

Child Maintenance: A New Compliance and Arrears Strategy

Public Consultation

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Glossary of Terms

Child Support Agency (CSA)	Administrative body for the 1993 and 2003 schemes of child maintenance.
Child Maintenance Service (CMS)	Administrative body for the 2012 scheme of child maintenance.
Child Maintenance Options	Free service provided on behalf of the Department for Work and Pensions, giving impartial information and support to help parents make informed choices about child maintenance. Parents must have a conversation with Child Maintenance Options before they can apply to the CMS.
Paying parent	The parent who does not have main day-to-day care of the qualifying children, and is responsible for the payment of child maintenance. Previously known as the non-resident parent.
Receiving parent	The parent who has main day-to-day care of the qualifying children, and should receive child maintenance. Previously known as the parent with care.
Family-based arrangement (FBA)	Child maintenance arrangement which parents agree between themselves, without the involvement of the statutory maintenance scheme. An FBA can involve financial and/or non-financial support.
Direct pay	Service type offered by the CMS, whereby the CMS calculates the maintenance liability, and provides a payment schedule, and parents arrange transmission of payments between themselves. No collection fees are incurred by either client. Either client can opt to make the case direct pay, regardless of the wishes of the other. The only exception is where the receiving parent requests collect and pay, and the CMS deems the paying parent to be unlikely to pay, based on evidence of their behaviour as part of their CMS case.
Collect and pay	Service type offered by the CMS, whereby the CMS calculates the maintenance liability, provides a payment schedule, and facilitates transmission of payments between the clients. A collection fee is incurred by both clients. A 20% fee for the paying parent is added to the liability as it accrues, and a 4% fee is deducted from any money paid out to the receiving parent. Cases will only be placed in the collect and pay service if both clients in a case request this, or if the receiving parent requests collect and pay and the CMS deems to the paying parent to be unlikely to pay.

Ministerial Foreword

There is clear evidence that children in separated families benefit from good quality relationships between their parents. We know that most separated parents want to take financial responsibility for their children and many parents are able to make their own arrangements for this.

The reformed child maintenance system, which has been in place since 2012, provides much stronger incentives for parents to work together following separation, and where possible make family based arrangements for child maintenance. The Child Maintenance Service is there for families unable to make a private arrangement. Following careful, staged implementation, this service is working well and avoiding the problems which beset the previous statutory child maintenance schemes.

As we've implemented the reformed scheme we've been reviewing customer experiences and listening to issues raised by stakeholders including the Work and Pensions Select Committee. I am determined to ensure that the new arrangements continue to work well for families, and see a need to further strengthen the statutory system to ensure in particular that:

- Complex earners have a fair maintenance assessment; and
- We do what we can to prevent parents evading their financial obligations to their children.

As we approach the closure of the final Child Support Agency (CSA) cases with a live liability over the coming year, I also want to end the uncertainty for families about how the historic arrears that built up on CSA cases will be treated in future.

The proposals in this consultation document seek to strengthen the reformed Child Maintenance Service to achieve even higher levels of compliance within the statutory scheme. They also propose to deal with the thousands of CSA cases with arrears, which have been held in limbo, often for many years. In many of these cases the children are now adults themselves; the debt amounts are often small; and in some cases, when asked, parents have moved on with their lives and are not interested in pursuing this debt. We propose to offer parents to whom the debt is owed, a final chance to ask us to consider taking action to collect this debt, where this is likely to be possible at a reasonable cost to the taxpayer. This would enable these cases to be finally closed in the next few years.

We want to hear your views on all the proposals in the consultation document and whether they strike the right balance between the interests of parents, children and the taxpayer. We are also keen to hear any further ideas you may have for gaining compliance, especially from self-employed parents.

Executive Summary

1. This paper launches a consultation on our proposed new Compliance and Arrears Strategy. It includes details of:
 - Proposed improvements to child maintenance calculations and new compliance measures
 - Proposals for stronger collection and enforcement methods
 - A request for further ideas on collection and enforcement
 - Proposals to deal with the historic debt that accrued on Child Support Agency (CSA) cases.

Objectives

2. The objectives of our proposed new Compliance and Arrears Strategy are to:
 - Continue to prioritise resources to benefit children of today;
 - Continue to encourage parents to collaborate over their child maintenance arrangements where possible, as this is in the best interests of their children;
 - Continue to minimise debt accrual in the Child Maintenance Service (CMS);
 - Further improve compliance through changes to child maintenance calculations;
 - Strengthen our collection powers across all schemes;
 - Address the historic arrears that built up under the CSA; and
 - Avoid taxpayers funding activity which won't result in more money going to children.

Encouraging collaboration between parents, and the role of the CMS

3. Evidence¹ indicates that good quality relationships between parents, whether they are together or separated, are linked to positive outcomes for children.
4. Before parents can make an application to the CMS they must have a mandatory conversation with Child Maintenance Options,² which is a free service that provides information and signposts to specialist support. Child Maintenance Options can help parents to consider the different kinds of maintenance arrangements available to them, including family-based arrangements.
5. We recognise that conflict between parents can impact their ability to make a family-based arrangement. We aim to support parents to reduce conflict in their relationships through a new programme which will improve access for families in England to locally delivered support which has been proven to help parents work together.
6. Most parents want to do the right thing for their children and the reformed child maintenance system supports them to do this.

¹ Harold et al (2016) 'What works to enhance inter-parental relationships and improve outcomes for children', DWP <https://www.gov.uk/government/publications/what-works-to-enhance-inter-parental-relationships-and-improve-outcomes-for-children>

² This is called Choices in Northern Ireland.

7. The CMS offers a statutory scheme for parents who are unable to make a family-based arrangement. They can either use the more collaborative “direct pay” service, where parents receive a formal calculation and payment schedule, and then arrange to make the payments between themselves, or they can use “collect and pay” where the CMS collects money due from the paying parent and pays it to the receiving parent
8. The CMS is simpler and more efficient than the CSA Schemes. For example:
 - The calculation process is quicker. Unlike the CSA, no large application backlogs have developed on the CMS, and the CMS also uses income information received directly from HMRC rather than relying on clients to provide these details.
 - Calculations are reviewed annually to ensure that they remain up-to-date.
 - The new CMS IT system has increased levels of automation, which is more efficient, speeds up processes so clients experience a better service, and increases accuracy and consistency.
9. We have been closing live CSA cases and offering families the opportunity to make new maintenance arrangements – either private family based arrangements or through the new CMS.
10. As we approach the end of CSA case closure there is a pressing need to address the issue of CSA arrears. The NAO³ and the Work and Pensions Select Committee⁴ have recently asked the Department to clarify its position in relation to historic arrears only cases. Taking action now to address these historic arrears will allow us to draw a final line under the problems of the previous child support systems and focus on building on the success of the CMS.

