

The logo for the Social Security Advisory Committee is a horizontal rectangle divided into two equal-width bands. The top band is dark blue and contains the words "SOCIAL SECURITY" in white, uppercase, sans-serif font. The bottom band is green and contains the words "ADVISORY COMMITTEE" in white, uppercase, sans-serif font.

**SOCIAL SECURITY  
ADVISORY COMMITTEE**

**Separated parents and the  
social security system**

**A study by the Social Security Advisory Committee  
Occasional Paper No. 22**

**22 October 2019**



## About this report

This project was conducted as part of the Social Security Advisory Committee's Independent Work Programme, under which the Committee investigates issues relating to the operation of the benefits system.

We are very grateful for the assistance and expertise of WPI Economics who prepared the paper for us, and to officials from the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC) who provided factual information. As ever, we are also grateful to our extensive stakeholder community for their active engagement with this project. In particular, we extend our thanks to the organisations and people, including separated parents, who gave their time to share their experience and to advise and support us during this project

The views expressed and recommendations reached in the report are solely those of the Committee.

Table of Contents

**Executive summary** ..... 2

**1. Introduction** ..... 5

**2. Approach** ..... 9

**3. Separated parents: living standards and the social security system** ..... 11

**4. Child Maintenance** ..... 18

**5. Treatment of separated parents in the social security system** ..... 25

**6. Recommendations** ..... 29

**Annex A: Benefit eligibility and child maintenance rules** ..... 33

**Annex B: Membership of the Social Security Advisory Committee** ..... 339

### Foreword

One of the most difficult issues for successive governments has been how to design and operate an effective financial regime for separated parents. How to make it work in the best interests of children; how to make it fair to both parents; how to ensure that parents do not evade their responsibilities to support their children; what to do when parents cannot agree; how to limit the cost to the taxpayer.

Most of the research and discussion on this issue has focussed on the child maintenance system, and on the position of the primary carer, generally the mother. This is not surprising, given the evidence of child poverty in lone parent families, and given the number of attempts to devise a fair but workable child maintenance formula and operation. Much less attention has been paid to the social security benefits that separated parents can get, and how they treat parents who do not have primary care of their children, generally the father. And when these parents are discussed, it has sometimes been in negative terms of dads who avoid supporting their children; rather than parents who want to play an active part in raising their children, and who may share care with their ex-partner. In effect, social security reflects this prevailing story. To some extent it behaves as if the children of separated parents live only with one carer who bears all the costs of looking after them.

This report therefore looks at how social security treats separated parents, and in particular, how it treats parents who share care, or who would like to share care.

We recognise that it is very difficult for social security to reflect the complexity of shared care arrangements, or where parents disagree, to decide what shared care arrangements are actually in place. We similarly recognise the ever present risks of perverse incentives, particularly where parents are in conflict. There is also very little firm data. Our conclusions and recommendations are therefore cautious. However, we do believe there is a strong case for the Government to take a much more strategic approach to separated parents and social security, and we make specific recommendations on improving the treatment of housing costs, to make it easier for parents who do not have primary care to have their children stay overnight.

Liz Sayce  
Interim Chair

## Executive summary

There are around 2.5 million separated families, including 3.9 million children in Great Britain (DWP, 2019).<sup>1</sup> Separation is often an extremely difficult and challenging life event, which carries an increased risk of negative outcomes and poorer life chances for children and parents involved (Bryson et al 2017).<sup>2</sup> The process of separation itself is often emotionally and financially stressful, sometimes coinciding with large and persistent falls in living standards for both parents and their children. Many parents also face emotional and financial challenges around agreeing how to share the costs and caring responsibilities for their children with their ex-partner.

This report considers the experience of separated parents and their children in the social security and child maintenance systems. It considers their living standards and how they are treated in the system as well as how it affects the ability of both parents to share caring responsibilities. Much of the existing research has understandably focused on the parent with whom the children lives most of the time and highlights the severe negative impact that separation can have on their financial well-being and their high risk of poverty.<sup>3</sup> There has been relatively less research into the experience of the separated parent who does not have main caring responsibility for their children and so this report focuses on these parents. Overall, it recognises the difficult public policy choices faced by governments but asks whether separated parents are getting the support they need through a challenging and stressful time in their lives.

### *Shared care*

The social security system offers some support to most families towards the costs of raising a child. However, when parents separate, the current system generally presumes that there is only one main carer and one 'non-resident' parent, despite the range of shared care arrangements in place amongst separated families. This means that only one parent can be entitled to receive child-related benefits, while the other parent can only receive single adult benefits. The parent deemed to be without main caring responsibility must also pay child maintenance out of their single person's benefit to the other parent to support the financial costs of raising the children.

The net impact means that some parents without main responsibility struggle to share caring responsibilities with their ex-partner. In particular, young parents on housing related benefits, under both the legacy system and Universal Credit, can find it difficult to have their children to stay overnight. For example, in the private-rented sector, a single adult aged under 35 on Housing Benefit is only eligible for a room in shared accommodation and so does not have a spare room for their children to sleep in.

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<sup>1</sup> Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/796120/separated-families-population-statistics-2014-to-2015-2015-to-2016-2016-to-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/796120/separated-families-population-statistics-2014-to-2015-2015-to-2016-2016-to-2017.pdf)

<sup>2</sup> Bryson, C., Purdon, S. and Skipp, A (2017), Understanding the lives of separating and separated families in the UK: what evidence do we need? London: Nuffield Foundation

<sup>3</sup> For example: [http://socialmetricscommission.org.uk/MEASURING-POVERTY-FULL\\_REPORT.pdf](http://socialmetricscommission.org.uk/MEASURING-POVERTY-FULL_REPORT.pdf)

### *Living standards*

Much of the existing research focuses on hardship among parents with the main caring responsibility because that is where the child is assumed to live most of the time and so is used as a proxy measure for the child's experience of hardship. However, children may also experience hardship if and when they are with their other parent, depending on that parent's living standards. Indeed, while evidence shows child maintenance reduces poverty incidence amongst parents who receive it, emerging evidence suggests that more paying parents are pushed into poverty after child maintenance payments are taken into account (Skinner and Keung 2016 and Hakovirta et al 2019).<sup>4,5</sup>

### *Treatment of separated parents*

The process of separation is an emotional and challenging period for many parents and their children. However, we heard many examples of how a lack of clear, consistent and helpful publicly available advice makes it hard for separated parents to navigate what is a complex social security system and so adds to their stress.

We also heard from several parents who felt they have been very poorly treated by the Child Maintenance Service. For example, poor (or no) communication left both parents unsure about what child maintenance is due and when, adding further to both parents' stress.

The Government's "Sorting Out Separation" website, an online information source for separated parents, is a welcome step in trying to co-ordinate resources and advice. However, more needs to be done to ensure the right information is available – not just partial information - particularly for parents without main responsibility of care.

### *Recommendations*

We know that the Government recognises separated parents as an important sub-group of the population.<sup>6</sup> However, there currently is not a clear government strategy for separated parents in the social security system and while there is a general policy focus on children's welfare, the Government does not appear to be considering separated parents and their children's welfare as a joined-up issue.

We recognise that there are no easy solutions here. It is hard, if not impossible, for social security rules to reflect the complexity of shared care and financial

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<sup>4</sup> Skinner, C and Keung, A. (2016) Non-resident fathers' child maintenance payments and effect on income poverty: analysis of the Family Resources Survey - written submission to the Work and Pensions select committee child maintenance service inquiry, 20<sup>th</sup> September 2016. Poverty defined as below 60% median net income, before housing costs. Benefit unit is used as basic unit of analysis. Available here: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/child-maintenance-services/written/39518.html>

<sup>5</sup> Hakovirta, M, Meyer, D and Skinner, C (2019), Does paying child support impoverish fathers in the US, Finland and the UK? Paper presented at the 23rd annual conference of the society for the social work and research, San Francisco, January 2019. Version 16.4.2019. Poverty defined as below 50% median disposable income, before housing costs. Household is used as basic unit for analysis.

<sup>6</sup> The Family Tests includes a question for policy makers to consider the specific impact of policy on separated families: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/368894/family-test-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/368894/family-test-guidance.pdf)

arrangements that parents enter into, willingly or otherwise. All options carry the risks of perverse incentives. Nevertheless, we believe that improvements are needed to ensure separated parents are not unduly suffering and so for current and future policy to consider the impact on both parents, not just the parent with main responsibility of care. In particular, policy should ensure the system does not disincentivise shared care as it may have a negative impact on the children's welfare. And policy must consider the living standards of both parents and their children and the risk of poverty and hardship when children are staying with *either* parent, not just the parent with main responsibility of care.

The Committee recommends that:

1. The Government clearly and publicly articulates a strategy for separated parents (including parents without main caring responsibility) and their children with respect to the social security system. This will require further work within DWP and across a number of other departments and devolved administrations. Therefore, we recommend that a cross-departmental working group is set up to lead urgent action on the strategy and issues highlighted in this report.
2. The quality and availability of data on parents without the main responsibility of care should be improved to get a better understanding of the scale and nature of the problems created by the social security system and its interaction with the child maintenance system. This data should also help define evidence-based policy solutions to deliver the Government's strategy and allow progress against the strategy to be assessed and monitored objectively.
3. We are not making general recommendations to change benefit rules because we believe that better data and a clear overarching strategy are needed first. However, there are obvious challenges for separated parents to share care under current policy for housing support in the social security system. Therefore, we recommend that:
  - a. The housing element of Universal Credit should enable young parents, under 35 years, who are sharing care and paying child maintenance, to have their children to stay overnight; and
  - b. DWP should consider options for the system to support all non-resident parents with more than one child to stay with them overnight.

During our research, a large number of consultees highlighted problems with the child maintenance formula which are causing stress and additional challenges for parents. While the formula is technically not within the committee's remit, given the relatively large amount of evidence we received, we would strongly encourage DWP to consider ways to address the issues raised in this report. For example, the fact the earnings thresholds have not been updated since 1998, to ensure it factors in the well-being and living standards of both parents and their children.

### 1. Introduction



**2.5 million** separated families in Great Britain (DWP, 2019)

There are around 2.5 million separated families, including 3.9 million children, in Great Britain (DWP, 2019).<sup>7</sup> This section introduces what existing research has shown about individuals and families in this situation.

Separation is often an extremely difficult and challenging life event, which carries an increased risk of negative outcomes and poorer life chances for children and parents involved (Bryson et al 2017).<sup>8</sup> For example, studies suggest that children of separated parents are at increased risk of behavioural problems, poorer educational achievement and health problems.<sup>9</sup>

Some parents, alongside their children, can see large and persistent falls in their living standards after separation. It is very difficult to identify the specific or causal impact of separation on individual living standards (for example because it is not easy to identify how income is shared between members of a household prior to separation). However, with that caveat in mind, Brewer and Nandi (2014)<sup>10</sup> found the proportion of women in relative poverty rises by 15-20 percentage points at the time of separation, and pre-separation levels of poverty (and deprivation) are not re-attained until five to six years after the relationship split.<sup>11</sup> They also found that women and children in high-income couples see particularly large falls in living standards that can take a long time to regain because the loss of their partner's earnings is not compensated for by higher income from child maintenance, benefits and tax credits, and having fewer mouths to feed.

