought this is wonderful, this is a specialist helpline that can give me advice and just listen to what I’ve been going through and tell me what my options are and what I can do about the situation”.

<sup>3</sup> [www.cmoptions.org](http://www.cmoptions.org)

“I was totally confused before I, I rang them and contacted their website and by the end of the evening I had a good idea of what I should be doing. I mean you could get all the information if you are willing to research on the internet but it’s in one place you don’t have to go to all different sites it’s in one place and you can get all the information you need”.

“Unless you’ve got somebody else you know that’s going through the same situation, often you don’t know what to ask or where to ask it from, so Child Maintenance Options was a very good place to turn to at that time”.

13. Child Maintenance Options has trialled a variety of pilots since its launch (over 30) to improve the support available to parents, based on customer, agent and stakeholder feedback, as well as more formal commissioned insight or evaluation. It continues to develop more effective tools and support, for example, DWP is currently undertaking insight with longer term separated parents who face different challenges due to entrenched behaviours to inform future proposition development.
14. This function is also supported by the £14m that has been invested in Help and Support for Separated Families (HSSF) to support couples and families to work together across the range of issues they face when separating. A key aim is to promote collaboration between parents and to minimise the impact of separation and parental conflict on children. This includes encouraging parents to make their own family-based arrangements where possible and appropriate.
15. In November 2012, the ‘Sorting out Separation’ online service was launched. It is designed to help parents identify their needs and signpost them to trusted information, tools and specialist services. It also provides information on the wide range of issues families might face when they separate, including case studies to help support and inspire families going through separation. ‘Sorting out Separation’ includes more than 300 unique signposts to over 50 organisations.
16. The HSSF ‘Mark’ was launched in March 2013. The mark is awarded to organisations who demonstrate that they promote collaboration (where it is appropriate to do so) and help reduce conflict between parents. The aim of the mark is to help parents to recognise those organisations they can trust. As of November 2014, there are over 400 mark-holders. The majority have been awarded the mark through one of five ‘umbrella’ organisations, which can award the mark to their members using their own internal assessment processes. Mark-holders represent mediation providers; collaborative law specialists, relationship support services; web-based organisations; national helplines; a grandparent’s charity and a children’s centre.
17. The HSSF telephony training has also provided funding to four organisations which already provide telephone support to families, enabling them to emphasise the benefits of collaborative parenting after separation. It not only helps promote collaboration between separated parents, but should also ensure that they are provided with reliable and consistent diagnosis and signposting, regardless of which helpline they choose to use. This approach is intended to link with both the HSSF Mark and the Sorting out Separation online service.
18. Almost £10m of the HSSF investment is being spent on an Innovation Fund. 17 voluntary and private sector organisations have received funding to test and evaluate innovative and effective interventions that will help separated parents collaborate more effectively in their children’s interests. There are early indications of some very positive case studies and formal evaluation results will be published at the end of the programme.

## 20 The Commission, its objectives and how its functions are now carried out

19. A further enhancement was made to the service, when the Welfare Reform Act 2012 (“2012 Act”) made amendments to both the 1991 Act and the 2008 Act, to allow the SoS to require that applicants to the new Child Maintenance Service (of which the calculation rules were provided for under the 2008 Act), speak to a mandatory ‘gateway’ before being allowed to apply to the statutory system.
20. The rationale for this was that with the introduction of charging, it was important that there was a mechanism for parents to talk impartially to someone about alternative options to using the statutory scheme.
21. The gateway is flexible and personalised to each individual. It is designed to ensure that parents consider the full range of options before making an application to the Child Maintenance Service, so the statutory service no longer remains the default option.
22. Where appropriate, it promotes the benefits of making a family-based arrangement with parents, helps them overcome the barriers they face to working together and provides them with the tools to make effective arrangements.
23. Those who have declared they are victims of domestic violence and abuse are fast-tracked through the gateway, directly to the Child Maintenance Service.
24. In terms of its usage, the Child Maintenance Options service has continued to grow, supporting more parents into making arrangements which best meet their circumstances, whether that be a family-based or statutory arrangement. The transfer of this function has not hindered its progress, and it remains central to supporting families, a key priority for the Coalition Government.

## The Third Core function: Providing an efficient and effective statutory service

1. The Commission continued to build on the successful improvements the CSA had already come to realise through its 3-year Operational Improvement Plan which was launched by the SoS in 2006.
2. The objective of the Operational Improvement Plan was to improve the current performance of the CSA while work to realise Sir David Henshaw’s redesign was undertaken. The aim was to improve client service, increase the amount of money collected for children, achieve greater compliance and provide the platform from which the redesign of the child maintenance system could be built.
3. This was because in 2005, prior to the announcement made by the SoS to reform the system, the CSA was struggling with its performance, particularly in terms of handling its increasing caseload, the speed it could process applications and the effectiveness of collecting money for children. In 2004-05, under the 2003 scheme, the CSA was assessing or closing only 28% of applications within 12 weeks, was missing its accuracy target by 15 percentage points and had achieved a compliance rate of only 66%.
4. However, performance has continued to rise year on year and continues on that trajectory today. The latest summary of statistics for the 1993 and 2003 schemes provides evidence that DWP have progressed well in their objective to deliver a more effective and efficient system for parents in the CSA. Some highlights are:

- a. 99.3% of complaints received in September 2014 were resolved or had a resolution plan in place within 15 days. There has been a reduction in the number of telephone calls received in the 6 months to September 2014, and also in the average time taken to answer calls compared to 2013.
- b. Prior to December 2013, the overall live caseload had been on an upward trend since January 2012, with both the Collection Service and Maintenance Direct caseloads following the same pattern. The decrease in the live caseload following this date has been expected due to the fact that new cases aren't being processed by the CSA anymore, after the introduction of the new calculation rules on the 2012 scheme.
- c. There has been a continuous decrease in the number of cases being managed off system, which is in line with the decreasing caseload.
- d. The number of cases paying their full liability and those cases paying more than their current liability with arrears has fluctuated from month to month; however of those with a current liability due via the Collection Service, 36.8% are paying more than their current liability.
- e. Both the number of cases with a current liability and the number of cases with a contribution towards current liability have been on a downward trend since July 2013. Despite this, the percentage of cases contributing towards a current liability has increased each quarter from September 2013. The percentage of cases contributing towards a current liability currently stands at its highest position of 86.5%. In the quarter to September 2014 **595,300** (or 86.5%) cases were paying towards their maintenance out of **688,300** cases with a child maintenance liability.
- f. The number of Children Benefiting on the CSA schemes has been on a downward trend since September 2013, and is now at its lowest position since January 2012. The change in trend can be attributed to the fact that all new applications are now being processed under the new calculation rules, so do not give a true reflection of the total amount of children benefitting from an effective arrangement, because neither those managed under the new rules or those in a family based arrangement are currently available. As already expressed on page 18 of this memorandum, DWP has recently released experimental statistics on the number of children benefiting from a family-based arrangements following contact with Child Maintenance Options up to March 2014. We will take this information, together with information about the statutory schemes seen here, to better understand the wider child maintenance population in regards to effective arrangements. This will form part of the ongoing evaluation and reporting arrangements, that DWP have already committed to fulfilling.
- g. The percentage of liability collected has gradually been increasing since January 2012, with the latest figure at its highest position. 75.0% of money due to be paid in the quarter to September 2014 had been paid.
- h. The total amount Collected and Arranged on a 12 month basis to September 2014 had previously increased each year, however the latest year has shown a reduction which is expected as new applications are no longer being processed on the CSA schemes. Regular maintenance has followed the same pattern, while yearly Maintenance Direct arrangements have increased throughout. The amount of contributions towards arrears generally decreases, with a one off increase in the year ending September 2013 which is due to a change in methodology.
- i. As at September 2014, the Overall Maintenance Collected and Arranged and the amount of arrears collected on a rolling 12 month basis both fell to **£1,235.1m** and **£147.9m** respectively. This is compared to a June 2014 figure of £1,256.0m, of which £151.7m was arrears and a September 2013 figure of £1,263.3m, of which £164.6m was arrears. The decrease in child maintenance collected or arranged is due to the reduction in caseload.

## 22 The Commission, its objectives and how its functions are now carried out

- j. In the quarter to September 2014, **£303.3m** was collected and arranged, of which **£35.7m** was contribution towards arrears. When compared to June 2014, the amount collected or arranged have decreased by £1.3m and the amount of arrears collected have increased by £1.6m. This can be attributed to a seasonal trend we normally see as the youngest qualifying children leave full time education and regular maintenance payments are converted into payments towards arrears.

Headline collection figures are:

**Rolling 12 Months: £1,235.1m** of which **£147.9m** was arrears

**Rolling Quarter: £303.3m** of which **£35.7m** was arrears

5. Overall, when considering the scale of change the child maintenance system and the people responsible for it have achieved in recent years, it is right to conclude that the Commission, and more recently DWP, has made good progress in its aim to deliver a more effective and efficient service for the clients who chose to use the statutory service.
6. In addition, the National Audit Office in their recent report “*Child maintenance 2012 scheme: early progress*” recognises that DWP has made good progress in terms of simplifying the calculation rules, achieving, or nearly achieving, performance expectations in the 2012 scheme and substantially improving its control of the reform programme.
7. The following table details the performance of the 1993 and 2003 schemes since 2012.

Key Measures					
	March 2012	March 2013	March 2014	September 2014	14/15 Indicator
Caseload	1,334,400	1,380,700	1,394,000	1,365,700	.
% of cases making a contribution towards current liability in the quarter	84.0%	83.7%	85.6%	86.5%	83.0%
Number of Cases Contributing towards Current Liability	619,300	646,400	631,900	595,300	.
Number of Cases with a Current Liability	737,000	772,600	738,500	688,300	.
Percentage of Cases paying Full Liability (90% or more)	61.1%	59.4%	64.0%	64.4%	60.0%
Number of Children Benefiting at quarter end	871,100	905,400	871,800	816,500	776,000
Maintenance Collected and arranged (12 month rolling figure)	£1186.5m	£1,229.9m	£1,270.5m	£1,235.1m	£1,055m
Outstanding Arrears	£3,822.6m	£3,814.6m	£3,857.6m	£3,851.0m	

8. The new calculation rules, provided for in the 2008 Act, should further enhance the effectiveness of the statutory system. Its key features include:
  - Links to HMRC. Using this tax data means assessments depend less on what parents choose to disclose about their income, and more on what they actually earn.