Proposed compliance measures

Improving calculation compliance

11. Access to information reported by HMRC allows the CMS to obtain a wider range of income information that was not available to the CSA. This allows us to calculate liabilities more quickly and accurately, with less potential for conflict than occurred previously. Whilst this system works well for the majority of our clients, we are aware of cases where the paying parent’s income is more complex and may not be adequately addressed by current legislation and processes.
12. We are proposing improvements to how we calculate maintenance for paying parents with complex income, to enable us to include assets and other sources of income we may not currently be able to capture. This would reduce the scope for parents to organise their financial affairs to minimise their financial liability for their children. We are also dedicating increased operational resource to our Financial Investigation Unit to tackle parents who try to avoid disclosing all of their income.

³ Closing cases and managing arrears on the 1993 and 2003 schemes <https://www.nao.org.uk/report/child-maintenance-closing-cases-and-managing-arrears-on-the-1993-and-2003-schemes/>

⁴ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2015/child-maintenance-16-17/>

Deductions from benefit

13. It is right that even parents on benefits contribute financially for their children which is why we already have powers to deduct ongoing maintenance from many benefits. We propose to extend these powers so that we can continue to deduct from benefits to collect arrears of unpaid maintenance and intend to apply these powers to a broader range of benefits including Universal Credit.

Deductions from partnership or sole trader business accounts without limited liability

14. We consulted in 2016 on lump sum and regular deductions from jointly held bank and building society accounts and plan to introduce those measures. We now propose to introduce similar deductions from partnership or sole trader business accounts without limited liability. This should improve compliance amongst the small group of paying parents who try to avoid paying maintenance by moving income into accounts that we are unable to deduct from.

Removing passports

15. We propose to bring into force existing powers to disqualify non-compliant paying parents from holding or obtaining a UK passport for a maximum period of 2 years. This power would only apply to paying parents living in England, Scotland or Wales. As with our current powers to remove driving licences and commitment to prison, we expect the threat of losing a passport to nudge paying parents towards compliance.

Call for evidence – request for ideas for tough collection and enforcement measures

16. While we know most parents want to do the right thing, it can be hard to gain compliance with some groups of paying parents, in particular those who are self-employed. We would like ideas from stakeholders and members of the public on how to increase compliance from non-compliant clients in this group and others.

Handling of arrears built up on Child Support Agency cases

Debts owed to receiving parents

17. We have explored a number of approaches for handling CSA arrears owed to parents, including attempting to collect this debt. The costs associated with attempting collection are high, and the vast majority of the debt is now considered uncollectable⁵. Much of the debt is old (many of the children involved are now adults) and operational experience is that we have unreliable data for lots of the parents in these cases. Maintaining information about these cases also has a cost, and in many cases taking action will not recover any money. To ensure we make the most effective use of taxpayers' money, and focus resources where they will make the most difference we would like to conduct an exercise to address historic arrears.

⁵ See Client Funds Account 2015 to 2016, page 7 - <https://www.gov.uk/government/publications/child-maintenance-client-funds-account-2015-to-2016>

18. We would write to receiving parents advising them to contact us (via a formal representation) if they still want us to pursue debt owed to them. If the receiving parent does not respond to their initial letter we would send a reminder letter 30 days after the first letter was sent.
19. If a receiving parent responds to tell us they want us to attempt action on their arrears, we would perform a number of checks to establish whether there is a realistic chance of collection. If there is, we would decide what activity is reasonable. Where either the receiving parent does not respond to our letters within 60 days of the first letter, or the case is deemed as having little chance of successful collection the debt would be written off.
20. We propose adopting this approach for non-paying cases with CSA debt over £500 if the case is less than ten years old, and with debt over £1000 if the case is ten or more years old.
21. Currently, before debt owed to parents is written off we send a letter asking both parents if they would like to make representations. We propose making a number of changes to this process **only** for cases where debt accrued on CSA schemes:
 - Remove debt accrual period from all representation and notification letters (to minimise the costs of issuing them);
 - Remove the debt figure from letters where the case is more than ten years old.
 - Paying parents would only be asked to make representations where:
 - The debt is over £500 and the case is less than ten years old, or over £1,000 if the case is ten years old or more; and
 - The receiving parent has made a representation; and
 - There is a reasonable chance of collection.
22. It is not cost effective to attempt to collect or continue to maintain debt less than £500 (or debt less than £1000 on cases that are ten or more years old). We are therefore proposing to write off CSA debts below these thresholds. Representations would not be sought from clients in these cases but a final notification letter would be issued.
23. Cases with debt below £65 would not receive any notification letters.

Debt owed to government

24. Collecting this debt will not benefit families and is not a good use of government funds as it is not cost effective to collect or continue to maintain this debt. We propose to write off all non-paying debt owed to government accrued in the CSA.

Consultation details

Who this consultation is aimed at

25. The consultation is open to voluntary and community sector organisations, as well as clients of both the CSA and CMS schemes, and members of the general public.

Purpose of the consultation

26. This consultation is to inform the Government's new child maintenance compliance and arrears strategy. Depending on the outcome of the consultation and subject to parliamentary timetables, following publication we will aim to make regulations to enable:
 - Disqualification from holding or obtaining passports;
 - Extension of our powers to deduct from benefits;
 - Deductions from joint bank accounts and the business accounts of sole traders and partnerships without limited liability;
 - Extension of our write-off powers; and
 - Amending the representation process for CSA cases in scope for write-off.

Scope of consultation

27. This consultation applies to England, Wales, Scotland and Northern Ireland.

Duration of the consultation

28. The consultation period begins on 14th December 2017 and runs until 8th February 2018.

How to respond to this consultation

29. Please send your consultation responses to:

Email: complianceand.arrearsconsultation@dwp.gsi.gov.uk

Or

Child Maintenance Policy Team
Ground Floor North Zone E
Quarry House
Quarry Hill
Leeds
LS2 7UA

When responding please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Background

30. Following the failure of previous child maintenance schemes the new CMS has been carefully implemented since 2012 and is now delivering a good service for families. This is because:

- It has encouraged collaboration within families. Around 30%⁶ of those who contacted Child Maintenance Options during 2016-2017 have a family-based arrangement (includes pre-existing FBAs made prior to contact with Options).
- The current rate of accrual of arrears on CMS is lower than it was historically on the CSA.⁷
- In the financial year 2016/17, £110m⁸ was due to be paid on CMS collect and pay cases, of which £56m was collected (51%). The collect and pay caseload represents the most difficult cases, as those that can comply more easily will have family-based arrangements or be in the direct pay service.
- The calculation process is simpler and more efficient than earlier CSA schemes, with no large application backlogs having developed on CMS. In March 2007, the number of uncleared cases on the 2003 scheme stood at 150,000. In December 2016, the number of uncleared cases on 2012 stood at 600⁹.