Their analysis also highlights the stressful nature of separation, with mental distress of parents rising around the time of separation. However, the analysis does not consider the impact of parental conflict before and after on a child's wellbeing. Parental conflict has a negative impact on children's outcomes and so separation, if it removes or reduces conflict, may improve children's welfare relative to the counterfactual of parents staying together.<sup>12</sup>

<sup>7</sup> DWP (2019), separated families population statistics, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/796120/separated-families-population-statistics-2014-to-2015-2015-to-2016-2016-to-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/796120/separated-families-population-statistics-2014-to-2015-2015-to-2016-2016-to-2017.pdf)

<sup>8</sup> Bryson, C., Purdon, S. and Skipp, A (2017), Understanding the lives of separating and separated families in the UK: what evidence do we need? London: Nuffield Foundation

<sup>9</sup> Ibid

<sup>10</sup> Brewer, M. and Nandi, (2014) Partnership dissolution: How does it affect income, employment and well-being? ISER Working Paper Series 2014-30

<sup>11</sup> Poverty measured as 60% of median equivalised net household income. Before housing costs (15 percentage point increase) and after housing costs (20 percentage point increase).

<sup>12</sup> <https://www.eif.org.uk/files/pdf/what-works-to-enhance-interparental-relationships-and-improve-outcomes-for-children.pdf>

### *Sharing care responsibilities between separated parents*

Existing evidence suggests that many separated parents also face additional stress and challenges around agreeing caring responsibilities of their children. Around 10% of parents face additional pressure as they also have to manage the emotional and financial pressures of going through the courts to resolve their caring and residency arrangements (Harding & Newnham, 2015).<sup>13</sup>

In the vast majority of separated families, children spend the majority of their time with one parent.<sup>14</sup> However, there are a range of shared care arrangements in place, so many children continue to have contact with both parents.

The quality of data available on shared care arrangements are relatively poor, which reflects wider challenges with administrative and survey data on separated parents and on parents who do not usually live with their dependent children in particular. For example, survey data often suffer from small sample sizes, hampered by high attrition rates of the “non-resident” parent following separation. Survey design is also a problem, for example, some surveys only ask the parent who normally lives with the children (sometimes referred to as the “resident parent” in the literature, with the other parent termed the “non-resident parent”) about shared care arrangements and offering set answers which do not match the actual care arrangements (Bryson et al, 2017).<sup>15,16</sup>

However, based on the survey data that is available, a large proportion of non-resident parents have regular contact with their children. Just under 10% regularly have their child to stay overnight and see them almost every day and just under 40% have their children to stay on a regular basis and see their children at least weekly (Haux et al, 2017).<sup>17</sup> Around 2-3% of non-resident parents have equal shared care (50-50). However, a sizeable proportion (40%) of non-resident parents never have their children to stay overnight.<sup>18</sup>

The administrative data, which is just based on parents paying child maintenance managed by the Child Maintenance Service, shows that in around 14% of arrangements, children spend one night a week with their non-resident parent, 6% spend two nights, 2% spend three nights and less than 1% of arrangements involve “equal time with paying and receiving parent” (DWP, 2019).<sup>19</sup>

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<sup>13</sup> A Blackwell & F Dawe, Non-Resident Parental Contact (ONS, 2003), p39.

<sup>14</sup> 90% of lone parents are mothers, Office for National Statistics (2015b) Statistical Bulletin: Families and households: 2014. Lone mother does not imply that the father has no contact with the child or plays no role in the child's upbringing.

<sup>15</sup> The terms “non-resident” and “resident” parent are often used in the literature to define which parent the child lives with most of the time (resident). These terms fail to reflect the variation in shared care arrangements, including equal shared care, so in this report, we try to distinguish parents as one having main responsibility and the other without, unless referring specifically to wider literature where “non-resident” and “resident” parents are used.

<sup>16</sup> Bryson, C., Purdon, S. and Skipp, A (2017), Understanding the lives of separating and separated families in the UK: what evidence do we need? London: Nuffield Foundation

<sup>17</sup> Haux, T, McKay, S, Cain, R (2017) Shared Care After Separation in the United Kingdom: Limited Data, Limited Practice? Family Court Review, 55 (4). pp. 572-585. ISSN 1531-2445. E-ISSN 1744-1617. (doi:10.1111/fcre.12305)

<sup>18</sup> Ibid

<sup>19</sup> Based on the number of children on child maintenance arrangements involving shared care as a proportion of all children who are covered by a paying parent's child maintenance arrangement covered by the child

The survey data also suggests there has not been a marked increase in contact frequency or overnight stays with non-resident parents over the past 10 years (Haux et al, 2017). The prevalence of equal shared care arrangements in the UK remains considerably lower than in some Northern European countries, where there is an underlying culture which believes in sharing care equally between both parents, which is also reinforced by a supportive legislative and social security system.<sup>20</sup> The evidence also shows that pre-separation paternal practices determine post separation patterns (Haux, et al 2017), so UK cultural attitudes towards shared parental care within couples more generally may explain the relatively low rates of equal shared care post separation. It is also possible that the social security and child maintenance systems may affect the ability of non-resident parents to share care.

### *Who are separated families?*

Amongst women in couples with dependent children, those that separate from their partner are more likely to be at the bottom of the income distribution, to be young, not married and living in rental accommodation (Brewer and Nandi, 2014).<sup>21</sup> They are more likely to become the parent with main responsibility of care and (lone parents) have a higher risk of poverty than couples with children.<sup>22</sup>

Amongst men in couples with dependent children, those that separate are more likely to be out of work and living in rental accommodation.<sup>23</sup> There is relatively little information, given the data constraints highlighted above, about the economic circumstances of separated fathers, but from the data available, fathers with non-resident children are more likely to be poor and deprived than fathers who live with their children (Dermott, 2016).<sup>24</sup> Using the Family Resources Survey and pooling across the latest four waves, we find that the poverty rate (after housing costs) of non-resident parents is 30%, compared to 21% amongst working age adults.<sup>25</sup>

In summary, the number of separated families has fallen slightly in recent years, but there are still around 2.5 million separated families in Great Britain, many of whom

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maintenance service. Taken from DWP (2019) Child maintenance service: August 2013 to March 2019 (experimental) statistics. Available at: <https://www.gov.uk/government/statistics/child-maintenance-service-august-2013-to-march-2019-experimental>

<sup>20</sup> For example, in Sweden - Fransson, E. Hjern A. & Bergström M (2018) What Can We Say Regarding Shared Parenting Arrangements for Swedish Children?, *Journal of Divorce & Remarriage*, 59:5, 349-358, DOI: 10.1080/10502556.2018.1454198

<sup>21</sup> Brewer, M. and Nandi, (2014) Partnership dissolution: How does it affect income, employment and well-being? ISER Working Paper Series 2014-3

<sup>22</sup> Ibid

<sup>23</sup> Ibid

<sup>24</sup> Dermott, E. (2016). Non-resident fathers in the UK: Living standards and social support. *Journal of Poverty and Social Justice*, 24(2), 113-125. <https://doi.org/10.1332/175982716X14605378167871>. Analysis uses Poverty and Social Exclusion survey 2012. Income poverty is measured as living in a household at or below 60 per cent of the national median equivalised income after housing costs. Deprivation is defined as not being able to afford goods or activities categorised by 50% or more of the population as necessities. Analysis uses both average deprivation scores and also the percentage of fathers in the population who lack multiple items. Also considers overall poverty which combines both deprivation and low-income measures.

<sup>25</sup> Waves 2013/14 to 2017/18 of the Family Resources Survey, after housing costs. Net income used to measure poverty includes self-reported child maintenance payments. Research by Dermott and Pantazis (2014) suggests the poverty rate amongst fathers with non-resident children is particularly high if they live on their own: in 2012, two-thirds were living in poverty, a similar proportion to the poverty rate of mothers living alone with resident children. See Dermott, E, and Pantazis, C, 2014, Gender and Poverty in Britain: changes and continuities between 1999 and 2012, *Journal of Poverty and Social Justice* 22, 3, 253-269

## Social Security Advisory Committee

are experiencing hardship.<sup>26</sup> The process of separation itself is often emotionally and financially stressful, sometimes coinciding with large and persistent falls in living standards for parents and their children. Many parents also face emotional and financial challenges around agreeing how to share the caring responsibilities for their children with their ex-partner.

This report considers the experience of separated parents in the social security system and particularly the parent who does not live with their children most of the time. It considers their living standards and treatment within the social security and child maintenance systems, with a focus on how it may affect the ability of both parents to share caring responsibilities. Overall, it asks whether separated parents are getting the support they need through a challenging and stressful time in their lives.

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<sup>26</sup> DWP (2019), separated families population statistics, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/796120/separated-families-population-statistics-2014-to-2015-2015-to-2016-2016-to-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/796120/separated-families-population-statistics-2014-to-2015-2015-to-2016-2016-to-2017.pdf) The number of separated families fell from 2.7 million in 2014/15 to 2.5 million in 2016/17.