- Using more digital methods of keeping clients informed:
    - SMS text messages to clients in certain circumstances such as when a paying parent has missed a payment or when a payment has been made to a parent with care.
    - An online self-service portal for employers and clients.
  - Taking a firmer approach to tackling arrears.
9. The new rules have been introduced gradually, using a 'pathfinder' approach. This approach allowed DWP to intercept identified issues, develop interim solutions and/or fix them, and allowed for the opportunity to test the experiences of applicants in a controlled way. This helped to improve processes and update procedures in advance of opening up the 2012 scheme to more people.
10. Additionally, DWP have used tried and tested commercially available software packages to build the 2012 system. Also, opening the scheme as a pathfinder ensured that the system could be tested before full implementation.
11. The pathfinder operated as follows:
- In December 2012, it opened to new applications from those with four or more qualifying children;
  - In July 2013, it opened to new applications from those with two or more children; and
  - It opened to all new applications on 25 November 2013. It was at this point that the CSA was closed to new applications.
12. It is still early days in the life of the 2012 scheme. As such statistically valid data and trend analysis is not yet readily available to form firm conclusions, particularly in a form which can be drawn upon to assess the outcomes and success of the child maintenance reform programme.
13. However, we do know that children in families with three or more children are more likely to be in relative poverty than children in families with either one or two children. Additionally, around a third of all children in poverty are from families with three or more children. This was one of DWP's considerations in deciding that families with the most children should be the first to benefit from the new 2012 scheme.
14. On 25 November 2013 DWP released a limited set of ad-hoc Experimental Official Statistics covering the months of August and September 2013 (when the new rules opened to applicants with at least two qualifying children with the same two parents named in the application).
15. On 26 March 2014 DWP released an updated version of these statistics, which include information on telephony, accuracy and complaints, covering data to the end of February 2014. Since then, these statistics have been published on a quarterly basis. They are still in the early stages of development and assurance so will therefore remain as Experimental. DWP's strategy for the publication of information about the 2012 scheme, and Experimental Official Statistics on the scheme, are available online.
16. Another key contribution towards achieving success in introducing a better child maintenance service for people is ensuring that those parents whose cases are managed by the CSA have the opportunity to benefit from that new service, if they cannot make their own arrangement and are willing to pay for it. This is particularly important for those parents, estimated to be around 50,000, who have never received maintenance due to their cases being subject to the 1993 scheme rules, who could now benefit from the new system, lifting more children out of poverty.



## Early assumptions of the delivery and implementation of the Commission's core functions

1. It is estimated that the combined impacts of the introduction of charging for use of the Child Maintenance Service, better information and support for separating and separated parents and the systematic closure of CSA cases will result in an increase in the overall number of effective child maintenance arrangements. Further detail on this can be obtained from the Child Maintenance Reforms Impact Assessment, completed in March 2013.
2. Statutory arrangements where the paying parent pays the receiving parent directly (i.e. Direct Pay) are also projected to increase from 25% in 2013-14 to 40% of the positively assessed caseload in the 2012 scheme, as parents seek to avoid paying the collection charges levied for use of the Collection Service. Direct Pay arrangements are an important first step towards non-statutory collaborative arrangements.
3. When considering whether the Commission was successful in meeting its core functions as defined by the 2008 Act, it can be said that in the four years it was responsible for child maintenance it did make steady progress and set the central foundations on which the Coalition Government built its 2011 reforms. Evidence of this can be found in the Commission's Annual Reports, which are available from the National Archives.
4. After the transfer of the Commission's core functions, the SoS has remained focussed and committed to continuing to build on the work and improvements that can be seen in the child maintenance system. This is evidenced by the funding and extended work of the HSSF programme, the launch of the 2012 child maintenance system, and the announcement this year that cases managed by the CSA will begin to close; a process that is already underway, and should conclude by 2017/18.
5. However, with the limited information currently available on how the new rules have embedded, it is too early to effectively assess whether the reforms have achieved their aims, not least because some of the behavioural effects will take some time to embed.
6. However, the SoS has committed to undertake a review of the reforms within 30 months of the introduction of charging and CSA case closure, with a report on the findings being made available shortly after that.
7. The establishment of the Commission and the functions it was given to discharge, was just one area that the 2008 Act legislated for. It also provided for a number of collection and enforcement powers to strengthen the effectiveness of the statutory system in the acknowledgement that the 1993 and 2003 schemes would continue to operate for some time. These powers have been pivotal in making inroads towards the operation of a more effective and efficient statutory service.
8. The 2008 Act also provided powers to better support the recovery of historical child maintenance arrears owed to parents, which was further supported by commitments made by the Coalition Government in the January 2013 publication '*Preparing for the future, tackling the past: Child Maintenance – Arrears and Compliance Strategy 2012-2017*'.

# Tackling the past

# 6

## Better Collection and Enforcement powers

1. Since 2005, much has been done to increase the internal resources devoted to enforcement and the suite of enforcement powers, largely made available through the 2008 Act. The total number of enforcement processes undertaken has increased almost sevenfold since 2005.
2. The introduction of Sections 22 and 23 of the 2008 Act (Regular and Lump Sum Deduction Orders) in 2009/2010 are probably two of our most successful enforcement tools from the package or regulations made under this part of the Act. The number of Lump Sum and Regular Deduction Orders authorised has continued to increase year on year; 1,715 authorised during the period April 13 to March 14 which is up from 1,385 in the period April 12 to March 13. In total these powers have resulted in collecting **£9,950,970 for children in 2013/14**.
3. DWP are currently only able to make deduction orders against an account held solely by the non resident parent. Although the power is in the 2008 Act to include joint accounts, additional regulation is required to support its introduction. However, some research indicates that this might be a worthwhile pursuit so DWP will be exploring this, and some other ways in which this power can be maximised, further in the coming months.
4. In addition, Section 24 provides that where the SoS has evidence that a person who owes arrears of child maintenance is about to dispose of an asset with the intention of avoiding payment, the SoS can apply to the High Court (in Scotland the Court of Session or the sheriff) for an order restraining the person from doing so. Where there is evidence that such a disposition has already been made and is reversible, the SoS may apply for an order reversing it.
5. It was not necessary to make amendments to regulations in relation to this power but changes were required to existing court rules to enable the High Court (in Scotland the Court of Session or the sheriff) to deal with applications. The changes to the Family Procedure Rules Committee came into force, alongside section 24, in April 2010.