31. Significant policy, operational and IT issues beset the 1993 and 2003 schemes which contributed to the build-up of considerable arrears of unpaid maintenance – currently £3.7bn¹⁰ of this debt is outstanding. Of this, a minimum of £2.5bn¹¹ is owed to parents

⁶ Effective family-based child maintenance arrangements: data to March 2017 - <https://www.gov.uk/government/statistics/effective-family-based-child-maintenance-arrangements-data-to-march-2017>

⁷ For CSA, this is based on the average weekly accrual rate between 1994 and 2008, and for CMS on the equivalent for the year 2016/17 (the earliest period for which CMS arrears data is available).
"Source: '2012 statutory child maintenance scheme statistics, March 2017', table 8 - <https://www.gov.uk/government/collections/statistics-on-the-2012-statutory-child-maintenance-scheme> for CMS and "Source: 'Child Maintenance Arrears Growth, 2013, DWP, p.6" - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223068/csa_arrears_growth.pdf for historic CSA

⁸ Figures included in this consultation only apply to cases in Great Britain.

⁹ For CSA figures see Table 2.1, Child Support Agency Quarterly Summary of Statistics, December 2008: <http://webarchive.nationalarchives.gov.uk/20120716162058/http://www.childmaintenance.org/en/publications/stats1208.html>. To derive the 2003 scheme uncleared work figures deduct 'Old Scheme applications uncleared work' from 'Total uncleared work'; For CMS figures please see Table 15, Official Statistics: 2012 statutory child maintenance scheme: Aug 2013 to Mar 2017 (experimental): <https://www.gov.uk/government/statistics/2012-statutory-child-maintenance-scheme-aug-2013-to-mar-2017-experimental>.

¹⁰ The £3.7bn is slightly lower than the figure published in the 2015/16 annual Client Funds Accounts (<https://www.gov.uk/government/publications/child-maintenance-client-funds-account-2015-to-2016>) of £3.98bn, due to known differences in account adjustment between the two data sources. The £3.7bn figure is based on the Department's Official Statistics, which are published quarterly, and which therefore provide a more timely view of representing the March 2017 position.

¹¹ This includes all CSA arrears including some that has been moved to the 2012 IT system. For a more detailed explanation of how these figures have been derived please see the methodology paper.

(approximately 970,000 cases¹²) and £1.2bn is classed as owed to government (approximately 320,000 cases¹²).

Debt owed to government

32. Until 2008, receiving parents in receipt of income related benefits were required to make an application to the CSA. Any maintenance received would be retained by government to offset benefit payments. Any unpaid maintenance was treated as a debt to government. Since 2008 the requirement to apply for child maintenance was removed, and receiving parents keep all maintenance paid (after deduction of charges where applicable) even if they are on benefit.

Closure of the CSA

33. As part of the introduction of the CMS, we are closing all CSA cases so that all cases can be managed on one system. We began closing CSA cases with on-going maintenance liabilities in 2014 and expect to have completed this in 2018. This will leave over 500,000¹³ arrears-only cases on the CSA computer systems. Keeping the CSA computer systems running costs around £30 million¹⁴ a year.
34. When cases are selected for closure, parents are encouraged to contact Child Maintenance Options to discuss their future maintenance arrangements.
35. Sir David Henshaw's report "Recovering child support: routes to responsibility" published in July 2006 outlined proposals for redesigning the child support system and included Sir David's view that removing the compulsion for receiving parents to use the Agency would positively encourage family-based arrangements between separated parents and lead to an increase in the number of children receiving maintenance, which is why a fundamental part of the CMS is to encourage families to work together.
36. Evidence^[1] shows that children tend to have better mental health, emotional wellbeing and higher academic attainment if they grow up with parents (whether together or separated) who are able to work together and manage conflict well. That is why we want to encourage family-based arrangements where possible, and for parents going through case closure, to only apply to the CMS as a last resort.
37. When parents are unable to work together or will not meet their responsibilities voluntarily, the CMS provides an effective, efficient and simpler service.
38. We have reflected on the experience of the new CMS, looking at what is working well and what needs to be improved. We have also taken into account what we understand about the changes our client groups are experiencing, for example the

¹² Note: for some debt volumes and values, our data does not reliably show who the debt is owed to (receiving parent or government). Where this is the case, we have included the relevant volume or value in the receiving parent group. This means that the volume and amount of receiving parent debt is likely to be an over estimate consequently the volumes and values for government debt are likely to be an underestimate. See the methodology paper for more details.

¹³ This figure is an operational assumption.

¹⁴ This figure is an assumption from digital colleagues.

^[1] Harold et al (2016) 'What works to enhance inter-parental relationships and improve outcomes for children', DWP

<https://www.gov.uk/government/publications/what-works-to-enhance-inter-parental-relationships-and-improve-outcomes-for-children>

growth of self-employment. The proposals set out below are designed to improve the impact of CMS.

Further improving compliance

CM calculations and new compliance improvement measures

39. The CMS has access to income information held by HMRC which allows CMS to consider information about a broad range of income types including earnings from work and income derived from property, savings and investments (including dividends). This works well for most parents, but there are some parents whose complex financial arrangements include assets or types of income which we currently can't take into account in assessing maintenance.
40. It has been suggested that we should re-introduce an approach from the 2003 scheme, where receiving parents could apply for a variation to increase the maintenance calculation on the basis that the paying parent's lifestyle was inconsistent with their reported earnings. In many cases the lifestyle of the paying parent was supported by debt rather than income and many other such applications were unsuccessful due to insufficient information. We have no plans to reintroduce this approach as it proved ineffective in the past.
41. Instead we are proposing new options to improve how we calculate maintenance for paying parents who have complex income, in order to deal with potential evasion more effectively. We propose to:
 - Bring into the assessment notional income from assets like coins and gold, income derived from capital and any foreign income.
 - Allow for the paying parents unearned as well as earned income to be included in the initial CMS calculation, when we are advised about possible unearned income at the point of application. Currently we make the initial calculation on earned income information only. This is because the system has been designed for the majority of people who only have one stream of income. We also propose to amend the information we give receiving parents when they make their application.
 - Increase the number of staff in the Financial Investigations Unit (FIU) so we have increased capacity to look into complex cases and ensure that maintenance is not being evaded. The FIU has powers to ensure the maintenance calculation accurately reflects a parent's circumstances and ability to pay. Where it is clear that parents are deliberately hiding their income, we can use our existing powers to prosecute them.
 - The FIU also enables us to make maximum use of our civil enforcement powers to recover unpaid maintenance, as investigations can reveal details of assets we may be able to seize.

