Parliamentary Commissioner for Administration

THIRD REPORT—SESSION 1995–96

Investigation of complaints against the Child Support Agency

Presented to Parliament Pursuant to Section 10(4) of the Parliamentary Commissioner Act 1967

Ordered by The House of Commons *to be printed 6 March 1996*

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INVESTIGATION OF COMPLAINTS AGAINST THE CHILD SUPPORT AGENCY—A FURTHER REPORT

Introduction

1. The Child Support Agency (CSA), an executive agency of the Department of Social Security (DSS), was set up in April 1993 under the Child Support Act 1991 to administer the assessment, collection and enforcement of child support maintenance. In September 1993 I began to receive complaints referred to me by Members of the House of Commons from individuals who were alleging maladministration by CSA. Many of the complaints sent to me were, and continue to be, about the policy underlying the legislation: that is outside my jurisdiction. Many complaints were about the financial assessment of support for children and single parents. Such assessments are open to appeal to Child Support Appeal Tribunals and are not for me. In August 1994 I decided with regret that given the number of individual complaints against CSA I was already investigating it was not the best use of my resources or of benefit to complainants for me to investigate additional individual complaints unless they involved aspects of CSA's work which had not previously been brought to my attention, or unless the complainant had been caused actual financial loss. I took the view that investigation of a number of representative cases should identify the administrative shortcomings needing to be remedied and that resulting improvements to the system should bring general benefits in which other complainants would share. Despite those restrictions on investigations taken on, by the end of 1994 the number of Members who had put complaints involving CSA to me came to 95. I had accepted for investigation some 70 cases.

2. In January 1995 I issued a special report on complaints I had investigated involving CSA in which was included a statement by the Agency's Chief Executive, Miss Ann Chant, setting out her plans for improving its standard of service. Since then I have continued to monitor the Agency's work closely. By the end of 1995 the number of Members who had put complaints about CSA to me had risen to 270 and, despite the restrictions referred to above, I had accepted for investigation some 195 cases. In 1995, despite the restrictions, complaints about CSA made up almost one third of all cases taken on for investigation - considerably more than any other single government department or agency. Since receiving the first complaint about CSA, and despite making the restrictions known, I have turned away over 320 individual referrals for investigation, mostly on the basis that those cases contained no new features and involved no irrecoverable financial loss. Included in that figure are 23 cases which were resolved by my staff making informal enquiries but which might otherwise have resulted in a formal investigation.

3. In view of the considerable and continuing public and Parliamentary interest I now lay before Parliament in this report under section 10(4) of the Parliamentary Commissioner Act 1967 a further selection of cases involving CSA which I have investigated. The report is in a number of sections each dealing with a specific theme recurring in the complaints referred to me. Each section contains illustrative case summaries for completed investigations and brief details of cases on which I have yet to report. The full texts of completed reports are at appendix 2 (some issued by Directors authorised to act on my behalf). Appendix 3 provides a comprehensive glossary of initials used throughout the report and their meanings.

New developments

4. During the course of my investigations in 1995 my staff have visited three CSA centres (CSACs) and interviewed officials whose task it is to administer the Child Support Acts. My staff and I have had discussions with the Chief Executive of CSA as well as with the previous and present Permanent Secretaries of DSS. Their ready co-operation has been of great help to my work.

5. Since my report in January 1995 there have been important changes in the scheme administered by CSA. These changes were made not only in response to widespread criticism of certain features of the scheme and of the way in which the business was conducted but also as a consequence of CSA's own regular review of procedures in the light of experience. Appendix 4 provides a list of the principal legislative and procedural changes introduced since January 1995.

6. I have set out the changes because they have imposed considerable additional administrative burdens on CSA staff. I acknowledge the resilience which they have shown in coping with the changes made while continuing to seek to improve the quality of their day to day administration. In that respect I note that in their report of 24 January 1996 on 'The Performance and Operation of the Child Support Agency' the Social Security Select Committee of the House of Commons said:

> 'A considerable number of operational and administrative improvements have been made to the Child Support Agency since its formation, the last of which [April 1995] were carried out expeditiously. The Agency has shown that it is able to implement significant changes to its operation quickly and efficiently. We believe that the Government should be confident that the Agency will be able to efficiently implement further changes ...' (paragraph 7 of their report).