## 2. Approach

We know that the Government sees the impact of policy on separated families as an important issue. The Family Test, introduced in England in 2014 to help ensure government policy supports “strong and stable families”, consists of five questions that policy makers across government should consider. One of the questions specifically relates to separated families: “how does the policy impact families before, during and after couple separation?”<sup>27</sup>

It is also seen as an important issue in Scotland. The Scottish Parliament launched a cross-party group on shared parenting in 2018, which aims to “identify, examine and promote policy and practice that supports parents in sharing parenting responsibilities.”<sup>28</sup> This group is also feeding in to the review of Scottish family law, which includes whether to introduce a “presumption that a child benefits from both parents being involved in their life: shared parenting.”<sup>29</sup>

However, despite the interest in separated parents, we were unable to find a clear articulation of the Westminster government’s objectives for separated parents and their children within the social security system. Legislation and wider government reforms suggest the Government’s focus is on the child’s welfare. For example, the Children Act 1989 directs courts to consider the child’s welfare as its “paramount consideration” in decisions around the upbringing of a child or in administration of their property.<sup>30</sup> And the Government’s 2012 child maintenance reforms were intended to encourage collaboration and responsibility between separated parents because “...research shows that children have better outcomes when their parents work together...” (DWP).<sup>31</sup>

In Scotland, the government’s “getting it right for every child” framework also puts children’s welfare at the heart of policy “...which support children, young people and their families and is delivered through services and people who work with families.”<sup>32</sup>

Legislation itself also suggests the Government believes both parents should be involved in the upbringing of their children once they separate – under the Children and Families Act, 2014, courts in England and Wales must now presume that the involvement of both parents in the life of the child will be beneficial for the child’s welfare, unless the contrary can be shown. Unlike in other countries the Act does not attempt to specify how much each parent should be involved. For example, courts in Belgium must consider ‘as a matter of priority’ the possibility of ordering equal

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<sup>27</sup> [https://research.HousingBenefitriefings.parliament.uk/ResearchHousingBenefitriefing/Summary/CHILD\\_BENEFITP-7714](https://research.HousingBenefitriefings.parliament.uk/ResearchHousingBenefitriefing/Summary/CHILD_BENEFITP-7714)

<sup>28</sup> <https://www.parliament.scot/msps/shared-parenting.aspx>

<sup>29</sup> [https://consult.gov.scot/family-law/children-scotland-act/user\\_uploads/children-scotland-act-1.pdf](https://consult.gov.scot/family-law/children-scotland-act/user_uploads/children-scotland-act-1.pdf)

<sup>30</sup> <https://www.familylawweek.co.uk/site.aspx?i=ed97451>

<sup>31</sup> DWP consultation response to the SSAC’s call for evidence for this research project, which also said: “The evidence is clear that children from separated families are more likely to have positive outcomes in later life if their parents can work together, without poorly resolved conflict. A successful, stable child maintenance arrangement can make a huge contribution towards this”

<sup>32</sup> <https://www.gov.scot/policies/girfec/>

residency if one parent asks for it.<sup>33</sup> Haux et al (2017) suggest that the lack of ...“even a rebuttable 50–50 presumption into law reflects the lack of research evidence suggesting that children do better in shared-residence arrangements...in the United Kingdom.”<sup>34</sup>

Taking this altogether, it seems the Government does view the impact of policy on separated parents as an important issue, with a focus on the impact of policy on children’s welfare. It also presumes that both parents should be involved in the upbringing of their children unless there’s good reason to think otherwise. However, there is no government strategy for separated families or a strategy for separated families in the social security system. As such, we were unable to draw on our evidence to assess the effectiveness of the Government’s aims and approach to separated parents in the social security system.

Instead, this report considers the impact of the social security system on the living standards of separated parents and their ability to share caring responsibilities for their children. It considers the impact of both the legacy child-related tax and benefit system and Universal Credit, which is gradually replacing the legacy system, as well as the impact of interactions between the social security and child maintenance systems. This report does not attempt to consider the incomes before and after separation given the difficulties in doing so, which were mentioned in the previous chapter. The report then examines how separated parents are treated in the social security system, before setting out recommendations to address some of the challenges highlighted in the report.

The findings in this report draw on evidence from a range of sources:

- over 20 **semi-structured interviews** with stakeholders from third sector organisations, academics and officials in HMRC and DWP;
- **a public consultation** calling for evidence, which generated over 80 responses;
- **focus groups** with key stakeholders, including separated fathers; and
- **a literature review** of international and national studies.

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[https://www.nuffieldfoundation.org/sites/default/files/files/Would%20legislation%20for%20shared%20parenting%20time%20help%20children\)OXLAP%20FPB%207.pdf](https://www.nuffieldfoundation.org/sites/default/files/files/Would%20legislation%20for%20shared%20parenting%20time%20help%20children)OXLAP%20FPB%207.pdf)

<sup>34</sup> The UK ratified the [UN Convention on the Rights of the Child \(UNCRC\)](#) which says “Children have the right to live with their parent(s), unless it is bad for them. Children whose parents do not live together have the right to stay in contact with both parents, unless this might hurt the child.” However, this is not incorporated in domestic laws and so the UK is not legally bound by the UNCRC.

### 3. Separated parents: living standards and the social security system

This chapter looks at the impact of the social security system on the living standards of separated parents, particularly parents who do not have main caring responsibility but are trying to share care.

#### **Legacy benefits**

We know that the social security system can help some separated parents to manage income losses experienced during separation, particularly from families with low pre-separation income (Brewer and Nandi, 2014). There were a number of child-related DWP benefits and tax credits (administered by HMRC) available under the legacy system to support parents with children.<sup>35</sup> However, the system assumes that when parents separate, only one parent has main responsibility for their children's upbringing and it is only that parent who can claim (most of) the child-related benefits.

The other parent is treated as a single adult within the benefit system, even if they play a key role in the upbringing of their children, including if they equally share care. As a result, they are not entitled to any child-related benefits and they must also pay child maintenance, to help cover the costs of raising their children, to the other parent. Yet we heard that there are fixed costs associated with looking after a child, such as (but not limited to) having a spare room for them to stay, which both parents must manage if they decide to share care.

Under the legacy benefit system, the available HMRC administered child-related benefits and tax credits were:

- **Child Benefit (CB):** paid to families with children based on the number of eligible children in the household. Households in which the highest income adult has an income above £50,000 may have to pay a tax charge.<sup>36</sup> Within couples, HMRC encourages parents to decide between themselves who should receive Child Benefit payments, but if there is disagreement post separation, HMRC can decide who has main responsibility for the child (see Annex A). Either separated parent could claim Child Benefit if the child normally lives with the parent or the parent's weekly contribution to the cost of providing for the child is at least as much as the Child Benefit payable.<sup>37</sup>
- **Working Tax Credit (WTC):** paid to parents in paid work. A lone parent could claim tax credits if they are aged over 16 and working at least 16

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<sup>35</sup> In this report we distinguish between parents who are deemed eligible for child-related benefits as the parent with main caring responsibility, reflecting views from our stakeholders. These parents are sometimes called the resident parent in wider literature and in referring to that literature and survey data, we also use the term resident (and non-resident) parent. However, this fails to reflect the variation in shared care arrangements, including equal shared care.

<sup>36</sup> <https://www.gov.uk/child-benefit/what-youll-get>

<sup>37</sup> <https://www.citizensadvice.org.uk/benefits/child-benefit/before-you-claim/check-if-you-can-get-child-benefit/>

hours a week. They also received a more generous amount than a single adult and could claim the childcare element to cover the costs of work-related childcare. A single adult had to be aged over 25 and work more than 30 hours a week to be eligible for WTC.<sup>38</sup>

- **Child Tax Credit (CTC)** – parents do not need to be working to claim CTC. It is made up of elements and the amount parents receive depends on their income, number of children, when their children were born and if they are disabled. There is a basic family element for families with at least one child born before 6 April 2017, a child element (one for each child) and a disability element and severe disability element. For children born after April 2017, the maximum number of child elements parents can claim for is (in most cases) two.<sup>39</sup> Within couples, HMRC encourages the parents to decide between themselves which parent should receive CTC payments but where they are unable to reach an agreement HMRC can decide who has main responsibility for the child.
- **Tax free childcare and 30 hours free childcare** – 30 hours free childcare for 3 and 4-year olds is available for working households with dependent children and higher earning households can claim tax relief on childcare costs. Again, only one parent can have an account, which is whoever has main caring responsibility for the children.<sup>40</sup>

And DWP benefits include:

- **Housing Benefit:** paid to help meet costs of renting. Local Housing Allowance (LHA) rules determine the amount of rent used to calculate a claimant's Housing Benefit, which also depends on the number of bedrooms a claimant is deemed to need, under the size criteria. In the private and social-rented sector, a lone parent with one child is eligible for a two-bedroom property. In the private-rented sector, a single adult aged under 35 is only eligible for a room in shared accommodation. If they are 35 or over, they are eligible for a one-bedroom self-contained property. In the social-rented sector a single adult is only allowed a bedroom for themselves and the amount of their rent covered by Housing Benefit will be reduced if they have more than one bedroom (by 14% if they have one too many bedrooms).
- **Income Support (IS):** paid to lone parents who are not in full-time paid work and have at least one child under five; new IS applications are only open to those who also claim the severe disability premium.<sup>41</sup>

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<sup>38</sup> This requirement is reduced to 16 hours a week for claimants who are disabled or aged 60 or over.

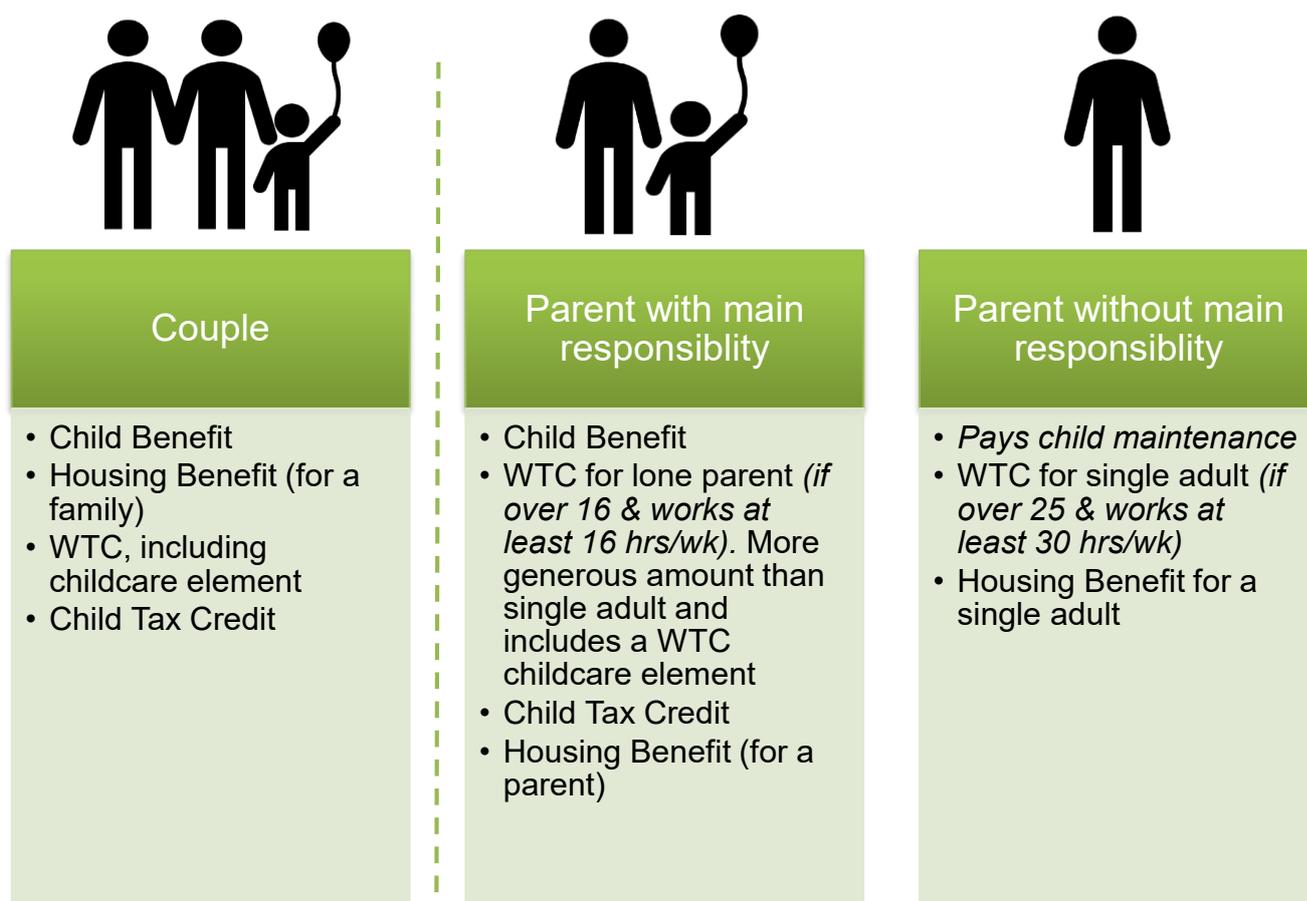
<sup>39</sup> With some exemptions - see <https://researchbriefings.files.parliament.uk/documents/CBP-7935/CBP-7935.pdf>

<sup>40</sup> <https://www.gov.uk/30-hours-free-childcare?step-by-step-nav=f517cd57-3c18-4bb9-aa8b-1b907e279bf9> and <https://www.gov.uk/tax-free-childcare?step-by-step-nav=d78aeaf6-1747-4d72-9619-f16efb4dd89dc>

<sup>41</sup> <https://www.gov.uk/income-support>. Or who got or were entitled to the severe disability premium in the last month and are still eligible for it. You must also not be eligible for Jobseeker's Allowance or Employment and Support Allowance.