## 26 Tackling the past

6. A targeted consultation with major stakeholders on the draft rules and forms to support applications made under section 32L of the Child Support Act 1991 was carried out in December 2009. One response was received from Resolution in relation to this provision which was considered by the Family Procedure Rule Committee; with the majority of suggestions put forward being taken on board.
7. As was intended, this power is employed sparingly and as such has been used in only a handful of cases. However, in those cases DWP have secured quiet substantial sums of maintenance for the parents involved. For example:
  - a. In 2013 DWP recovered £25,056.75 in one case by ‘freezing’ an NRPs assets when evidence suggested they may have been considering transferring them.
  - b. In another case in 2013, an NRP paid £35,353.87 when threatened with action and cleared the total debt on the case and the case was closed.
8. Section 38 of the 2008 Act allows the SoS to make regulations to allow DWP to recover arrears of child maintenance from a deceased person’s estate. The Child Support (Management of Payments and Arrears) Regulations 2009 brought these powers into force in January 2010. So far, a total of £1,821,069 in 2429 cases has been recovered using this power, which shows the merit of the action, and the collection profile is largely consistent year on year:
  - 2010/11 £242,496
  - 2011/12 £406,163
  - 2012/13 £489,542
  - 2013/14 £451,911
  - 2014/15 (to date) £230,957

## Handling the historic debt

9. The Government’s first priority is to ensure more parents pay the child maintenance they owe not only in full, but also on time and for children who will benefit now. However, it must also deal with a legacy of arrears which have built up over a number of years. Child maintenance owed by parents accrued in the CSA at an average rate of £20m per month between 1993 and 2008.
10. The amount of arrears accrued over the last five years has remained relatively static, demonstrating that the efforts of CSA staff and the collection and enforcement powers the CSA already has, are working effectively to collect money owed for more children in many cases.
11. The Coalition Government published its Arrears strategy ‘*Preparing for the future, tackling the past: Child Maintenance – Arrears and Compliance Strategy 2012-2017*’ on 31 January 2013. This strategy was published in response to the Independent Arrears Panel’s set of recommendations in their report to the SoS in 2012. DWP have already made significant progress on bringing into force powers contained in the 2008 Act, which enables the write off of arrears in some (limited) circumstances, and the ability to accept a part payment of arrears in lieu of the full amount owed. The Panel supported the introduction of these powers.
12. Section 32 of the 2008 Act allows a non-resident parent with outstanding arrears, to make an offer to pay a lump sum of a lesser amount, in full satisfaction of the outstanding arrears. The Child Support Management of Payments and Arrears (Amendment) Regulations 2012 allow for this approach to be taken in respect of either parent with care or SoS debt.

13. At present, this power is only used when either parent contact the CSA and put forward an offer of part payment, and cases that would otherwise struggle for any appropriate resolution. When an offer is received from the non-resident parent, the caseworker makes a decision as to whether or not the offer is reasonable, based on criteria such as “ability to pay”.
14. When an offer is considered reasonable, it is passed on to the parent with care for their consideration. Once the offer is accepted in writing by both parties, the CSA agrees a date and method for the non-resident parent to make the payment. If they fail to make the payment on the agreed day, by the agreed method, the part payment agreement is void, and any remaining arrears are reinstated.
15. Since May 2013, agreement to a part payment offer has been made in 74 cases. There will have been significantly more cases where the clients have suggested an offer but which (in DWP’s view) did not meet the criteria. We have collected **£110, 589.16** from the cases that have proceeded to full payment. This power remains under review to see if there are other areas where it may be used in order to improve the service.
16. Section 33 of the 2008 Act and Regulation 13F-13J of the Child Support (Management of Payments and Arrears) Regulations 2009 allows the write off of debt in certain circumstances. These are:
- If the PWC or Child in Scotland has asked the SoS to cease acting.
  - If the NRP has died prior to 25/01/10 or no further action can be taken to collect the arrears from the estate.
  - If the PWC or Child in Scotland has died.
  - If the debt pertains to an Interim Maintenance Assessment (IMA) in place between April 1993 and April 1995.
  - If the NRP has been advised by the department that we will never collect the debt.
17. These powers are only used reactively when the appropriate scenario occurs, as illustrated above, however as part of the process of ending liability in CSA cases, we will be advising parents with care of the option to write off their arrears if they so wish.
18. Since the introduction of the write off powers in November 2012, the Department has written off the following amounts of child maintenance owed to parents with care.
- Financial year ended 31 March 2013 **£1,184,203.90**
  - Financial year ended 31 March 2014 **£16,046,303.07**

This can be broken down as follows:

Reason	March 2013	March 2014
Parent with Care Request	358,759.13	10,261,682.52
Non-resident parent death	683,377.95	4,687,584.95
Parent with care death	8,120.51	32,603.95
Interim maintenance assessment	35,796.38	146,685.60
NRP advised debt will not be recoverable	11,648.23	384,250.96
<b>Total<sup>4</sup></b>	<b>1,097,702.20</b>	<b>15,512,807.98</b>

<sup>4</sup> The Department does not hold information on the number of cases this relates to. There are amounts recorded under other categories which are not included in this table, so the total figure is different.