7. In January 1995 the Chief Executive said when offering me comments on my last report:

> 'The task set for the Agency has proven to be more difficult in practice than had been anticipated when the scheme was devised. In particular, I do not think it was fully appreciated that the Agency's intervention into the most personal and sensitive areas of people's lives would make such a negative impact; nor was it realised how many people would actively resist or reject prioritising child maintenance above nearly all other financial commitments.'

In their memorandum of October 1995 to the Social Security Select Committee CSA said:

> 'As was well recognised, there was initially an orchestrated campaign which, although difficult to quantify, did for a time have a very significant effect on the Agency's performance. Since its launch the Agency and its staff have been subjected to an organised campaign of disruption and non-cooperation by a small minority of clients. The campaign encouraged flooding the system with appeals, reviews, correspondence and telephone calls, the non-payment of fees and deliberate misinformation and delay. The aim has been to delay the receipt of maintenance by parents with care, or payments to the Secretary of State in lieu of benefit; in effect, to disrupt the implementation of approved legislation.
>
> Improvements in the Agency's operations, procedures and performance have considerably lessened the impact of this campaign. This, together with growing public understanding and acceptance of the legislation and the work of the Agency has meant that the effect of such action has reduced, as have the instances of personal harassment and attempted intimidation of Agency staff.'

The Social Security Select Committee reported that:

> 'The Child Support Act would have been bound to attract controversy because of the scope of the social change it brought about, even if the administrative performance of the Agency implementing the Act had been impeccable....We are aware of the great complexities of the formula and the difficulties parents as well as staff have in understanding it as well as making correct calculations based upon it.' (paragraphs 2 and 3 of their report).

In their report of 15 March 1995 on the performance of CSA the Select Committee on the Parliamentary Commissioner for Administration said:

> 'Nor should the difficulty of the work be underestimated. The Agency is in many ways unique. It involves the transfer of money between two separate and contending persons rather than the payment of benefit or collection of contributions. The two parties are often on bad terms.' (paragraph 10 of their report)

8. The complexities were also recognised in the 1994–1995 report of the Chief Child Support Officer, who observed:

> 'Arriving at the correct maintenance assessment is a detailed and complicated process. A degree of complexity is inevitable in a system which aims to arrive at a maintenance liability that closely reflects the circumstances of the individual.
>
> To arrive at a decision the CSO may have to consider over 30 different subjects.'

The Chief Child Support Officer said that during the year his monitoring teams had identified some improvements in standards. Their previous 86% comment rate had fallen to 72% and, importantly, the maintenance assessment had been accurate in cash terms in 43% of cases monitored (previously it was only 25%). Nevertheless, he also said there was still some distance to go before standards might be regarded as generally acceptable.

9. A somewhat similar theme of improvement emerged in the recent report of the Social Security Select Committee:

> 'Progress on improving the quality of administration appears to have been made since we last reported on child support ... The Agency is now on a surer footing and a whole range of indicators suggest that improvements are being made in an attempt to provide an acceptable service.
>
> The Committee welcomes the progress that has been made ... and wishes to see further improvements in administration so that a fully acceptable level of service is reached.' (paragraph 7 of their report)

In their own memorandum of 10 October 1995 to that Select Committee CSA had painted a similar picture:

> 'Significant improvements are already showing in effectiveness and accuracy and the quality which the Agency aims to achieve, but we recognise that much is still to be done to meet the high standards expected of us.'

Staffing

10. I have some concerns that the further reductions in the number of civil servants which are planned to take place will lead to an increased level of complaints. Reductions in staff numbers, organisational changes and new working practices will continue for some time to place individual civil servants under stress. It is only fair that the public should understand that and not take out their irritation on those who try to do their best. There is a real risk that in the absence of reductions in the overall workload the employment of fewer staff will lead both to a slower service to the public and to more mistakes, because individual civil servants will have less time for thought to enable them to pursue considered and prudent action. I doubt whether automation and technology will compensate fully for cuts in human resources. I foresee more, not less maladministration, despite the reference to efficiency savings. Since my report of January 1995, CSA have been given further staff to help them to cope with the matters with which they must deal. While it is not for me to interfere in either policy or the responsibility of those who have to administer CSA, I nevertheless hope that savings will not be required from an organisation which has shown by its past performance how inefficient it can be, if the result is greater inefficiency.