To help illustrate what this could mean for separated parents, we have produced a stylised example, below, which sets out the benefits and tax credits available to a couple before and after separation. The example given is based on scenarios described by consultees and stakeholders.

**Figure 1 - stylised example of the benefit receipt in a separated couple of working age**



*Note: assumes separated parents live alone. Some councils also offer reductions on council tax for lone parents, which are more generous than the single adult discount.<sup>42</sup>*

Separated parents can, of course, agree to share the child-related benefits between them. The legacy benefit system also offered some, albeit limited, scope for separated parents to claim different benefits – HMRC told us that one parent can claim Child Benefit<sup>43</sup> and another could claim Child Tax Credit and that parents are encouraged to decide between themselves which parent should claim both or either benefit.<sup>44</sup> DWP and HMRC have not conducted any analysis that would indicate how many people do make separate claims for these benefits, so we do not know how often this happens in practice.

<sup>42</sup> <https://www.ifs.org.uk/uploads/publications/comms/R153.pdf>, pg 43.

<sup>43</sup> <https://www.gov.uk/child-benefit>

<sup>44</sup> <https://www.gov.uk/child-tax-credit>

However, sharing child-related benefits relies on separated parents being able to come to an agreement between themselves, which may be difficult in reality. Many separated parents are also already on low incomes and so asking them to share child-related benefits, without increasing the amount of benefit available, means lowering their incomes and risks pushing more parents into hardship.

Where parents cannot agree who has main responsibility for their children, DWP and HMRC can decide who is eligible for child-related benefits or tax credits, which is typically whoever the child normally lives with. We found it difficult to identify the exact criteria for each benefit or tax credit based on public information, but we know HMRC considers factors such as where the child spends most of their time when not at school/nursery/childcare and who is the main contact for the child's school/doctor. DWP tend to use Child Benefit receipt to indicate which parent has main responsibility and so eligibility for child-related benefits e.g. Income Support (IS) and lone parent treatment for Housing Benefit. There is also a Child Benefit presumption for which parent has day to day care and so who should receive child maintenance from the other parent. More detail is given in Annex A.

### *Sharing care responsibilities under the social security system*

The above stylised example (Figure 1) highlights the challenges faced by separated parents within the social security system who want to share care of their children. In particular, Housing Benefit policy for young adults makes it very difficult to have their children to stay overnight as single adults aged under 35 are only entitled to a room in shared accommodation. There is some evidence of landlords not allowing parents to have children to stay in shared accommodation<sup>45</sup> and we heard examples of separated parents being unwilling to let their children stay in a house or flat with strangers. Indeed, survey data suggest that overnight contact is less frequent if the parent lives in shared housing.<sup>46</sup>

Older parents may also struggle to have their children to stay the night if they have more than one child who need separate rooms. Our consultation also highlighted the challenge faced by separated parents with disabled children who need specialist and expensive equipment that is not easily transportable, and their parents cannot afford to buy another set to enable their child to stay with the other parent.

DWP told us that some Local Authorities may try to house a parent without main responsibility in a dwelling with a room for their child if they present their case. Or parents can apply for a Discretionary Housing Payment to help cover the cost of extra rooms. However, parents without main caring responsibility are likely to fall down the priority list for housing given the wider demands that Local Authorities currently face, while Discretionary Housing Payments are already squeezed and are used inconsistently between Local Authorities.<sup>47</sup>

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<sup>45</sup> Clarke, A and Muir K (2017) Non-resident parents and shared housing, Cambridge Centre for Housing and Planning Research. Available at: <https://www.commonwealhousing.org.uk/static/uploads/2018/12/Non-resident-parents-and-shared-housing-with-Cambridge-Centre-for-Housing-and-Planning-Research.pdf>

<sup>46</sup> Ibid

<sup>47</sup> Wilson, W (2018), Discretionary Housing Payments, Briefing Paper Number 6899, House of Commons Library. Available at: <https://research.HousingBenefitriefings.files.parliament.uk/documents/SN06899/SN06899.pdf>

We do not know the true scale of the problem given the poor quality of data available on parents without main caring responsibility. However, based on pooling the four latest waves of the Family Resources Survey, 14% of non-resident parents<sup>48</sup> report receiving Housing Benefit, 4% are under 35 and report receiving Housing Benefit and just under 3% are under 35, report receiving Housing Benefit and living alone. There are just over one million non-resident parents, which suggests around 30,000 young non-resident parents may be affected by the Housing Benefit shared accommodation rate policy.

In summary, under legacy benefits some separated parents can struggle to share care as the social security system only recognises one parent as having main caring responsibility. As a result, one parent is entitled to receive the child-related benefits, while the other parent only receives the (less generous) single adult benefits. Yet we know that many separated families are trying to share caring responsibilities between the parents and are sharing care in a variety of ways. Currently, the social security system is struggling to support families in this, which, assuming it is beneficial for both parents to be involved in the children's upbringing, may be having a detrimental impact on the welfare of the children.

### **Universal Credit**

Most of the benefits highlighted above, bar Child Benefit, are gradually being replaced by Universal Credit with most new claimants now only being eligible for Universal Credit.<sup>49</sup> The same approach to separated parents largely continues under Universal Credit, with the parent who has main responsibility for the children being eligible for child-related elements.<sup>50</sup> For example, parents with main caring responsibility are eligible for the child element of Universal Credit, which applies for the first two children.<sup>51</sup> Again, DWP can decide which parent has main responsibility if parents cannot agree between themselves. DWP told us that "...this would generally be the parent who receives Child Benefit." However where parents are in agreement, there continues to be an option for one parent to claim the Universal Credit child element and for the other to claim Child Benefit.<sup>52</sup>

We have reproduced the stylised example of a separated couple, below, to illustrate how benefit eligibility compares between parents once they have separated.

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<sup>48</sup> Based on DWP's measure of non-resident fathers in the Family Resources Survey (FRS)

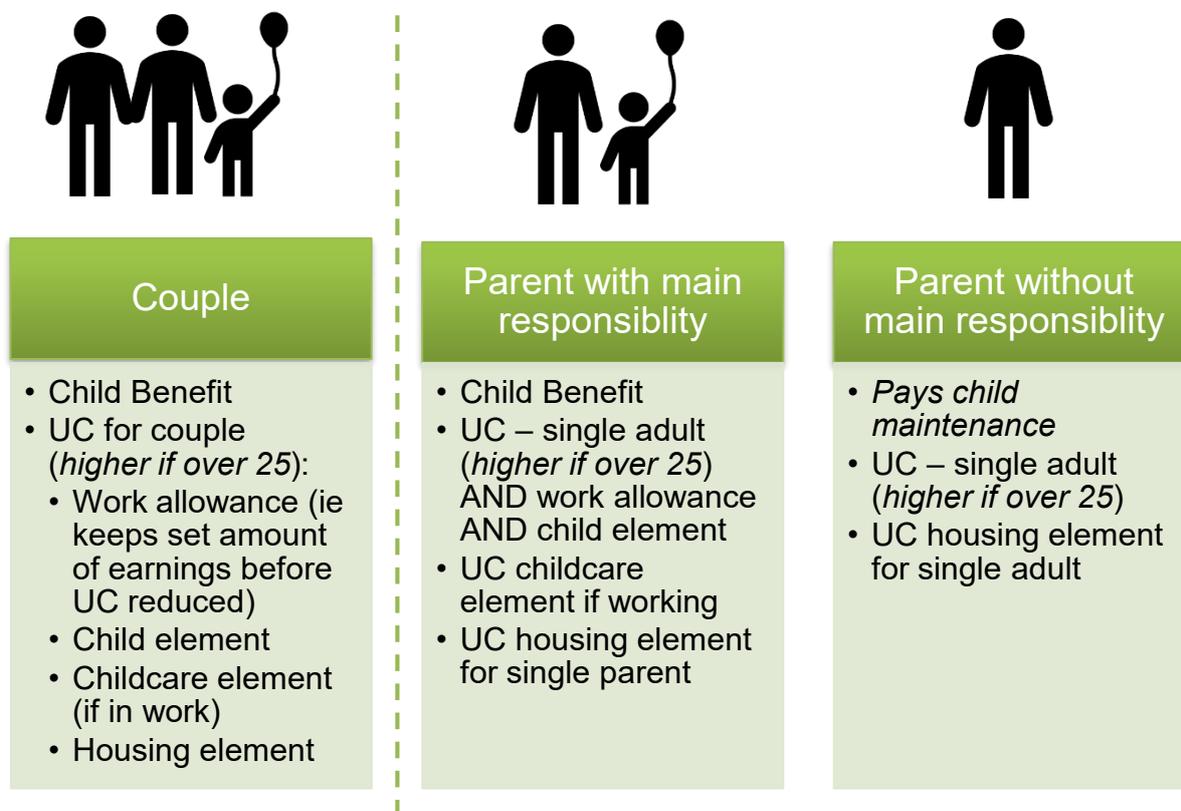
<sup>49</sup> Some new claims for legacy benefits/tax credits are still available eg new claims for Child Tax Credit are available for people on the severe disability premium.