# Looking Ahead – A Review of Child Maintenance Reforms in 2016 and 2018

# 7

1. During the 2011-12 Welfare Reform Bill's passing, a commitment was made by the Coalition Government to conduct a review of fees within 30 months of its introduction, followed by a report of that review, including recommendations and conclusions, to be laid before Parliament soon afterwards. Section 141 of the 2012 Act made the following amendments to Section 6 of the 2008 Act:  
  
**“(3A) The Secretary of State must review the effect of the first regulations made under subsection (1)**  
  
**(3B) The review must take place before the end of the period of 30 months beginning with the day on which those regulations come into force**  
  
**(3C) After the review, the Secretary of State must make and publish a report containing –**
  - (a) The conclusions of the review, and**
  - (b) A statement as to what the Secretary of State proposes to do in view of those conclusions**  
**(3D) The report must be laid before Parliament by the Secretary of State”**
2. In parallel, the Government has also committed to evaluating the impact of the wider reforms introduced with the 2012 Scheme, many of which were provided for under the 2008 Act. This evaluation will include other provisions introduced from the 2008 Act, relating to child maintenance. Further detail about the evaluation and review can be found in the *Child Maintenance Reforms Evaluation Strategy* which will be published before the end of 2014.

# Lump Sum Payments: Mesothelioma

# 8

## 1. Summary of the Objectives of the Act

1. The purpose of Part 4 of the Child Maintenance and Other Payments Act 2008 (the Act): was to provide compensation to all those diagnosed with diffuse mesothelioma (mesothelioma), and although not specifically mentioned in the Act, it was intended to provide up-front financial support within six weeks to those who were exposed to asbestos outside the workplace.
2. The Act enabled a lump sum payment to be provided for those not eligible under the Pneumoconiosis etc. (Workers' Compensation) Act 1979 (referred to as the 1979 Act) who:
  - Have been exposed to asbestos from a relative (for example, from their overalls);
  - Have been exposed to asbestos environmentally (for example, have lived near a factory using asbestos);
  - Are self-employed; or
  - Can not trace their specific exposure to asbestos but there is nothing to suggest that they were exposed elsewhere other than in the UK.
3. This meant that all sufferers of mesothelioma, as a result of exposure to asbestos, are eligible for a payment regardless of their employment status; provided they have not already received a compensation payment through a civil claim, a payment under the 1979 Act, this Act or, more recently, have not received a payment under the Diffuse Mesothelioma Payment Scheme (the 2014 scheme).
4. The Act also provides for a lump sum payment to the eligible dependant of a person who, immediately before their death, suffered from mesothelioma, where there has not been a compensation payment through a civil claim or a payment under the 1979 Act, this Act or the 2014 scheme. Dependants are defined in the Act and the payment is made to the dependant first listed in the order of priority.

## 30 Lump Sum Payments: Mesothelioma

5. In order to be eligible for the payment the sufferer must show that they were exposed to asbestos in the United Kingdom. This is decided upon by reference to the evidence provided by the sufferer, or their eligible dependants if the sufferer has died, and on the balance of probabilities where specific evidence is not available.
6. In addition, the Act introduced the ability to recover payments where a person then goes on to receive compensation in a civil claim.

## 2. Implementation

1. The provisions of Part 4 – Lump Sum Payments: Mesothelioma etc. came into force on 1st October 2008.

## 3. Secondary Legislation

1. The secondary legislation made under the 2008 Act is:
  - Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008 (S.I. 2008/1963)
  - The Mesothelioma Lump Sum Payments (Claims and Reconsiderations) Regulations 2008 (S.I. 2008/1595)
2. These statutory instruments came into force on 1st October 2008 and cover England, Scotland and Wales.
3. **Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008**
  - a. These Regulations provide for a lump sum payment under section 46 of the Child Maintenance and Other Payments Act 2008 to a person with diffuse mesothelioma (mesothelioma) or the person's eligible dependant.
  - b. Included in these regulations are:
    - Disqualifying payments – sets out that certain payments disqualify a sufferer or their dependant from receiving a payment under the Act.
    - Disregarded payments – sets out that certain payments made and which are liable to be repaid, must be disregarded.
    - Presence in the United Kingdom – sets out the requirement for the sufferer to have been exposed to asbestos in the United Kingdom.
    - Amount of lump sum payment – sets out the amount to be paid to a sufferer or an eligible dependant by reference to the sufferer's age when first diagnosed, or if this is not known by the date of claim and where it is a claim by an eligible dependant, the age the sufferer was at their death.
    - Amendment of Pneumoconiosis etc. (Worker's Compensation) (Payments of Claims) Regulations 1988 – sets out that a person who received a compensation payment under the 2008 Act and becomes entitled to a payment for Mesothelioma under the 1979 Act, the amount payable under the 1979 Act will be reduced by the amount already paid to them.
    - Schedule 1 sets out two Tables of payments: Table 1 to a person with Mesothelioma and Table 2 to a eligible dependant sufferer and dependant.