Assessment of CSA's more recent performance

11. My role is to investigate individual complaints of maladministration, and to endeavour to have any resulting injustice remedied. My conclusions on CSA's more recent performance are derived from the complaints put to me and my investigations of them. I acknowledge the invaluable contribution of the Social Security Select Committee to the debate on CSA and I intend my own report with its focus on individual cases and recurring themes to be a practical instrument for helping to raise standards of performance. The selected cases in appendix 2 to this report I have included as illustrative examples of the many individual complaints which have been referred to me. In order to provide as informative a recent picture as possible I have also included brief details of certain complaints which I am currently investigating but on which I have yet to make a full report. These details show that failings similar to those in the selected cases are still around. Unfortunately they and the selected cases also show that shortcomings in certain aspects of operations of which I was critical in my last report—mistaken identities, inadequate procedures, delays and confusion in the assessment and review of child support maintenance and in communicating with other government agencies—continue to occur. Other examples of complaints which have emerged in the last year also represented among the selected cases included in this report are:

— confusion over jurisdiction;

— breaching confidentiality of information;

— delays in initiating maintenance requests;

— problems with interim maintenance assessments;

— failures to take enforcement action promptly, thereby losing the opportunity to obtain maintenance for children;

— delay in passing on monies received from absent parents to parents with care.

I have published those cases which I consider to be most illustrative of the current position, showing where problems have persisted into 1995 despite the valiant efforts of the current Chief Executive and her staff.

12. As I did in my report last year on CSA I record the response of the Agency's Chief Executive. Miss Chant wrote to me on 14 February. Her letter is reproduced in full at appendix 1.

13. The broad conclusions I draw from the cases contained in this report, from the cases which continue to be referred to me, and from the Chief Executive's constructive and sensible responses to my investigations are these. Problems still persist in many of the areas highlighted by my previous report, but significant progress has been made. That progress has not been far enough or fast enough to avoid a great many people sustaining injustices as a result of maladministration by the Agency. A particularly disturbing theme in the complaints put to me is the number of individuals who have taken up their grievances with CSA in a constructive and reasoned way without getting satisfaction. In some cases CSA have had matters under consideration for a very long time without resolving them. In other cases complaints have simply not been given proper consideration; or have been ignored altogether. Although there will always be some individuals who will remain dissatisfied even after prompt and correct remedial action, CSA have missed opportunities to resolve matters in far too many of the cases referred to me. Opportunities missed to take prompt action to remedy justified complaints mean that grievances and mistrust build up which fester then for many months. The result is that far too many complainants have to turn to me as their last resort and that in turn generates the additional administrative burdens on CSA which my investigations inevitably impose. The suggestion I made in May 1995 that CSA should appoint an independent

complaints adjudicator, along the lines of the adjudicators made use of by the Inland Revenue, Customs and Excise, the Contributions Agency, the Prison Services and Companies House, has been under consideration by CSA but still no appointment has been made. I see that as a missed opportunity. Appointment to such a post would provide a more structured and impartial element and more urgency to CSA's internal complaints mechanisms with benefit to CSA and complainants alike in the longer term.

Maladministration and redress

14. A key purpose of investigating individual complaints is to secure redress where justified and obtaining redress for those whose complaints I have found to be justified has formed an important part of my dealings with DSS over the last year. It is right to note at the outset that, almost without exception, every individual complaint which I have investigated has resulted in an apology on the part of CSA. I say that not as an indictment of CSA, but as a reflection of the complexity of their business and of the potential for dissatisfaction when, as they must, they deal with two or more parties whose interests are often in direct conflict. A point made by the Chief Executive merits repetition: that in the cases with which CSA deal there is a built in bias towards conflict. Where parties agree about maintenance matters and keep to that agreement there is no need for CSA to be involved; it is only where there is already disagreement, or where a parent with care of children is in an inadequate position and is required to co-operate with CSA because she or he is in receipt of benefit, that CSA become involved. An apology and an acknowledgement of fault (where justified) are the first steps in the resolution of a problem.