<sup>50</sup> See <https://www.gov.uk/universal-credit/what-youll-get>

<sup>51</sup> Unless they were born before April 2017 or there was a claim for 3 or more children before April 2017. There are also other exemptions, including around multiple births, adoptions and non-consensual conception. See <https://researchbriefings.files.parliament.uk/documents/CBP-7935/CBP-7935.pdf>

<sup>52</sup> An earlier version of the report noted that under Universal Credit, unlike under the legacy system, both parents can share the childcare cost element if their childcare needs are relevant to their hours of work and within the times that they are responsible for the care of the child. This information, based on information provided by DWP and HMRC, is incorrect. We are grateful to Gingerbread for drawing this to our attention.

**Figure 2 - stylised example of the benefits a couple pre-separation could claim compared to the benefits each parent can claim post separation under Universal Credit.** Example is based scenarios described by consultees and stakeholders.



As this stylised example highlights, under Universal Credit, some parents without main caring responsibility will continue to find it challenging to share caring responsibilities, as they are treated as a single adult in the benefit system. Meanwhile, they must also pay child maintenance to the other parent to help meet the costs of looking after their children. Again, this is the case even if both parents share care.

As above, young parents, aged under 35, will continue to struggle to have their children to stay as the housing element of Universal Credit does not entitle them to more than a room in shared accommodation in the private sector. And older parents with more than one child and parents with disabled children may also struggle to have their children to stay.

Under Universal Credit, parents with a severe disability may also particularly struggle to share care for their children due to changes in disability benefits. Under the legacy system, adults with a severe disability who do not have a non-disabled person to care for them (so they live alone, with a disabled adult or only with dependent children) may have been eligible for a Severe Disability Payment (SDP) as part of their income related benefit, to help contribute to costs of their care. In a couple, if both partners were eligible for SDP, then one member of the couple would receive SDP, but at the couple rate. In other words, there is one lead claimant.

SDP will no longer exist under Universal Credit, so the Government introduced transitional protection for claimants to avoid sharp falls in benefit income as they move on to Universal Credit.<sup>53</sup>

However, not everyone will get transitional protection. If a couple claiming income related Employment Support Allowance and in receipt of the couple rate of SDP decide to separate, only the lead claimant in receipt of SDP will be eligible for SDP at a single rate and will receive transitional protection when they eventually move onto UC.<sup>54</sup> The other partner will automatically move onto Universal Credit and because they never claimed SDP, will not be able to claim the single persons rate of SDP or get transitional protection.

We do not know the potential number of separated parents who may be affected by this change. Around 500,000 people claim SDP,<sup>55</sup> but we do not know how many are claiming the couple rate. And while this will affect couples with or without children, it will make it more difficult for affected separated parents to look after their children as they may struggle, financially, to manage a drop in their living standards as they are not eligible for transitional protection.

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<sup>53</sup> The Enhanced Disability Premium is also being scrapped, which was paid to claimants in the support group of the Employment and Support Allowance and to those receiving the high rate care component of DLA or the enhanced rate of the daily living component of PIP. However, those eligible for the support component of the Employment Support Allowance under the legacy system will be eligible for a 'Limited Capability for Work and Work-Related Activity' ('LCWWRA') element under UC, which is more generous than the support component of the ESA.

<sup>54</sup> This is not the case for JSA as they may both be eligible for transitional protection when they move to UC.

<sup>55</sup> The Children's Society, written evidence on the loss of the Severe Disability Premium under Universal Credit and its impact on disabled single parents and young disabled people moving into independent living for the Work and Pensions Select Committee. Available at: <https://www.childrensociety.org.uk/sites/default/files/wp-committee-tcs-evidence-on-sdp-22-june-2018.pdf>

## 4. Child Maintenance

Both parents are legally responsible for the financial costs of raising their children and so parents without main caring responsibility are required to pay child maintenance (or child support) to the other parent. This chapter describes the child maintenance system and examines the impact of the interaction between child maintenance and the social security system on separated parents' living standards and ability to share care.

### *Child Maintenance*

DWP aims to encourage separated parents to collaborate and make family-based child maintenance arrangements, but where that is not possible, parents can use the statutory scheme.<sup>56</sup> In England, Scotland and Wales, there is a fee (£20) for using the scheme, unless you're under 19 or have suffered domestic or violent abuse. The scheme is run by the Child Maintenance Service (CMS), which uses a formula to calculate the amount of child maintenance payments.

The formula amount varies depending on the number of children, including any new children the paying parent is responsible for, and, under the 2012 scheme, the paying parent's gross income. Parents on certain benefits must still pay child maintenance (£7) while only a small number of parents are exempt from paying child maintenance, such as those earning less than £7 a week. We could not find a clear rationale behind the threshold being set at £7 a week.

Child maintenance payments also depend on the number of nights the children stay with the paying parent over the year:

- Between 52 and 103 nights, the amount is reduced by 1/7<sup>th</sup> for each child
- 104 and 155 nights: the amount is reduced by 2/7<sup>th</sup> for each child.
- 156 and 174 nights: the amount is reduced by 3/7<sup>th</sup> for each child.
- 175 nights or more: the amount is reduced by 1/2 plus an extra £7 a week reduction for each child in this band.

This means that even if the children stay with the paying parent for half of the nights a year, that parent will still need to pay child maintenance to the other parent.<sup>57</sup>

The figure below illustrates how child maintenance payments vary with the number of nights the child lives with the paying parent over the year.

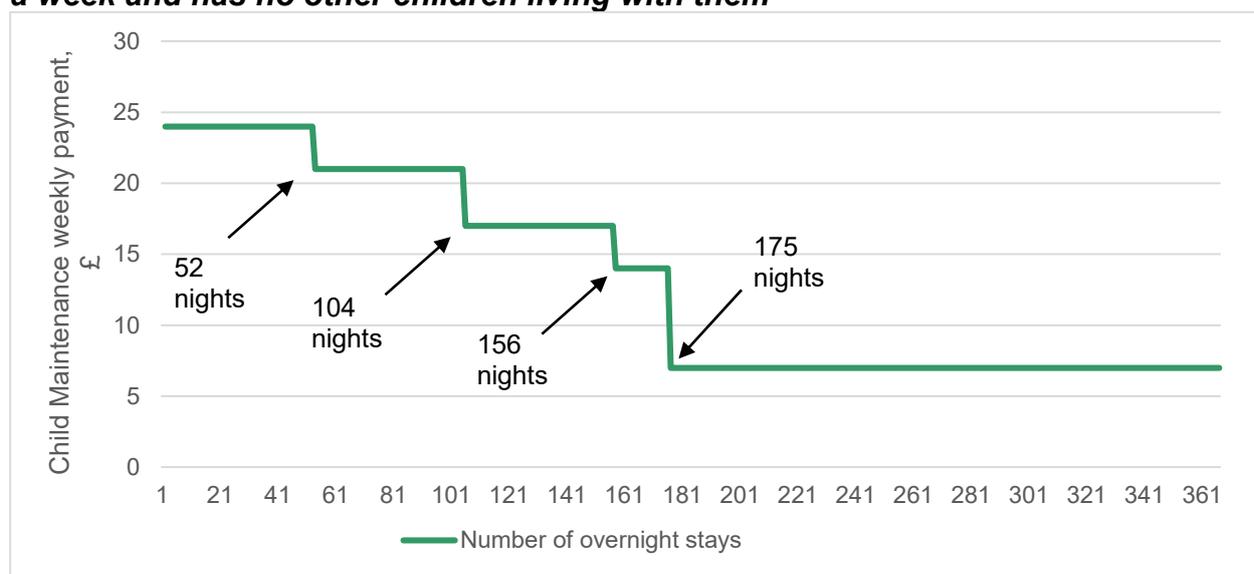
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<sup>56</sup> For new cases, the 2012 Child Maintenance Scheme applies.

<sup>57</sup> Assuming parents are not equally sharing *day to day care*. More detail is in the Annex of this report and is available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/672432/how-we-work-out-child-maintenance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672432/how-we-work-out-child-maintenance.pdf)

**Figure 3: Child maintenance payments for one child if paying parent earns £200 a week and has no other children living with them**



Any parent can use the formula for free, as a guide to determine the amount of child maintenance they should pay to their ex-partner. The CMS can also calculate the amount of child maintenance, based on the formula, but leave parents to arrange the payment between themselves. This is known as Direct Pay and incurs the one-off £20 administration fee. Or parents can use the Collect & Pay service, where the CMS calculates the child maintenance due, collects it from one parent and gives it to the other. The paying parent must pay an additional fee of 20% and the receiving parent, 4%, to use the service. The CMS can take a range of enforcement actions if a payment is missed or not paid in full, such as taking money from a paying parent’s bank account or wages, which also incur fees.<sup>58</sup>

### *Impact of child maintenance on living standards of separated parents*

Evidence shows that child maintenance payments in the UK help to alleviate poverty amongst receiving parents. For example, Skinner et al (2017) found that 14 per cent of lone parents who received child maintenance were brought out of poverty as a result.<sup>59</sup> Moreover, because child maintenance is not offset against the receiving parent’s benefits, this poverty reduction effect is stronger than in other countries (Skinner et al 2017).<sup>60</sup> In practice though, many eligible parents do not receive child maintenance payments – less than half of separated families have a child

<sup>58</sup> The CMS can pass payments to the receiving parent’s bank account, so they do not have to contact each other.

<sup>59</sup> Skinner, C. Cook, K. and Sinclair, S. (2017) “The potential of child support to reduce lone mother poverty: comparing population survey data in Australia and the UK” *Journal of Poverty and Social Justice*, Volume 25, Number 1, February 2017, pp. 79-94(16).

<sup>60</sup> Skinner, C, Meyer, D, Cook, K and Fletcher, M (2017), 'Child maintenance and social security interactions: the poverty reduction effects in model lone parent families across four countries', *Journal of Social Policy*, vol. 46, no. 3, pp. 495-516. However, child maintenance does count as income towards Housing Benefit in some Local Authorities. Poverty is defined as 'net income after housing costs' to a poverty threshold using 60 percent of equivalized median net income.

maintenance arrangement in place<sup>61</sup> and not all separated parents comply with their agreed child maintenance arrangements (Bryson et al, 2017 and DWP 2019).<sup>62,63</sup>

Much of the existing research has focused on hardship amongst parents with the main caring responsibility because that is where the child is assumed to live most of the time and so is used as a good proxy measure for the child's experience of hardship. However, children may also experience hardship when they are with their other parent, depending on that parent's living standards. This is an important point that has not attracted much attention, yet emerging evidence suggests that some non-resident fathers are pushed into poverty once child maintenance payments are taken into account (Skinner and Keung 2016 and Hakovirta et al 2019).<sup>64</sup> And although richer paying fathers typically pay more child maintenance in cash terms, paying fathers in poverty pay on average a higher proportion of their income in child maintenance compared to richer fathers.<sup>65</sup>

### *The impact on living standards of grandparents who provide a caring role*

We also heard that grandparents can play an important role in supporting their children through separation. Some grandparents can offer their children a place to stay if they have left their partner and the family home. Grandparents may also be able to support their children by providing childcare for their grandchildren.