4. **The Mesothelioma Lump Sum Payments (Claims and Reconsiderations) Regulations 2008**
  - a. These Regulations provide for claims for a lump sum payment for mesothelioma under section 46 of the Child Maintenance and Other Payments Act 2008 and for reconsideration of a determination on such a claim.
  - b. Included in these Regulations are:
    - Making of and time limits for a claim – sets out the format of a claim and the time by which it must be made.
    - Reconsideration – sets out the format and time limit for requesting reconsideration of a decision. It also gives the Secretary of State the right to instigate reconsideration without being first requested to do so by the claimant.
    - Late application for reconsideration before appeal – allows a late application for reconsideration as long as the claimant can show good cause for not applying within the prescribed earlier time limit.
    - Appeal treated as reconsideration – allows an appeal against a determination to be treated as a reconsideration, before or instead of an appeal.
5. Full impact assessments were not published in connection with either Regulation as neither had an impact on the private or voluntary sectors.
6. There was no specific external guidance issued in connection with Part 4 of the Act.
7. DWP developed and implemented a streamlined claim process, including a new claim form: Mesothelioma and other lung diseases, which allows for a claim to both the 1979 Act and the 2008 Act on one form.
8. Internal training, guidance and processes were developed for the start of the scheme on 1st October 2008, which is administered by the specialised claim team at the Barrow Industrial Injuries Disablement Benefit Centre.
9. A particular feature of the claim process is that there is no requirement for the sufferer to attend a DWP medical, the evidence of mesothelioma is provided by their own doctor or other healthcare professional.
10. DWP has a mature and cooperative relationship with cancer support organisations such as Macmillan Cancer Support, which puts the sufferer and their dependants as the focus of the claim.

## 4. Legal Issues

1. There were no specific legal issues in the drafting of Part 4 of the Act.

## 5. Other Reviews

1. There have been no formal reviews of Part 4 of the Act.



## 6. Preliminary Assessment of the Act

1. In addition Part 4 of the Act introduced the power to recover compensation payments made under the Civil Courts and the 1979 Act, where a payment has already been made under this Act. This has also been achieved.
2. Whilst a full review of the impact of Part 4 of the Act is beyond the scope of this memorandum, it is appropriate to consider the available evidence. There are 3 matters of particular relevance to the aims and objectives of Part 4 of the Act set out in section 2:
  - Payments are made to all sufferers of mesothelioma as a result of exposure to asbestos in the United Kingdom or their dependants, if the sufferer dies before making a claim
  - Payments are made within a 6 week time period which is not a statutory requirement.
  - Related compensation payments for mesothelioma from the civil courts, or 1979 Act are offset against monies paid under Part 4 of this Act
3. The total number of claims paid to November 2014 for sufferers is 2890, providing £55,471,522 in compensation payments and for dependants is 180, providing £829,621 in compensation payments (see Table 1).
4. Claims from sufferers are paid within the 6 week timeframe, the average clearance time in working days from October 2008 to November 2014 is 9.32 (see Table 1). There are very occasional exceptions to meeting the 6 week timeframe which can occur for dependants, typically when they are awaiting medical evidence from the Coroners Court. However, once the evidence is provided the determination is made without further delay. The average clearance time for claims from dependants for the same period is 10.91 working days (see Table 1).
5. The total amount of monies recovered to September 2014 under this Act is £18,915,803.88 (see Table 2). In 2010 the Government increased the compensation payments under this Act to equal those paid under the 1979 Act.
6. In summary, the data supports the proposition that Part 4 of the Act has succeeded in its overall aim to facilitate the payment of compensation to sufferers of mesothelioma, or their dependants, where they were exposed to asbestos in the United Kingdom within a maximum 6 week timeframe; when they have not been able to receive compensation from the civil courts or the 1979 Act.

# Statistical Data

# 9

**Table 1: Total number of claims paid, total payment made each year and average clearance times from October 2008 to November 2014**

2008 – 2014	Sufferer			Dependant		
Year*	Number of claims**	Payments made £	Average clearance time****	Number of claims**	Payments made £	Average clearance time****
2008	190	3,327,830	5.22	20	24,993	4.56
2009	510	7,485,141	9.17	50	169,584	16.00
2010	430	7,825,090	10.08	10	16,593	16.92
2011	470	9,214,664	8.67	10	48,451	10.67
2012	440	9,683,318	10.67	50	302,504	18.92
2013	470	9,814,793	10.58	20	92,142	33.42
2014***	380	8,220,686	10.82	20	175,354	10.91
<b>Total</b>	<b>2890</b>	<b>55,471,522</b>	<b>9.32</b>	<b>180</b>	<b>829,621</b>	<b>15.91</b>

\* Calendar Year: January to December

\*\* The number of claims is rounded to the nearest 10 for each year

\*\*\* Includes unpublished figures up to November 2014

\*\*\*\* Working days

Source: gov.uk, DWP Industrial Injuries Disablement Benefit Quarterly Statistics: data to March 2014, Table 3.2 (link: <https://www.gov.uk/government/statistics/industrial-injuries-disablement-benefit-quarterly-statistics-data-to-march-2014>) and DWP statistical data

**Table 2: Lump Sum Payments recovered**

2008 - 2014	Mesothelioma 2008***		1979 Act****		Total	
Year	Amount (£)	Cases	Amount (£)	Cases	Amount (£)	Cases
2008 - 09*	165,071.00	11	5,164,697.43	370	5,329,768.43	381
2009 - 10	1,326,788.53	94	14,760,789.61	1,078	16,087,578.14	1,172
2010 - 11	2,814,296.12	216	15,569,636.60	1,097	18,383,932.72	1,313
2011 - 12	3,589,842.96	249	17,702,849.27	1,342	21,292,692.23	1,591
2012 - 13	4,008,524.15	256	18,973,652.43	1,368	22,982,176.58	1,624
2013 - 14	4,602,501.96	282	21,220,911.05	1,549	25,823,413.01	1,831
2014 - 15**	2,408,779.16	137	10,611,376.58	755	13,020,155.74	892
<b>Total</b>	<b>18,915,803.88</b>	<b>1,245</b>	<b>104,003,912.97</b>	<b>7,559</b>	<b>122,919,716.85</b>	<b>8,804</b>