15. In their report of 15 December 1994 on Maladministration and Redress the Select Committee on the Parliamentary Commissioner for Administration offered full support to my view that departments should aim to restore complainants to the position they would have been in had maladministration not occurred. The Government response to that Select Committee recommendation said:

> 'The Government agrees that, where maladministration has led to a direct and readily quantifiable financial loss, departments and agencies should seek to set redress at a level which would return the complainant to the position he or she would have been in if the maladministration had not occurred. Revised Treasury guidance will make this general principle clear. [That guidance has yet to issue.]
>
> Where maladministration has caused injustice which cannot be measured in financial terms it will not always be possible to undo or restore the position, but departments and agencies should offer other remedies such as an apology and correction of systems to ensure that such injustice is not repeated.'

The Select Committee also recommended:

> '... that all departments ... automatically consider whether compensation for worry or distress is due in the case of a justified complaint.'

To that the Government replied:

> 'The Government accepts that departments should consider whether maladministration has caused worry and distress to complainants and whether this should be taken into account in determining redress. However, the Government agrees with the Ombudsman that financial compensation in respect of worry or distress can be justified only in very exceptional circumstances.'

16. CSA differ from other DSS agencies. CSA do not deal with the payment of benefit, or the collection of funds for the state. Instead they provide a service which seeks to arrange for maintenance between two parties for the benefit of

their children. Even so, as the cases investigated by me show, CSA accept the principle of restoring a complainant to the position he or she would have been in had there been no maladministration and they have made *ex gratia* payments in compensation in such cases. Those are cases in which it is possible to measure financial loss, eg. undue delay in sending a maintenance enquiry form depriving an applicant of maintenance for a period; or maintenance being over-assessed causing the absent parent to pay more than the correct liability in circumstances where it is not possible to recover that money; or additional quantifiable costs to a complainant being caused by maladministration. The Permanent Secretary has also agreed with me that, where it is shown that CSA have failed to take appropriate enforcement action, and by the time action is taken there has been a change in the circumstances of the absent parent which means that the absent parent is in no position to pay maintenance, CSA should consider making a special payment if there is evidence that, but for their avoidable delay, they would have collected maintenance. An example would be where an absent parent was employed and, if CSA had made promptly a deduction from earnings order, the parent with care would have received payment of maintenance; however because of a failure to make the order, and by the time that failure was corrected the absent parent having become unemployed (assuming the absent parent had not become unemployed to avoid liability), no maintenance could be collected. In such cases CSA will consider a special payment.

17. Two particular issues which I have been and am still discussing with DSS remain unresolved. The first is over what is a reasonable length of time for CSA to take to issue a maintenance enquiry form (MEF). (The date of issue is the date from which maintenance liability starts in cases where there is no existing court order.) The CSA view is that they should consider an *ex gratia* payment if their total culpability has exceeded three months; that that is a sensible benchmark which, if exceeded, would constitute unreasonable delay. In the early days of CSA's operations I accepted that delays caused by the particular and exceptional volume of their work—provided that there was no evidence of maladministration—should not of themselves attract a compensatory payment; and that cases queuing for attention might not necessarily show maladministration. However, I take the view that CSA should by now be so organised that queuing of cases does not occur where delays can cause irrecoverable financial loss. It is a statutory requirement that a MEF shall be issued 'as soon as is reasonably practicable' after receipt of a valid application for maintenance. I see no justification for a universal three-month 'period of normal delay' rule as regards the issue of a MEF. That is not to say that anything other than immediate action must constitute maladministration—cases should be judged on their merits—but I do not accept that irrespective of the statutory requirement, however straightforward the task and however serious the potential consequences for an applicant, CSA can set an arbitrary period during which they escape the consequences of avoidable delays.