However, we heard that some grandparents feel their role is not recognised in the social security and child maintenance systems and so they can be left with meeting some of the costs of raising their grandchild without support. We heard it is particularly challenging if their child is the parent without main caring responsibility, has low income and is paying child maintenance to the other parent (assuming it is not possible, especially if the parents do not get along, to ask the other parent for financial support). And even if a grandparent's child is the main responsible carer, some grandparents feel unable to ask for financial support as they fear doing so would put additional pressure and stress on their child. One consultee noted that "...[t]his is often the case where the parent has drug or alcohol issues and the extended family member fears formal intervention will mean the removal of the children."

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<sup>61</sup> DWP statistics (2019), available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/796120/separated-families-population-statistics-2014-to-2015-2015-to-2016-2016-to-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/796120/separated-families-population-statistics-2014-to-2015-2015-to-2016-2016-to-2017.pdf)

<sup>62</sup> Bryson, C., Purdon, S. and Skipp, A (2017), Understanding the lives of separating and separated families in the UK: what evidence do we need? London: Nuffield Foundation. Using wave 3 of UKHLS.

<sup>63</sup> Two thirds of paying parents using the Child Maintenance Service's Collect and Pay service were compliant in the quarter ending March 2019. Taken from DWP (2019) Child Maintenance Service: August 2013 to March 2019 (experimental) statistics. Available at: <https://www.gov.uk/government/statistics/child-maintenance-service-august-2013-to-march-2019-experimental>

<sup>64</sup> Skinner, C and Keung, A. (2016) Non-resident fathers' child maintenance payments and effect on income poverty: analysis of the Family Resources Survey - written submission to the Work and Pensions select committee child maintenance service inquiry, 20<sup>th</sup> September 2016. Available here: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/child-maintenance-services/written/39518.html>. Poverty defined as below 60% median net equivalised income before housing costs and Hakovirta, M, Meyer, D, Skinner, C, 2019, Does paying child support impoverish fathers in the US, Finland and the UK? Paper presented at the 23rd annual conference of the society for the social work and research, San Francisco, January 2019. Version 16.4.2019. Poverty defined as below 50% median household disposable income, before housing costs, with household as basic unit for analysis.

<sup>65</sup> Skinner and Keung, 2016. Poverty defined as below 60% median income before housing costs.

*Child maintenance and work incentives*

We heard from several consultees that the child maintenance formula can leave some paying parents with weak work incentives and some can be better off out of work. For example, one consultee noted “I have no issue in paying [child maintenance, but]..., they need to realise we need to eat...because of what they’re [sic] taking, I’ve considered leaving my job as we’d be better off as a family, it shouldn’t have come to this.”

The table below tries to illustrate the impact of child maintenance on work incentives as it sets out the marginal effective tax rates, a measure of work incentives, for an example paying parent. In this example, they are claiming Universal Credit and earning £200 per week, which is approximately the same as working 25 hours on the National Minimum Wage.

**Figure 4, illustrative marginal effective tax rates for a paying parent on Universal Credit earning £200 a week and paying basic rate of child maintenance.**

	1 child	2 children	3 children
<b>Maintenance fees</b>			
Without fees	79.4	83.4	86.4
With Collect & Pay fees (20%)	81.8	86.6	90.2

Figure 4 shows that for every extra pound earned, the paying parent loses around 80-85 pence in lower benefits and child maintenance payments, rising to just over 90 pence if they have three children and use the Collect & Pay service. This compares to a marginal effective tax rate of 67%<sup>66</sup> for a single adult with no children in this scenario

A paying parent may face higher marginal tax rates, and so even weaker work incentives, if they are also receiving Council Tax Support but earning enough to be on the taper rate (which has typically been around 20%).<sup>67</sup> Or under the legacy system, if they were simultaneously on the taper of, for example, Housing Benefit (65%) and Work Tax Credit (41%).

We do not know exactly how many paying parents face poor work incentives as a result of the child maintenance scheme, largely due to a lack of data. While it is difficult to calculate the total impact on work incentives using existing data, previous

<sup>66</sup> This corrects an earlier version of the report in which the figure was recorded as 75%. We are grateful to Dr Christine Davies for bringing the error to our attention.

<sup>67</sup> Council tax support varies across Local Authorities. See <https://www.ifs.org.uk/uploads/publications/comms/R153.pdf> page 23

research has suggested that once Universal Credit is fully rolled out, around 640,000 paying parents could face marginal effective tax rates between 87% and 107%.<sup>68</sup>

However, the true impact of the child maintenance formula on work incentives is opaque because it may not be viewed as an effective tax by paying parents. The way earnings are considered in the child maintenance calculation also makes it difficult to assess the true impact on work incentives – the CMS use HMRC annual income data from the latest available complete tax year. However, if the paying parent can prove their current annual income is at least 25% more or less than the figures from HMRC, the CMS will use that amount.<sup>69</sup>

### *Concerns with the child maintenance formula*

The child maintenance formula does take into account certain characteristics of the paying parent, such as children living in their household and other children the paying parent is paying child maintenance for. However, a large number of our consultation respondents and stakeholders raised concerns about the formula, which may affect the ability of a parent without main caring responsibility to share care. This is especially the case for such parents in the social security system who, as a result of being treated as a single adult, may already be struggling to meet the fixed costs of shared care.

A key issue with the formula is that it does not appear to factor in the paying parent's ability to pay child maintenance so they can also maintain a basic standard of living. That is important for parents who share care because it impacts on the children's welfare when they stay with the paying parent.

The rates of child maintenance vary across earnings bands (see Figure 5 below). The thresholds were originally set to help ensure the paying parent could "...keep enough of their income to maintain an adequate standard of living."<sup>70</sup> However, they have not been updated since they were set in 1998 and so in real terms paying parents now pay child maintenance on lower incomes than was originally intended. And while the DWP's green (1998) and white (1999) papers pointed to some evidence underpinning their rationale for certain elements of the formula, this evidence has not been updated since.<sup>71</sup>

Consultees and stakeholders highlighted several other concerns with the formula, including:

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<sup>68</sup> The Centre for Social Justice, (2019), The hidden parent poverty trap: child maintenance and Universal Credit. Available at: [https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2019/03/CM-Universal Credit - Publication.pdf](https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2019/03/CM-Universal%20Credit%20-%20Publication.pdf)

<sup>69</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/672432/how-we-work-out-child-maintenance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672432/how-we-work-out-child-maintenance.pdf)

<sup>70</sup> Voiceofthechild.org.uk. Available at: <https://voiceofthechild.org.uk/wp-content/uploads/2017/09/Appendix-A.pdf>, cited in the Centre of Social Justice report, 2019: The Hidden Parent Poverty Trap: Child Maintenance and Universal Credit. Available at: [https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2019/03/CM-Universal Credit -Publication.pdf](https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2019/03/CM-Universal%20Credit%20-%20Publication.pdf)

<sup>71</sup> For example, in the Green Paper, a proposed 15% basic rate for one child was based on evidence at the time about the cost of raising a child as a proportion of the budget of a family with one child, with both parents sharing the costs. See DSS (1998) Children First: a new approach to child support, Cm 3992, London: HMSO and DSS (1999) A new contract for welfare: children's rights and parent's responsibilities, Cm 4349.

- **It does not reflect the true costs of raising a child** – it does not factor in the regional variation in childcare costs or that costs vary by age of the child;
- **Reduction in payments for overnight stays with the paying parent do not reflect costs of either parent and creates perverse incentives for the receiving parent** – there are fixed costs associated with having a child to stay, for example needing a spare room for children to sleep in and we heard examples of parents needing to buy additional clothes for their children as parents refused to share them. Child maintenance payments are reduced if the paying parent has their children to stay overnight, which DWP told us are “a reasonable reduction to reflect the cost of the care the paying parent provides.” However, we heard that the reduction is not enough to enable paying parents to cover their fixed costs and are not seen as “fair” because even if the paying parent has their children to stay for half of all the nights a year, they still pay child maintenance to the other parent.<sup>72</sup> And the parent in receipt of child maintenance also has to manage their fixed costs of looking after the children, but with reduced child maintenance. We heard examples of how this (reducing child maintenance payments for overnight stays) is creating a disincentive for receiving parents to allow their children to stay with the paying parent;
- **It does not reflect household earnings of the receiving parent** – so there may be instances where a paying parent on low income struggles to meet their child maintenance payments, but a receiving parent who has re-partnered with a high earner may benefit from their earnings and so be able to afford to pay for expensive items and activities, such as holidays, for their children. We heard that paying parents in such situations can be left feeling depressed and worthless as a result;
- **It does not accurately reflect travel costs for the paying parent to see the children** - the receiving parent may (and can) decide to move away from the other parent, perhaps to be closer to their own parents. That means the paying parent faces travel costs to see their children. Paying parents can apply for a variation so that the income used to calculate their child maintenance payments factors in travel costs (and expenses). However, we heard that the travel allowance used does not reflect actual travel costs, leaving paying parents facing high costs or the decision to move, which may not be possible if there are limited employment opportunities or housing costs are prohibitively high; and
- **Earnings fluctuations are not always factored into the formula which can leave some paying parents on low incomes struggling to pay** – the CMS uses earnings data from the HMRC from the latest available tax year; if the paying parent can prove their actual gross annual income is 25% more or less than the figure used by HMRC, the calculation can be updated. However, for someone on low income, even a small variation in income (for example self-employed and on zero hours contracts) can affect their ability to pay child maintenance. Yet if they cannot pay, paying parents face enforcement action by the CMS, including fees.

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<sup>72</sup> Assuming they are not equally sharing day to day care

In addition, respondents to our consultation told us that the variation in child maintenance rates across different earnings bands is complex. For example, in the example below, a paying parent with one child, earning between £100 and £200 a week pays a flat rate of £7 plus 17% on earnings between £100-£200 in child maintenance. Those with earnings between £200 and £800 a week pay 12% on gross income and those with earnings above £800 pay 12% on the first £800, and 9% on the remainder above £800.<sup>73</sup>

**Figure 5 Child maintenance paid by an example paying parent at different levels of gross weekly income<sup>74</sup>**

Rate	Gross weekly income	Percentage of gross weekly income paid		
		1 child	2 children	3+ children
Basic plus	£800.01-£3,000	Basic rate and then 9% on income above £800	Basic rate and then 12% on income above £800	Basic rate and then 15% on income above £800
Basic	£200-£800	12%	16%	19%
Reduced	£100.01-£199.99	Reduced rate at £7.00 for the first £100.01 of income then 17% for the remainder	Reduced rate at £7.00 for the first £100.01 of income then 25% for the remainder	Reduced rate at £7.00 for the first £100.01 of income then 31% for the remainder
Flat	£7-£100*	£7	£7	£7
Nil	Less than £7	£0	£0	£0

*Note: assumes does not have children over for more than 52 nights a year. If earning about £3000 per week, the receiving parent can apply to a court for extra child maintenance*

*\*or they/the partner who they live with receives certain benefits (if the paying parent or their partner are getting any of these benefits, the CMS normally takes the child maintenance direct from the benefit or Pension Credit)*

See: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/672432/how-we-work-out-child-maintenance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672432/how-we-work-out-child-maintenance.pdf)

<sup>73</sup> The 2012 rules were subject to two public consultations. DWP told us that the intent was that the percentages would allow the new calculations to work in broadly the same way as the pre-2012 scheme. And that although no specific rationale was stated for *how* the percentages were chosen, the DWP were keen to ensure that calculating liabilities on the basis of gross income would not disproportionately affect those in higher tax brackets.