\* From 1st October 2008

\*\* Until September 2014

\*\*\* Mesothelioma under the Child Maintenance and Other Payments Act 2008

\*\*\*\* Mesothelioma and Non-Mesothelioma under the Pneumoconiosis etc. (Workers' Compensation) Act 1979

Source: gov.uk, Recovery data for the 2008 Diffuse Mesothelioma Scheme, Lump Sum Payments Recovered by Year (<https://www.gov.uk/government/publications/recovery-data-for-the-2008-diffuse-mesothelioma-scheme>)

# Annex A

## Child Maintenance Secondary Legislation

The 2008 Act contained a number of regulation making powers. These are listed below:

- The Child Support Information Regulations 2008.
- The Child Maintenance (Management of Payments and Arrears) Regulations 2009
- The Child Support (Miscellaneous Amendments) (No.2) Regulations 2009
- The Child Support (Collection and Enforcement) (Deduction Orders) Amendment Regulations 2009
- The Child Support Maintenance Calculation Regulations 2012
- The Child Support Management of Payments and Arrears (Amendment) Regulations 2012
- The Child Support (Meaning of Child and New Calculation Rules (Consequential and Miscellaneous Amendment) Regulations 2012
- The Child Support Maintenance (Changes to Basic Rate Calculation and Minimum Amount of Liability) Regulations 2012
- The Child Support and Claims and Payments (Miscellaneous Amendments and change to the Minimum Amount of Liability) Regulations 2013
- The Child Support (Miscellaneous Amendments) Regulations 2013
- The Child Support (Consequential and Miscellaneous Amendments) Regulations 2014
- The Child Support Fees Regs 2014
- The Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014

### Child Maintenance Guidance

Guidance has been produced, as appropriate, for those acting for and on behalf of the Commission/ Secretary of State in administering the policy and legislation relating to these provisions. That guidance can be provided upon request.

This guidance has been specifically developed for those involved in administering child maintenance. They reflect the current legal and policy position and are regularly updated, as required.

The department has also undertaken an extensive programme of engagement with stakeholders, employers and parliamentarians over the past 3-5 years on child maintenance reforms which has included events, updated leaflets, client information, bespoke training, general upskilling, the provision of website content and lines to take, as well as an online partner toolkit which is regularly updated to ensure everyone understands the detail of the reforms and clients get consistent information wherever they turn.

## **Annex B**

# **Uncommenced Child Maintenance powers contained within the 2008 Act**

There are a number of powers contained within the 2008 Act which are not yet commenced. This is largely because improvements seen through the introduction of the 2012 scheme, particularly the link with HMRC, helps caseworkers get calculations and methods of payments in place faster, and better use of existing enforcement powers, ensures that when those payments are missed, they can be quickly investigated.

However, we continue to keep the powers contained within the 2008 Act under review. Further information on some of the uncommenced powers can be found below:

### **Section 25 Administrative Liability Orders**

When this provision was introduced during the Bill stages of the 2008 Act, it was taking an average of 107 days to obtain a liability order through the Magistrates Court. However, while the Bill was progressing through Parliament, and under the direction of the Operational Improvement Plan, the CSA, working closely with HM Courts service, was able to improve the length of time to an average of 60 days.

In light of this improvement, and some concerns around how the appeals route attached to the provision would work in practice, the Commission considered it inappropriate and inefficient to introduce the power at the time.

### **Section 26 Enforcement in the County Courts**

Section 26, if commenced, enables the Secretary of State to apply to the county court for enforcement of arrears that are the subject of a liability order, without first having to register the liability order with the county court.

This would cut out a step that currently adds about 4 weeks to the charging order process and reduces the risk that the NRP will become aware of our intention and transfer the asset out of our reach.

But a side effect of commencing this power is that we would no longer be able to add interest to the debt when applying to the court for an order for sale, so we are considering alternative ways, including changing procedures to enable an application for a charging order to be processed at the same time as registration of the liability order.

The latter would enable us to reduce the time taken to obtain a charging order and to continue to add interest to orders for sale, which may result in us considering the repeal of this provision at some point.

## **Sections 27 – 30 Withdrawal of Passports, Curfew Orders, Disqualification from Driving and Committal to Prison**

Probably the most contentious of the powers awarded are those surrounding withdrawal of passports, driving licence disqualification and curfew orders.

Prior to the 2008 Act's passing, the Department could already apply to a court for a non-resident parent who wilfully refused to pay child maintenance to be disqualified from driving or committed to prison. The provisions contained within the 2008 Act sought to build on these tough measures by giving the Commission the power to withdraw passports too.

Neither of the two new provisions under sections 27 and 28 of the 2008 Act have been commenced, largely due to practical difficulties surrounding their introduction, including the fact that the UK does not operate exit checks when individuals leave the country, making the passport provisions problematic to enforce.

With regards to Curfew Orders, in Scotland, tagging (the responsibility of the Courts) is a devolved matter and as the Scottish Government's tagging contract can only be used where a criminal offence has been committed, which non-payment of child maintenance is not, this makes it challenging to implement in Scotland at this present time. The Commission explored taking its own contract to electronically monitor curfew orders imposed on non-resident parent's in Scotland, but due to the significant cost implications of doing so and the implication for taxpayer value, opted not to.