Your Views

- Where an asset does not generate an income, a notional income would need to be determined. In previous schemes of maintenance this was at a set rate of eight percent of the value of the asset. What notional income should be assumed?

- What is the minimum value of an asset on which the CMS should assume a notional income?
- Do you agree that these measures strike the right balance between improving how we calculate maintenance for complex earners, while protecting tax payers' money by focusing on only those cases most likely to be affected?

Changes to deductions from benefits

42. One of our main aims is to encourage paying parents to take financial responsibility for their children voluntarily. This is done by encouraging family-based arrangements, and if these are not possible a direct pay agreement through the CMS. Direct pay offers clients the advantage of avoiding collection fees of 20% for paying parents and 4% for receiving parents. Where encouraging and incentivising voluntary payment is unsuccessful, it's right that the CMS can intervene to ensure paying parents contribute financially to their children's upbringing.
43. We are considering some amendments to child maintenance deductions from benefit to reflect changes in the benefit system, and align the treatment of on-going maintenance and arrears.
44. As now, we propose that deductions from benefit would only be used in cases where the paying parent has been assessed as liable to pay the flat rate of maintenance (£7 per week), which applies if the paying parent is in receipt of certain benefits, or has been assessed as having income of £100 or less per week. As deductions from benefit are administered within the collect and pay service, the total deduction would be £8.40 per week, as it includes £1.40 collection fee. Although maintenance liability is calculated weekly, the frequency of deductions aligns with the frequency of benefit payments.
45. We propose:
 - To extend deductions from Universal Credit (UC) to include cases where the paying parent's household has earnings.
 - Extend deductions from benefit so that arrears can be collected when on-going maintenance ends.

We propose to apply these changes to all child maintenance schemes. Changes to UC deductions would be implemented when UC is fully rolled out.

Deductions from Universal Credit

46. Universal Credit (UC) can be calculated on the basis that a claimant has earnings, or on the basis that they do not have earnings. Currently we can deduct £8.40 on-going child maintenance from UC where the paying parent's household has no earnings, but we cannot deduct from UC when there are earnings. We would like to extend this to those liable to pay flat rate maintenance with earnings.
47. Where a paying parent is employed, in receipt of UC and fails to pay their maintenance we can attempt a deduction from earnings order (DEO). However this attracts an enforcement fee of £50 for the paying parent and can be ineffective e.g. where their income is very low, as the employer has to ensure the paying parent

receives at least 60% of their earnings. Also some low income parents have multiple part time jobs with different employers, or change jobs frequently.

48. While we still intend to use DEOs for non-compliant paying parents in receipt of UC and earning over £100, we believe that a deduction directly from UC is likely to be more effective for people who are liable to pay flat rate maintenance and fail to maintain their financial commitment to their children voluntarily.
49. This change would make UC consistent with other benefits paid alongside earnings, where we can already deduct if they are liable to pay flat rate maintenance. It should also encourage personal responsibility amongst paying parents as they can avoid collection fees by paying their maintenance voluntarily direct to the receiving parent.

Arrears deductions from benefit

50. We propose to continue deducting at the flat rate amount when liability ends where there are arrears on a case. We would also impose a deduction at the flat rate for arrears if a benefit award starts after liability has ended.
51. This would ensure that the maximum a paying parent would pay from their benefit would be £8.40, and would increase our overall ability to recover arrears.
52. We propose to deduct arrears from benefits including:
 - Carer's Allowance
 - State Pension¹⁵
 - Contribution based Employment and Support Allowance
 - Contribution based Jobseeker's Allowance
 - Industrial Injuries Disablement Benefit
 - Widowed Parent's Allowance
 - Widow's pension
 - War Widow's payments
 - Statutory Maternity Allowance
 - Severe Disablement Allowance
53. And income related benefits including:
 - Income Related Employment and Support Allowance (ESA)
 - Income Based Jobseeker's Allowance (JSA IB)
 - Income Support (IS)
 - Pension Credit (PC)
 - Universal Credit (UC)
54. We propose that deductions would apply if the paying parent or their partner is in receipt of an income related benefit.
55. We know that around 20%¹⁶ of paying parents currently claim one of these benefits so anticipate that this would be successful in maintaining on-going compliance and helping collect outstanding arrears.

¹⁵ This means a state pension under Part 1 of the Pensions Act 2014, or a category A, B, C or D retirement pension under the Social Security Contributions and Benefits Act 1992.

56. This would send a clear message to paying parents that failing to pay for their children is not an option. We will recover the arrears eventually, even if we have to wait until they claim State Pension¹⁷.

Collection fees and payment allocation

57. Where deductions are made for on-going maintenance or unpaid arrears for the CMS scheme then the normal collection fees of 20% for the paying parent and 4% for the receiving parent would apply. Where deductions are made for arrears built up on CSA schemes, the full £8.40 would be allocated to maintenance debt as fees do not apply.

Your views

- Do you think it's reasonable to extend the facility to make flat rate deductions of maintenance from UC to those who have earnings?
- Do you agree deductions for arrears should be aligned with deductions for on-going maintenance at the equivalent of £8.40 per week?

Deductions from joint accounts

58. We can currently deduct on-going maintenance and/or arrears from a paying parents solely held bank or building society account. We can do this via a regular deduction order (RDO), taking a sum every week/month, or a lump sum deduction order (LSDO), taking a lump sum in a single deduction. Deduction orders are particularly effective against parents who are self-employed, who work cash in hand or who have an income but no employment.
59. As we cannot deduct from jointly held accounts or business accounts there is a risk that paying parents could move money that should be used to pay their maintenance liability into such accounts.
60. We consulted in 2016 on extending our powers to make deductions from jointly held accounts, and plan to implement these as part of our new compliance and arrears strategy. This will allow an extra 290 deductions to be performed per year generating around £570,000 more maintenance flowing to children.¹⁸

Deductions from business accounts of sole traders and partnerships without limited liability

61. The legal provisions enabling deduction orders against business accounts have not yet been commenced. This is because we wanted to thoroughly test our deduction order powers first. We now propose to legislate to allow us to make deduction orders on sole trader and partnership accounts where liability is not limited. The responses

¹⁶ For CSA cases, this is calculated as the percentage of arrears cases where the paying parent is in receipt of the relevant benefit. For CMS, this is calculated as the % of paying parents within the collection service who are in receipt of the relevant benefit. See methodology paper for more details.