<sup>74</sup> Table taken from The Centre for Social Justice, (2019), The hidden parent poverty trap: child maintenance and Universal Credit. Available at: <https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2019/03/CM-Universal-Credit-Publication.pdf>

## 5. Treatment of separated parents in the social security system

This chapter considers the treatment of separated parents in the social security system and, given the large number of responses we received, their treatment in the child maintenance system. This section draws heavily on first-hand experience of separated parents who submitted evidence through our public consultation as well as views from third-party organisations who work with separated parents who need support. As such, it is likely that the views expressed below may not reflect all separated parents in the population. However, this should not diminish their importance. Indeed, it highlights the difficult challenges faced by some separated parents within the system, in often vulnerable situations, and it appears they are not all getting the support they need.

We heard that many separated parents feel they are not being treated fairly or sensitively in the social security system during what is a stressful period. For example, one consultee noted that in trying to claim for child-related benefits under Universal Credit, he was asked to prove he had main responsibility for his children, but when he asked if the other parent had to, he was told “of course not.” He found this “offensive” and “sexist.” The same consultee felt “utterly useless, dejected and let down by the benefit system” which has shown a “lack of care, compassion, help and advice.”

We also heard examples of parents claiming tax credits having to prove they had separated from their partner as HMRC are concerned about potential tax fraud if there are “undisclosed” partners with income. However, it can be very difficult for separated parents to get the evidence from the other parent, such as bank statements and utility bills, if they do not have an amicable relationship, which adds further stress.

We heard it can be particularly difficult for separated parents who have escaped from an abusive relationship. For example, one consultee had their tax credits for their four children frozen for seven weeks until they could prove the children lived with them because their partner had claimed Child Benefit for one of their children when they were together: They said “...it’s really hard and it added to the stress that I was under at the time.”

Parents escaping to a refuge can face significant delays to their benefit receipt, which one consultee noted were the result of factors such as “...the complexity in their change in circumstances [and] the level of consent required by DWP from an individual...” Refuges have reported that parents can sometimes wait up to 10 weeks for payment.<sup>75</sup> Positively, claimants can apply for benefit advances and DWP have recently committed to improve help with advances. However, advances must be repaid over a 12-month period which once consultee felt can “have a huge impact on their available resources and may push them, and their children, into poverty.”

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<sup>75</sup> Policy in Practice, Universal Credit: making it work for supported housing residents, October 2018. Available here: <http://policyinpractice.co.uk/wp-content/uploads/Universal-Credit-and-Supported-Housing-23Oct18.pdf>

We also heard that the process of transferring benefit entitlement after separation can take weeks, leaving some parents without vital income to support their family. For example, Child Benefit receipt is used to determine eligibility for Income Support (IS).<sup>76</sup> As there are often delays to resolving competing claims for Child Benefit, we heard that some lone parents, often having escaped from violent or abusive relationships, can find themselves without IS, for several weeks after separation.<sup>77</sup>

We also heard that separated parents are not getting consistent and helpful advice to help them navigate what is a complex social security system and its interactions with the child maintenance system. In compiling this report, we found it difficult to find consistent and helpful advice on eligibility for different benefits, particularly as a parent without main caring responsibility. Positively, the Government launched “Sorting Out Separation”,<sup>78</sup> a website for separated parents dealing with divorce or separation, produced in partnership with a range of specialist organisation. It includes some information on benefits and child maintenance and aims to develop and co-ordinate the support available to separated parents. However, the information available is only partial and in particular lacked detail around eligibility for benefits for both parents where couples do not agree.

### *Experience with the Child Maintenance Service (CMS)*

A 2016 Child Maintenance Service (CMS) client satisfaction survey found that around 60% of clients were satisfied with the CMS.<sup>79</sup> However, a significant minority were unhappy with the service they received.<sup>80</sup> Indeed, we heard from many consultees who were frustrated by CMS and felt very poorly treated. Several consultees reported a lack of consistent and accurate information from staff members which, in some cases, led to the paying parent facing child maintenance arrears despite being told their case was closed. Some reported poor or no communication, leaving parents confused and both parents unsure of what child maintenance payments are due.

Some stakeholders highlighted examples where a lack of joining up between departments added further stress to parents. For example, court orders on child arrangements that could not be understood by the CMS for child maintenance calculations. Or CMS struggling to get the latest accurate earnings information from HMRC which makes it difficult to assess the amount of child maintenance due.

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<sup>76</sup> Universal Credit has replaced Income Support for most people, although lone parents with a child under 5, working less than 16 hours and on low income, and in receipt of a benefit with a severe disability premium can still apply for Income Support. <https://www.citizensadvice.org.uk/benefits/help-if-on-a-low-income/income-support/before-you-claim-income-support/check-if-you-can-get-income-support/>

<sup>77</sup> <http://www.cpag.org.uk/sites/default/files/uploads/A%20question%20of%20responsibility.pdf>. In the worst case scenario, it can take in excess of 16 weeks for someone to start receiving Child Benefit following separation. The best case scenario is 3-4 weeks (assuming the other parent was in receipt of Child Benefit pre separation)

<sup>78</sup> <https://www.sortingoutseparation.org.uk/about-this-website/>

<sup>79</sup> DWP (2016), Child Maintenance Service client satisfaction. See:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/576929/child-maintenance-service-client-satisfaction-statistics.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/576929/child-maintenance-service-client-satisfaction-statistics.pdf)

<sup>80</sup> DWP (2016), Child Maintenance Service client satisfaction. See data tables at

<https://www.gov.uk/government/statistics/child-maintenance-service-client-satisfaction>. Around 40% of clients were either dissatisfied or very dissatisfied with the CMS. The survey also found that 79% of CMS clients were happy with the level of service they received, with 21% being dissatisfied or very dissatisfied.

Many paying parents we heard from felt that the receiving parent's views are "taken as gospel" by the CMS, while the "non-resident is always viewed with disregard and basically discriminated against." For example, Child Benefit receipt is used to determine who should receive child maintenance. If a parent wishes to contest the Child Benefit presumption, then the onus is on them to prove their case. However, we heard it is difficult to do so – even with court orders – and the CMS often assume the other parent (in receipt of Child Benefit) is telling the truth even if there is evidence to the contrary.<sup>81</sup> In Scotland, one consultee highlighted gender bias within the health and education systems which makes it even harder for fathers to prove their case – some education and health forms have no room for entering the father's contact details even though which parent is listed as a contact on these forms helps determine Child Benefit eligibility.

Many consultees felt they were not treated fairly or reasonably by the CMS and as one consultee put it, was "...made to feel like a bank, not a father who wants to look after their children." Sadly, we heard too many consultees say that their experience with the CMS, including a lack of consideration about whether the paying parent can afford to pay child maintenance (and fees), meant they had considered suicide.<sup>82</sup>

### Summary

This report has shown two areas that need further investigation. First, as highlighted in this chapter, the process of separation – it is an emotional and challenging period for separated parents and their children, but we have heard that the social security system is failing to give them adequate support. We heard examples of how the system is adding to their stress, as a lack of clear, consistent and helpful advice makes it hard for separated parents to navigate what is (perhaps for understandable reasons) a complex social security system.

Second, this report highlights the need for improvements in the system to help parents manage shared parental responsibilities after separation. There is not a clear government strategy for the social security system with respect to separated parents and the Government does not appear to be considering separated parents and their children's welfare as a joined-up issue. As a result, some separated parents, particularly parents without main responsibility of care, are struggling to afford to look after their children, which can have a negative effect on their mental health and their children's welfare.

The Family Tests, which includes a specific question on the impact of policy on separated families, suggests the Westminster government sees separated families as an important sub-group.<sup>83</sup> However, the Family Tests are not mandatory, they only

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<sup>81</sup> We heard one example from a legal advisory body of a resident parent fraudulently claiming child benefit as the child was in work. The non-resident parent had the child's pay slips and confirmation from the college he had left. However, the CMS assumed ignored the evidence and said the non-resident parent still had to pay child maintenance because the resident parent was still receiving child benefit.

<sup>82</sup> Relationship breakdown on its own can contribute to suicide risk, especially among divorced men. In 2015, divorced men were almost three times likely to end their lives than men who were married or in a civil partnership. <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/articles/whoismostatriskofsuicide/2017-09-07>

<sup>83</sup> See

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/368894/family-test-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/368894/family-test-guidance.pdf)

## Social Security Advisory Committee

apply to policies after 2014 and are not applied retrospectively. They are also used irregularly in current policy development.

We believe that improvements are needed to ensure separated parents are not unduly suffering. This means that current and future policy should consider the impact on both parents, not just the parent with main responsibility of care. In particular, policy should ensure the system does not disincentivise shared care as it may have a negative impact on the children's welfare. And while there has been a completely valid focus on reducing the high rates of lone parent poverty, policy must consider the poverty rates of both parents and impact on children living in poverty and hardship when they are with *either* parent.

## 6. Recommendations

### Recommendation 1

Articulate and publish the Government's strategy for separated parents (including parents without main caring responsibility) and their children with respect to the social security system.

We recommend that the Government defines and publishes a strategy for separated parents and their children with respect to the social security system. This includes setting out what it wants to achieve, a set of guiding principles, and how it plans to achieve its objectives. Ideally, this strategy would be set within an overarching government strategy for separated parents, covering all relevant departments and child maintenance.

We think a key principle is that it should centre around the welfare of the child (in line with the UN Convention on the Rights of the Child), but in doing so, considers the impact on the child's welfare of the living standards of *both* parents (not just the parent with main responsibility) and their ability to share care.

The current system does not meet these principles; in particular, it presumes that there is one main carer, despite the range of shared care arrangements in place within separated families. As a result, some parents without main caring responsibility are being pushed into hardship, may face poor work incentives and are unable to share care of their child, which may not be in the best interests of their child's welfare.

Of course, the picture is complex and so designing an optimal system that does not inappropriately discourage shared care arrangements, is deliverable and minimises other perverse behavioural responses is not easy. Indeed, DWP and HRMC told us that the current eligibility criteria for Child Tax Credit "is seen as the most appropriate way to deal with the majority of families with children..." and "splitting the benefit...would be administratively complex and costly."