The powers contained within the 1991 and 2008 Acts which relate to the withdrawal of passports and driving licences were, as mentioned earlier in this memorandum, amended in 2009 by the Welfare Reform Act of that year, to allow the Commission to undertake this activity without application to the court. However, these powers have not yet come into force either.

If the Government wished to introduce these powers, it is likely that those contained within the 2009 Act would be enacted, over those in the 2008 Act, because they are administrative, but would be employed sparingly – where the non-resident parent had wilfully refused or culpably neglected to pay maintenance and where the only other option would be to ask a court to imprison them. The provisions in the 2009 Act are also subject to review by the SoS, 24 months after their introduction. If that review and subsequent report is not made, the provisions would cease to have effect after the 24 months had expired. Sections 52 and 53 of the 2009 Act refer.

## Section 34 – Selling Debt to External Organisations

This section inserts a new section 49A into the 1991 Act. If commenced, it will enable the SoS to make provision in regulations enabling [himself] to enter into arrangements in *prescribed circumstances* under which liability in respect of arrears of child maintenance becomes a debt due to the transferee – so the arrears will no longer be payable to DWP.

As part of the work the Independent Advisory Panel on Arrears conducted in 2011 one of their recommendations was that DWP assess whether there would be any benefit in selling arrears to commercial debt recovery organisations. A ‘soft market’ exercise took place which showed that Debt Companies would be interested in buying child maintenance debt, but at a very low cost (around 4 to 7%). This applies to both debt owed to the parent with care and the SoS.

Because of the extremely low amount which would be offered to the parent with care, (around 4% of the total owed), DWP have no intention of disadvantaging so many parents who would receive only around 4p for every £1 owed. As a result we have decided that we will not pursue this as an option in the foreseeable future.

## Section 40 Disclosure of Information to Credit Reference Agencies (CRA)

This is the power that will allow the SoS to share client information with CRAs. Principally, information will be shared about an individual when a liability order is made against them – a measure used as a last resort after other efforts to encourage payment have been exhausted. In the year April 2013 to March 2014, 12,410 liability orders were granted.

DWP has recently announced that it plans to start work on implementing this power, with the intention of commencing it in March 2015.

It is also expected that the introduction of the new measure will have a deterrent effect on those who may otherwise choose to evade maintenance payments, so getting more money flowing to the children and families who need it. The result of the consultation in 2006 presented a generally positive set of responses from stakeholders.



# Annex C

## Child Maintenance

### References

A full list of all relevant documentation relating to improving the child maintenance system can be found here:

<https://www.gov.uk/government/policies/improving-the-child-maintenance-system>

However, the most relevant and referred to documents are:

1. Sir David Henshaw's 2006 report  
<https://www.gov.uk/government/publications/recovering-child-support-routes-to-responsibility>
2. The Government's 2006 White Paper  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/272384/6979.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/272384/6979.pdf)
3. Documents relating to the public bill stage  
<http://services.parliament.uk/bills/2007-08/childmaintenanceandotherpayments.html>
4. The Coalition Government's 2011 Green Paper  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220421/strengthening-families.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220421/strengthening-families.pdf)
5. The scheme which details how cases in the CSA schemes will be closed:  
<https://www.gov.uk/government/publications/child-maintenance-ending-liability-for-1993-and-2003-scheme-cases>
6. The Commission's Annual Reports for the period of its tenure  
<http://webarchive.nationalarchives.gov.uk/20120716161747>  
<http://www.childmaintenance.org/index.htm>
7. The closure report and accounts for the Commission  
<http://www.official-documents.gov.uk/document/hc1213/hc07/0766/0766.pdf>

8. The November 2012 survey of child maintenance options outcomes and the announcement that a more recent survey will be available soon.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/223121/Survey\\_of\\_Child\\_Maintenance\\_Options\\_Outcomes.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223121/Survey_of_Child_Maintenance_Options_Outcomes.pdf)  
  
<https://www.gov.uk/government/statistics/announcements/child-maintenance-options-outcomes-survey-2014>
9. Experimental statistics on the 2012 statutory child maintenance scheme  
<https://www.gov.uk/government/collections/statistics-on-the-2012-statutory-child-maintenance-scheme>
10. Plans to implement Section 40 of the 2008 Act  
<https://www.gov.uk/government/news/pay-your-child-maintenance-or-damage-your-credit-rating>
11. The NAO's latest report on the early progress of the 2012 scheme.  
<http://www.nao.org.uk/report/child-maintenance-2012-scheme-early-progress-2/>
12. The Department's Child Maintenance Arrears and Compliance Strategy  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214338/cm-arrears-and-compliance-strategy-2012-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214338/cm-arrears-and-compliance-strategy-2012-2017.pdf)
13. Child Maintenance Reforms Impact Assessment: Case Closure, Fees and Family-based arrangements  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220192/child-maintenance-wr2011-ia.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220192/child-maintenance-wr2011-ia.pdf); [http://www.legislation.gov.uk/ukia/2014/83/pdfs/ukia\\_20140083\\_en.pdf](http://www.legislation.gov.uk/ukia/2014/83/pdfs/ukia_20140083_en.pdf)

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For more information about this publication,  
contact:

**Child Maintenance Group**  
**Department for Work and Pensions**  
**Zone C, 7th Floor**  
**Caxton House**  
**6-12 Tothill Street**  
**London SW1H 9NA**

**Email: [policy.development@dwp.gsi.gov.uk](mailto:policy.development@dwp.gsi.gov.uk)**

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