¹⁷ This means a state pension under Part 1 of the Pensions Act 2014, or a category A, B, C or D retirement pension under the Social Security Contributions and Benefits Act 1992.

¹⁸ Please see page 8 of the methodology paper for details of the source of these figures.

received to the previous consultation on deduction from joint accounts have influenced our proposed approach for business accounts.

62. We expect this would allow an extra 140 deductions to be performed per year, totalling around £270,000¹⁸ more maintenance flowing to children. Although this would have a fairly low impact on overall non-compliance, we believe it would send a message that maintenance payment cannot be avoided.
63. In circumstances where a paying parent has more than one bank account, we propose to target their solely held accounts first, then any jointly held accounts and finally business accounts, for instance if there are insufficient funds in the solely or jointly held accounts.
64. All necessary steps would be taken to ensure that the process for making deduction orders against partnership business accounts operates fairly and has adequate safeguards to protect the rights of all parties to the account. We propose that a deduction would not be performed if the account balance is less than £2000. This is to help ensure the business has enough cash flow to continue to run effectively.
65. All partners to the account would have the opportunity to make representations in relation to the order. We propose that they would be able to do this either prior to the order being made, where it is a regular deduction order, or at the stage that the funds are frozen in the case of a lump sum deduction order. These representations may include information such as the amount contributed to the account by the various account holders, or the requirements of the business serviced by the account. The aim is to resolve any issues before any funds are removed.
66. Where it is not possible to establish what funds in the account belong to the paying parent, we propose to assume that a proportionate share of the funds in the account belong to the paying parent. The share would be based on the number of account holders. This means if there are two partnership business account holders then each would be considered to own an equal share of the funds held. Accordingly, only the paying parents deemed 50% share of the funds would be subject to the deduction order.
67. All parties to a partnership business account would have the right of appeal against the making of a regular or lump sum deduction order. There is a right of appeal against the making of a regular deduction order; a decision made by the Secretary of State on an application for a review of a regular deduction order and the making of a final lump sum deduction order.

Regular Deduction Orders

68. When considering a regular deduction order (RDO), it would be necessary to establish what proportion of the balance held within the partnership business account is likely to be owned by the paying parent. This would be done initially by examining bank statements requested directly from deposit takers (banks/building societies). Business assets would be identified and excluded. Each of the account holders would then be issued with notice detailing proposals to impose an RDO and invited to make any representations about this.

69. Any representations received would be fully considered prior to the RDO being imposed. The partnership business account holders would have the ability to seek a review or variation of the RDO as well as appeal against the imposition of the RDO.

Lump Sum Deduction Orders

70. We propose that the lump sum deduction order (LSDO) would have four stages.
- We would request and consider bank statements from deposit takers to determine what proportion of the balance in the account is owned by the paying parent.
 - We would serve an interim order upon the deposit taker with whom the account is held. This freezes the full or partial sum of the arrears for which the LSDO has been made.
 - We would serve a notice upon the partnership business account holders advising of the LSDO action taken and inviting representations. Unlike RDOs, representations are sought after the funds have been frozen in order to prevent the possibility of funds being withdrawn before they can be secured.
 - Once representations have been considered and a sum decided upon, the final LSDO would be served on the deposit taker. The account holders and the deposit takers would have an opportunity to appeal against the making of the final LSDO. Only once the relevant period for appeal has passed would a request for payment be made to the deposit taker. Where an appeal has been lodged the request for payment would only be made (where appropriate) once the appeal had been decided.

Your Views

- We intend to consider representations for both lump sum and regular deductions prior to money being removed from an account. We intend to offer a 28 day and 14 day period respectively in line with our plans for joint accounts. Is there any reason why we shouldn't mirror the process for partnership accounts?
- By leaving a minimum balance in a debtor's account, DWP needs to strike a balance between the impact on legitimate business activities and collecting maintenance owed in an efficient manner. Are there any reasons you consider we should not follow HMRCs approach of leaving £2000?

Removing passports

71. Currently we have powers to seek imprisonment or disqualification from driving for non-payment of maintenance. Although we don't use these powers very often, they are critical in encouraging some paying parents to meet their financial responsibilities to their children.
72. We propose to commence an existing power in the Child Maintenance and Other Payments Act 2008 to enable us to disqualify a paying parent with child maintenance arrears from holding or obtaining UK travel authorisation – a passport. This power would only apply to paying parents living in England, Scotland and Wales.
73. This would add to our existing sanctions of commitment to prison and disqualification from holding or obtaining a driving licence and operate in a similar way. Currently

where a paying parent has missed payments of child maintenance and recovering the arrears via a DEO or directly from their bank account has not been possible, we would seek to recover payment of the arrears through the courts. This is done by securing a liability order to legally recognise the debt and then using whichever of our enforcement powers that may be suitable. These actions may include taking control of goods, charging orders and order for sale proceedings.

74. If these methods fail to recover the debt, and arrears of £1000 or more remain we propose amending legislation to give the court powers to remove passports from non-compliant paying parents. We propose this would work by an application being made to the Magistrates' Court or the Sheriff (in Scotland) for the paying parent to be disqualified from holding or obtaining a travel authorisation (usually a UK passport) for up to two years.
75. Before we make the application to court, we propose to ask the paying parent to complete a statement of income and expenditure and also to advise us of any changes in their circumstances. We would also gather evidence of wilful refusal and culpable neglect to pay child maintenance which we would provide to the court. Any evidence provided to the court would be sent to the paying parent in advance of the court hearing, which they would be required to attend. The paying parent would be required to bring their passport or, if appropriate, any alternative UK travel authorisation to the court hearing.
76. If the application was granted, the court would have the power to make such order as it thinks fit. This means the court could immediately disqualify the paying parent from holding a passport or suspend the order. If the court made an order for immediate disqualification, the passport or alternative travel authorisation would be removed from the paying parent and cancelled.
77. We propose the court would have powers to suspend an order if the paying parent agrees to pay the amount specified in the order or it thinks there are exceptional circumstances. Where the paying parent pays the amount in full we propose the court would also have the power to revoke the order. Where partial payment has been made, we propose the court have the power to reduce or revoke the order. We also propose the paying parent would have the right to appeal against the court's decision.
78. We anticipate the number of cases where we use this enforcement measure would be small. Based on the frequency with which current enforcement powers were used in the CSA, we expect around 20 CMS cases per year¹⁸ would either have a committal or disqualification from driving order (see the methodology paper for more details), so a similar number would be subject to the new power to remove passports. Despite the low volume of cases where it is likely to be used, we believe publicity around this power would be an effective deterrent to encourage the payment of maintenance as early in the case as possible.