Defining the Government's strategy will require further work within DWP and across a number of other departments. This includes engaging with the devolved administrations on the consequences of trying to align a strategy, to ensure transparency and consistency of treatment of separated parents (and so, the impact on the child's welfare). In particular, in Scotland, where the parliament has set up a cross party working group looking at separated parents,<sup>84</sup> DWP should join up with this group to ensure a joined-up approach and learn lessons from progress so far.

We believe that a cross-departmental working group should be set up to lead urgent action on these issues. This group should consider the impact of policy on living

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<sup>84</sup> <https://www.parliament.scot/msps/shared-parenting.aspx>

standards of both parents and the net impact of policy on the children's welfare. It should consider how:

- the social security system could better reflect shared care relationships that are not detrimental to the parent without main caring responsibility and are deliverable;
- to ensure the benefit system and interactions with the child maintenance formula do not unduly result in poor work incentives or push one parent into hardship;
- to ensure separated parents can easily access the right information and support from the social security system. The Government's "Sorting Out Separation" website was a welcome step but more needs to be done to help both parents effectively navigate the complexity of the system; and
- the social security system and interactions with the child maintenance system affects the hardship of both parents (including those without main caring responsibility) and children.

### **Recommendation 2**

Improve the quality and availability of data to get a better understanding of the scale and nature of the problems created by the social security system and its interaction with the child maintenance system. This data should also help define evidence-based policy solutions to deliver the Government's strategy and allow progress against the strategy to be assessed and monitored objectively.

A lack of robust and detailed data constrains our understanding of the population of parents without main caring responsibility and ability to assess the impact of government policy. We know that there are relatively little administrative data available and what is available is based on small sub-groups of the separated parent population.

One way to improve the availability and quality of data would be to set up a new longitudinal study. However, we know this would be expensive and there are limited resources available.

We therefore recommend that, as part of the cross department working group (as in Recommendation 1 above), departments consider ways to work together to improve the quality and availability of existing administrative data. In particular, we believe there may be merit in exploring how existing administrative data held across a number of different departments could be linked and analysed to better understand the living standards of both parents and their children and impact of policy.

**Recommendation 3a**

The housing element of Universal Credit should enable young parents, under 35 years, who are sharing care and paying child maintenance, to have their children to stay overnight.

In general, we are not making recommendations about changing benefit rules because better data is needed first, alongside a government strategy (Recommendations 1 and 2). However, we think that there are obvious challenges with housing support benefits which should be urgently addressed.

The current Housing Benefit/housing element in Universal Credit policy makes it very difficult, especially for young, non-resident parents to share care. This is because, at present, parents without main caring responsibility aged under 35 are only entitled to the “shared accommodation rate” of Housing Benefit in the private rented sector. So, where a young paying parent can show they are paying child maintenance, which suggests they want to play a role in their child’s upbringing, we recommend that the benefit system supports them to have their child overnight by exempting them from the “shared accommodation rate.” In practice, this would mean that they become eligible for the one-bed self-contained Local Housing Authority rate for the housing element of Universal Credit.

We realise that this policy will cost money but given the potential (positive) impact on children’s welfare and detrimental impact the current policy has on non-resident parents, we think it is worth pursuing. It is not possible to cost this policy as we lack the data, but we suspect it will not be expensive given the likely size of the eligible population of parents. Such a reform could lead to behaviour changing in a way that further increases the cost. However, these changes are unlikely to be large and the extent to which separated parents respond by spending more time with their children, and become more likely to comply with maintenance payments, these behaviour changes could be very welcome.

**Recommendation 3b**

DWP considers options for the system to support all non-resident parents with more than one child to stay with them overnight.

We also recommend that DWP considers wider options to support parents without main caring responsibility and with more than one child to have their children overnight, such as allowing additional bedrooms for older children of different gender. This should be informed by an assessment of the impact of current policy on the ability for these parents to have their children to stay overnight.

We are aware that there may be behavioural impacts of potential changes to policy. For example, there is a risk that attempts to increase the generosity of housing

support for parents without main caring responsibility may provide financial incentives for couples to separate or to claim that they have separated. Any future changes should factor these issues, and mitigation strategies, into policy design. However, we do not believe that these risks on balance should prevent the potential benefits to child welfare, due to reforming current policy, from being realised.

We recommend that DWP should publish their evidence on the impact of current policy and policy solutions and state which options, if any, they will take forward and by when.

### **Child Maintenance formula**

A number of consultees raised problems with the child maintenance formula. Some of these are due to the formula's interaction with the social security system. However, we also heard a range of concerns and complaints about wider challenges created by the formula and the way it impacts on parents without main caring responsibility.

While the formula is technically not within the committee's remit, given the relatively large amount of evidence we received, we would encourage DWP to revisit the formula to ensure it is deliverable but also reflective of the costs of raising a child and considers the impact on living standards of both parents.

We know that it is not easy to design an optimal formula that can incorporate the complexity of shared care arrangements and family structure without creating perverse incentives for strategic bargaining over child support, while also being administratively feasible. As such, a review is likely to take time, but action is needed in the nearer term to deliver improvements because groups in vulnerable situations are suffering.

We think there are some elements that the Department could consider more quickly:

- revisit and review the earnings thresholds for maintenance payments, which have not been updated since 1998. Going forwards there is a strong case for these thresholds to be indexed in some way;
- ensure travel subsidies more closely reflect the actual travel costs faced by parents in traveling to see their children;
- consider how best to capture the variation in costs of raising a child by age.

We would urge DWP to set out how it plans to make improvements in the short and longer term to improve the child maintenance formula, with a specific focus on its interaction with the social security system, to ensure it factors in the well-being and living standards of both parents and their children.

## Annex A: Benefit eligibility and child maintenance rules

### Child Tax Credits

Where a claim for Child Tax Credit (CTC) is made by one or more persons, only one person can be treated as responsible for a child or qualifying young person. Responsibility is determined by whoever has “main responsibility” for a child, however because “main” is not defined in regulations the term is given its “normal everyday meaning.”<sup>85</sup> If it is unclear who has main responsibility then HMRC consider facts including (although “the list is not exhaustive”):

- who the child or qualifying young person normally lives with and where they keep the majority of their belongings such as clothes, toys
- who is responsible for the day to day spending for the child or qualifying young person such as buying clothes, food and providing pocket money
- who the main contact is for school/college/nursery/childcare
- who is responsible for the health care and hygiene of the child or qualifying young person such as making appointments with the doctor/dentist, doing the child or qualifying young person’s laundry
- what is the registered address for contact for the school/college/nursery/child care, healthcare
- who has legal custody of the child or qualifying young person
- normally, a child or qualifying young person who is placed as a result of a Residence Order, a child arrangement order or a Special Guardianship Order, is considered the responsibility of the person named on that order.

Child Benefit receipt is not considered as a factor in determining who has main responsibility.

### Housing Benefit

Eligibility for family Housing Benefit receipt (ie a parent with a child living with them) depends on who the child normally lives but if the child spends equal time with their parents or the parents disagree on who the child lives with, then Child Benefit receipt is used to define the parent with main responsibility.

### Child Benefit

If more than one claim for Child Benefit is made or more than one person has entitlement, legislation provides that only one person shall be entitled in accordance with the following priority order <sup>86</sup>:

- the person with whom the child is living,
- between a husband and wife who are residing together - the wife,
- where the child lives with a parent and another adult - the parent,

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<sup>85</sup> <https://www.gov.uk/hmrc-internal-manuals/tax-credits-technical-manual/tctm02203>

<sup>86</sup> <https://www.gov.uk/hmrc-internal-manuals/child-benefit-technical-manual/ChildBenefit08001>

## Social Security Advisory Committee

- between parents who are living together but not married - the mother,
- between people not coming under any of the above - the person they jointly elect to have priority, see CHILD BENEFIT TM08040
- when all the people entitled cannot agree priority - an officer of Her Majesty's Revenue & Customs may decide priority

We could not find the exact list of factors that HMRC consider in deciding eligibility if it is still not clear who is responsible, based on the criteria above. However, HMRC's consultation response says "...questions are asked about which address is used for school/doctor, who looks after the child when ill and what are the terms of the residence order (if any)...It is also relevant to take account of financial provision for the child, since Child Benefit is intended as a contribution towards that provision, but this is only an indication of the degree of responsibility borne as one parent may be less able to contribute financially than the other. Consideration may also be given to the wider financial impact of awarding Child Benefit, in particular, entitlement to the other social security benefits."

### Child Maintenance

DWP told us that the receiving parent (of child maintenance) is - with whom the child has their home, who usually provides *day to day care* of the child, and does not fall into a category excluded by child maintenance legislation.

As described above, DWP presume that the person receiving Child Benefit has primary responsibility for *day to day care* and so should be the receiving parent. But if a parent wishes to challenge this presumption (or it is not clear who has primary responsibility for *day to day care*), then the onus is on them to support their claim. The parent must submit evidence on the following factors and any other factors that they wish to be considered:

- who does the child spend most of their time with when they are not at school / nursery / childcare?
- who pays for most of the child's clothes and meals?
- who arranges and pays for any childcare costs?
- who is the usual contact for the child's school / child-minder etc.?
- whose GP / dentist is the child registered with and who arranges appointments / accompanies the child?
- who has the greatest involvement with the child's recreational activities and is responsible for paying for them?
- who already receives financial support (if any) such as benefits or local authority assistance for the child?

The other parent is also given the opportunity to comment on any evidence provided and to submit their own information. Verbal evidence can be accepted if it is agreed by the other parent. If verbal evidence is not agreed, the person making the challenge will be required to provide further evidence. Examples include the following:

## Separated parents and the social security system

- schools, GPs, dentists: evidence from these showing that they are the main contact, or an equal contact with the parent with care
- child care - written evidence from the care provider showing they are the main or equal contact or had a main or equal part in the drawing up of any childcare contract
- evidence from bank statements, receipts, contracts etc. which shows they have a main or equal involvement in major spending decisions on the child.

Evidence provided by both parties is used to make a decision, on the balance of probabilities, who is providing the greatest level of day to day care for the qualifying child. This person will be treated as the receiving parent.

If the evidence shows that both parties are effectively providing equal day to day care of the qualifying child, then neither parent can be treated as the paying parent. In that event, we would close the case or reject the application.

**Annex B: Membership of the Social Security Advisory Committee**

- Liz Sayce
- Bruce Calderwood\*
- David Chrimes
- Carl Emmerson\*
- Chris Goulden\*
- Philip Jones
- Jim McCormick
- Gráinne McKeever\*
- Dominic Morris
- Seyi Obakin
- Charlotte Pickles\*
- Victoria Todd

\* indicates members of the Committee’s Independent Work Programme sub-group.

**SSAC Secretariat**

- Denise Whitehead (Committee Secretary)
- Nishan Jeyasingam (Secretariat)



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