Your Views

- The paying parent is advised to bring their passport with them to the court hearing, and if they fail to do so we intend to ask the court to order the paying parent to surrender it to the court within 48 hours (the deadline would be at the discretion of the court). Is this timescale reasonable?

- Do you think that disqualification of a paying parent's passport for two years would be more effective than current alternative actions, such as commitment to prison or disqualification from driving?

Call for evidence

79. We know it is more difficult to establish and maintain compliance for some groups of clients than others. While most parents want to do the right thing there are still a small group of paying parents who will go to great lengths to avoid contributing financially for their children and it's this group we want to target going forward.
80. We want to go further in improving levels of compliance, and would like your ideas on how we can achieve this, and make clear to paying parents their financial responsibility to their children.

Your Views

- Can you think of any powers that we don't already have that would help us increase compliance and recover arrears within these difficult groups?

Managing historic CSA arrears

Is the debt collectable?

81. The published CSA Client Fund Accounts for 2015/16 make clear that £3.1bn of CSA debt is deemed uncollectable. It is operational experience that older debt is more difficult to collect due to its age and often more complex circumstances. Some cases from the 1993 scheme have interim maintenance assessments in place. These were used when we were unable to get information from the paying parents about their income and were often prohibitively high.
82. We haven't received a payment since before 1 January 2012 on 64% of the debt, and a proportion of these cases have never made a payment¹⁹. If a parent has moved and not informed us, this makes it difficult to contact them; meaning once payments have broken down, the likelihood of re-establishing payments reduces as time passes.
83. Some of the debt dates back 24 years to when the 1993 scheme was introduced. Most of the debt relates to children who are now adults. Currently 30% of the debt is in relation to a case where the 'child' is now over 25 years old, with a further 27%¹⁸ where the 'child' is aged between 20 and 25 years old.

What are the costs to collect the debt?

84. To attempt to collect all of the £3.7bn CSA debt would cost around £1.5bn.²⁰ This would involve us working every case. It is extremely difficult to anticipate our expected level of collection from this activity. We have estimated that we might be able to collect between £0.1bn and £0.6bn. The £0.6bn is based on achieving 100% compliance in the cases where we can recover – this is highly unlikely to be the case. The likely low levels of collection are due to out of date information making it hard to

¹⁹ The percentages quoted are based on analysis of arrears still being managed on CSA IT systems.

²⁰ These figures are based on a DWP financial model.

trace paying parents, as well as them simply not having the resources to pay these debts.

What have we done to try to collect debt?

85. We have explored selling the debt to collection agencies, which has revealed that is not a commercially viable option.
86. In July 2006 a three year debt collection contract was let by CSA. This contract involved two Debt Collection Agencies (DCAs) working over 63,000 cases totalling £357m²¹ of arrears owed by parents, on behalf of the CSA. The DCAs were paid commission based on a percentage of the debt that they collected, with the higher rates being applied to the categories of arrears considered more difficult to collect.
87. The DCAs did not achieve the anticipated rate of collection, and at the end of the contract term, 55,000 of the cases were returned to CSA because the DCAs had not been able to make a debt collection arrangement. This left just under 8,000 cases (with collection in progress) retained by the DCAs until all of the outstanding debt was collected, or the payment arrangement broke down. As of December 2012, around 2,200 cases remained with the DCAs.

Part payment trial

88. We also ran a trial during 2016 to determine whether a part payment approach would enable us to collect more CSA arrears. We telephoned one party to a case (in some cases the receiving parent first and in some the paying parent first) to ask what amount, if any, they would accept as a lump sum part payment in full and final settlement of the debt. Where an offer was made this was put to the other party and negotiations conducted until a conclusion was reached.
89. The outcome of this trial demonstrated that proactively contacting either parent about part payment was not a successful way to collect CSA debt and resulted in a small volume of agreements at great cost.
90. The trial did demonstrate that a third of the receiving parents contacted didn't want their debt, with 32% telling us they wanted their debt written off.²²

Current write-off powers for debt owed to parents

91. We introduced a small number of arrears management powers in December 2012 to allow efficient management of child maintenance arrears owed to parents. Arrears on all schemes can be written off if one of the following criteria applies and the caseworker is satisfied that it would be unfair or otherwise inappropriate to enforce collection of the arrears:
 - The receiving parent (or child in Scotland, who can apply for maintenance in their own right) has requested that they no longer wish the arrears to be collected.
 - The receiving parent (or child in Scotland) has died.

²¹ <https://www.gov.uk/government/publications/preparing-for-the-future-tackling-the-past-child-maintenance-arrears-and-compliance-strategy-2012-to-2017>

²² The full evaluation report is due to be published on the same day as this consultation document.

- The paying parent died before 25 January 2010, or there is no further action that can be taken to recover arrears from their estate.
 - We have previously advised the paying parent that we would never take any further action to collect the arrears, for example we have written to the paying parent and told them their debt no longer exists.
 - The arrears relate to liability for child support maintenance for any period in respect of which an interim maintenance assessment was in force between 5 April 1993 and 18 April 1995.
92. These powers alone are not sufficient to enable us to effectively tackle the historic debt. For instance in 2015/16 we only wrote off around £30m²³ of arrears. In addition the processes we are required to follow under the current powers would not be feasible to use on a large scale in order to effectively address debt on the historic caseload.

Options for managing CSA debt

93. To continue maintaining the historic debt on CSA IT systems would incur significant technology costs of around £30 million per year – an annual cost potentially lasting for decades.
94. Moving all the debt to the CMS system would cost around £230 million,²⁴ requiring a check of the debt balance for each case before it is moved to ensure it is correct. Each of these options would require significant amounts of taxpayer funding while doing nothing to increase the amount of money flowing to children. In addition to being costly, maintaining the historic debt on either the old or the new system will create prolonged uncertainty for both parents as to what, if any, further enforcement steps may be taken and when this might be. As mentioned above, operational experience shows that the chances of the debt being collected reduce as the debt gets older.

Preferred Option

95. As already explained, we have explored over a number of years our options for dealing with CSA arrears. This has included exhausting enforcement action on a number of cases, testing innovative ways to address the debt such as the part payment trial and using private sector debt collection agencies. Despite this, 91%²⁵ of CSA cases with arrears are currently paying nothing towards those arrears, and continue to be held on IT systems at high on-going costs to the taxpayer.
96. With the final closure of CSA cases approaching, it is the right time to seek a solution for these CSA arrears. Considering all the evidence, we have developed an approach that seeks to provide certainty for parents whilst reducing public spending on debt that is neither cost effective nor realistic to collect. This would involve dedicating resources to do a final attempt at collection of debt where it appears that there is a realistic

²³ Source: [Child maintenance: client funds account 2015 to 2016](#)

²⁴ This is based on a DWP financial model.

²⁵ Based on cases being managed on CSA systems. See Table 17 of <https://www.gov.uk/government/statistics/child-support-agency-quarterly-summary-of-statistics-june-2017>

chance of success at a reasonable cost to the taxpayer alongside extending our write-off powers. This would allow us finally to draw a line under the problems of the past.

Attempted collection or write off

Debt owed to parents

97. We are seeking views on our approach to handling historic CSA arrears. These proposals relate to cases that have debt owed to parents built up on the 1993 and 2003 CSA schemes only. They do not apply to debt accrued on the 2012 scheme administered by the CMS.
98. These proposals would require an IT investment of approximately £700,000.¹⁴ But we estimate we would make savings from the decommissioning of CSA computer systems of approximately £90m²⁴ between 2017 and 2023. This would be used by DWP to help meet its financial obligations in delivering services to its other clients groups.

Proposed new approach for CSA debt owed to parents

99. For a case to be in scope for the exercise they must:
 - Be an arrears-only case (no on-going liability); **and**
 - Be non-paying (have had no payment received within the previous three months at the time of selection); **and**
 - The debt must have accumulated under the CSA (although the information about the debt may have been moved to the CMS system as part of the closure of a CSA case).

Opportunity to make representations

100. We propose to write to receiving parents with debt over a specified threshold (see paragraph 104), advising them to let us know in writing (via formal representation) if they still want their debt.
101. We propose that representations must be received within 60 days. A reminder letter would be sent 30 days after the first letter. We assume that parents will respond fairly promptly to either the initial letter or the reminder letter, so it may be that a shorter overall representation period is more appropriate, and would still give parents sufficient opportunity to make representations.
102. Receiving parents may make their representation via the form provided or via a letter. Representations should include any additional information that could lead to an increased chance of successful collection of their arrears, for example the paying parent's employment details or information about assets.
103. By requiring this representation to be made in writing, we aim to ensure there is a clear audit trail of the decision making process regarding the handling of these cases.
104. We propose adopting this approach for non-paying cases with CSA debt over £500 if the case is less than ten years old, and with debt over £1000 if the case is ten or more years old. The rationale for the higher debt threshold for older cases is that it is likely to be harder to recover older debts, so in order for this action to be cost

effective, we will only pursue higher amounts. Also, these cases are more likely to involve children who are now grown up.

105. We propose letters would not include information on the period during which the debt accrued. This is because the clients will already have received this information at some point in the past, and including it in the letters would add to the complexity and significantly increase the cost of this process.
106. We also propose to not include the debt figure in letters where the case is more than ten years old, as it is likely that the figure we hold is incorrect, so including it would cause confusion for clients. Improvements from 2008 onwards mean that the debt figures in cases less than ten years old are more likely to be accurate.
107. If the receiving parent does not respond, their debt would be written off and the paying parent would be notified.

Potential collections activity

108. If the receiving parent responds to our letter telling us they still want their arrears we would determine whether there is a reasonable chance of collection. Reasonable likelihood of collection would be determined by a series of checks, such as whether the paying parent can be located and what can be established about their financial status. Where the receiving parent is able to provide us with information that may lead to an increased chance of collection (such as the paying parent's employment information) this would be taken into consideration.
109. If after all the checks have been completed, successful collection appears unlikely, the debt would be written off and both parents would be notified in writing.
110. If collection is deemed feasible, we would gather evidence (via formal representation) from the paying parent to help make our decision on the case. Both parties would be informed of the final outcome.
111. If, after all of the checks have been completed, the case is determined to have a reasonable chance of collection, the arrears balance would be checked, and the case moved to the CMS system where collection activity would commence. Potential collection activities may include:
 - Deduction from benefit (including extended powers proposed in this consultation);
 - Deduction from earnings;
 - Regular or lump sum deduction order (including extended powers proposed in this consultation); and
 - In exceptional cases, we may use court based enforcement powers such as liability order. Decisions would take into account value for money for the taxpayer.
112. Where we exhaust these collection activities, remaining debt would be written off and the clients notified of this.
113. There are an estimated 475,000²⁶ cases (worth £2.2bn of debt) where we would offer the receiving parent the chance to make representations.

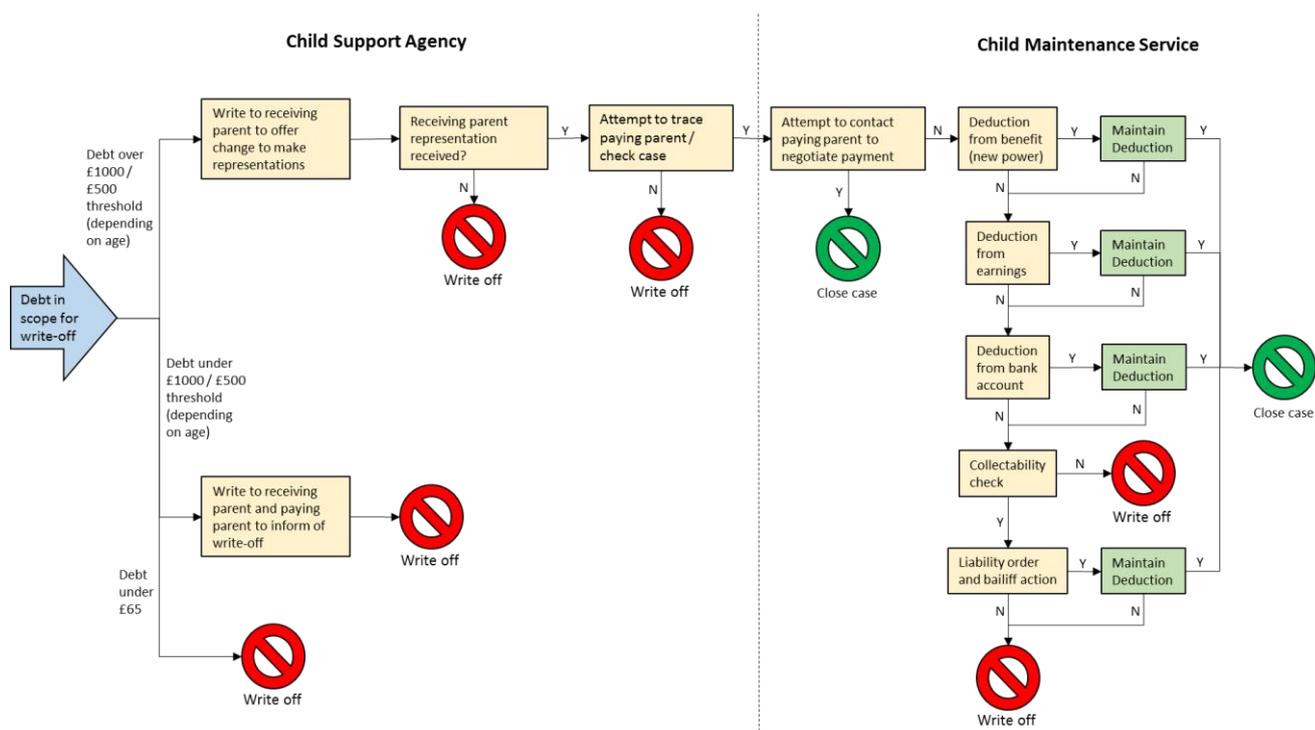
²⁶ Note: These include all transitioned CSA arrears cases and clerical cases. Therefore these figures are likely to be an overestimate. For more details see the methodology paper.

114. The volume of cases that are to be put forward for collection activity is dependent on how many receiving parents make representations, and of those how many are established as having a reasonable chance of collection by caseworkers.
115. There is uncertainty as to how many cases would end in write-off without further collection attempts, and how many would flow through the attempted collection route, since this overall process has never been used before. Therefore based on business assumptions we estimate that around £1.9bn of debt would be written off for clients who do not progress to the collection stage, and work would be done to attempt to collect on around 90,000 cases that have around £415 million debt on them.

Case Handling

116. To ensure cases are handled smoothly, we would develop a clear process. Below is the current proposal showing when both parents would be contacted throughout this process, as well as what would happen when a case is deemed to have a reasonable chance of collection.

Step by Step process collections activity & write off for debt owed to parents



Your views

- Bearing in mind we have limited resources which we need to focus on collecting money for today's children, what degree of action do you think is reasonable for historic CSA cases?
- Do you think 60 days is a reasonable period of time to allow representations regarding write-off, or would a shorter period be appropriate?
- What information do you think should be included in all write-off notification letters?

Cases where we will not offer the chance to make representations

117. It is not cost effective to attempt collection on individual debts of less than £500 (or debts of less than £1000 where the case is ten or more years old),²⁷ so we propose to write off all in-scope debt below this amount. It costs on average between £500 and £1000 to investigate and take action on these cases. This includes some of the cases going forward for collection activity in our arrears teams and some cases being put through legal enforcement processes. We feel that the thresholds based on age of case and amount of debt provide a reasonable cut off point to ensure that we do not pursue cases at disproportionate cost to the taxpayer.
118. There are approximately 360,000²⁸ cases where we would not offer the opportunity make representations, totalling approximately £100 million of debt.
119. We propose that both parents in cases with arrears below the relevant threshold would receive a letter to notify them that their arrears have been written off. And in line with the DWP's current policy where debts owed to government of under £65 are automatically written off without notification, we do not propose sending any letters for cases with debt balances below £65.

Your views

- Do you think the proposed thresholds for not offering the opportunity to make representations, based on age of case and amount of debt provide a reasonable balance between cost to taxpayers and fairness to receiving parents?
- Do you think it is reasonable to not send write-off notification letters on cases with debt balances of £65 and under?

Writing off debt owed to Government

120. Arrears owed to Government account for 33% (£1.2bn²⁹) of the total child maintenance arrears. To give certainty to parents we are seeking approval from HMT to write off debt on cases that are not making payments as it is unlikely to be collectable at a reasonable cost to the tax payer.
121. Where cases contain a mix of debt to receiving parents and debt to government, the debt to government would be written off and the debt to receiving parents would be handled as described above.

Communicating about debt owed to government

122. Information would be provided on our website to inform those affected that they no longer owe this debt. We would also notify organisations who support separated

²⁷ This is particularly relevant given the fairly large number of cases with very low debts. A breakdown of how much of the receiving parent debt is made up of very small amounts shows that 3% of CSA historic arrears cases have receiving parent debt under £10, and 14% have receiving parent debt under £65.

²⁸ Note: These do not include transitioned CSA arrears cases or clerical cases as it is not possible to determine the level of debt on a case by case basis due to data issues. Therefore these figures are likely to be an underestimate. For more detail please see the methodology paper.

²⁹ This includes all arrears owed to parents held on CSA systems including some that has been moved to the 2012 IT system. For a more detailed explanation of how these figures have been derived please see the methodology paper.

families of this action allowing any paying parents a method of checking the status of their arrears.

Additional information

Consultation principles

123. This consultation is being conducted in line with the revised [Cabinet Office consultation principles](#) published in January 2016. These principles give clear guidance to government departments on conducting consultations.

Feedback on the consultation process

124. We value your feedback on how well we consult. If you have any comments about the consultation process (as opposed to comments about the issues which are the subject of the consultation), including if you feel that the consultation does not adhere to the values expressed in the consultation principles or that the process could be improved, please address them to:

DWP Consultation Coordinator
2nd Floor
Caxton House
Tothill Street
London
SW1H 9NA

Email: caxtonhouse.legislation@dwp.gsi.gov.uk

125. When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

Freedom of information

126. The information you send us may need to be passed to colleagues within the Department for Work and Pensions, published in a summary of responses received and referred to in the published consultation report.
127. All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.
128. To find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact the Central Freedom of Information Team:
Email: freedom-of-information-request@dwp.gsi.gov.uk

129. The Central Fol team cannot advise on specific consultation exercises, only on Freedom of Information issues. Read more information about the Freedom of Information Act. <https://www.gov.uk/make-a-freedom-of-information-request>