18. The second unresolved issue concerns financial recompense for worry, distress and impairment to health. As to that, in their report on Maladministration and Redress the Select Committee on the Parliamentary Commissioner for Administration supported my view that DSS should reconsider their refusal to grant compensation to those falsely identified as absent parents through maladministration by CSA. The Government response to that Select Committee recommendation said:

> 'The Government does not accept that financial compensation should be paid as a matter of course to people incorrectly identified by the Child Support Agency (CSA) as alleged absent parents. It is made clear to a person receiving a maintenance enquiry form from the CSA that the form has been issued on information provided to the Agency. The recipient is invited to contact the Agency for advice—including those who believe they have been incorrectly identified. If the CSA is at fault, any payment would depend upon medical or other evidence (eg. resulting absence from work) that the person had suffered some material and objective injury to their health directly attributable to the CSA's actions.

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> The CSA operates the general DSS special payments arrangements for reimbursing actual financial loss. DSS is currently considering with the Treasury how best these arrangements might apply to the new and unique business of the CSA.'

I do not make recommendations on financial recompense lightly as the quotation at paragraph 15 makes clear. I do so only when I am persuaded that such a payment is warranted on the facts of a case. CSA have agreed that they will consider financial compensation for worry, distress and impairment to health in cases where they are shown evidence of a deleterious effect on the individual concerned caused by maladministration. (In most cases in CSA's view that will require medical evidence, but that need not be an absolute requirement, depending on the circumstances of the individual case.) On that basis, CSA have made *ex gratia* payments in two of the cases which I have investigated. While I welcome that and recognise the exceptional nature of such cases, I have so far been unable to persuade CSA to make the response I see as necessary in certain mistaken identity cases: those where, through maladministration, CSA have approached the wrong person for maintenance and thereby caused great personal distress, though distress which is not readily susceptible of being shown by medical evidence.

19. I am also currently in contact with DSS on whether in two specific cases distress caused by the incorrect disclosure of personal information is to be regarded as exceptional enough to warrant financial compensation. During discussions which I have had with the Permanent Secretary of DSS, she has told me that she has set up a working group to review the Department's guidance on their special payment rules and to make recommendations for change. CSA, in particular, have been working on the development of a compensation scheme which will reflect the nature of their business. I see that as overdue. In the past too many CSA decisions on compensation have been slow to emerge and have been subject to challenges by my staff as to their adequacy. That has led in some cases to increased dissatisfaction on the complainant's part with the operation of the Agency. I hope more equitable and speedy compensation arrangements will soon be in operation.

20. I make one further point. If, as I understand to be the position at present, CSA are required to pay for redress for maladministration purely out of their own administration costs and if administration costs are to be heavily curtailed the effect of that administrative rule will not simply be to make those who make mistakes feel the effect of their mistakes—which I see in general as a good thing. It will become liable to erode some of the funds which need to be available for good administration to flourish and thereby risk a worse standard of service to those who have dealings with CSA. When administrative rules are not applied with moderation and common sense maladministration occurs.

21. Apologies, and acknowledgements of fault and the provision of financial recompense are undoubtedly important—but there is more to redress than that. Complainants need an assurance that, so far as is humanly possible, identified failings will not be repeated. Appropriate corrective action helps others to avoid sustaining comparable injustices and it improves the quality of service generally available. That is why I attach particular importance to getting rid of systemic defects, those which are liable to affect adversely hundreds or perhaps thousands of individual parents. In large part this has to do with the general competence of CSA. The individual case reports at appendix 2 identify specific instances, which could be multiplied many times over, where the independent scrutiny of an individual complaint has brought to light a specific defect or a particular shortcoming. Had that been left alone it could have adversely affected many other individuals in the future. That is why in their enquiries into a case my staff make a point of ensuring that any wider implications to an individual complaint have been identified and dealt with. That takes time, which I regret. Even so it is time well spent. There is still much truth in the old saying that 'Prevention is better than cure'.

22. As examples of the wider benefits which thorough investigations of the individual complaints can bring I have included at appendix 5 a selection of the remedies obtained in individual CSA cases I have investigated over the past 13 months. Where changes have been made to CSA's working practices the wider benefits are obvious. In the cases where financial redress has been given, sometimes only after prolonged pressure from my Office, I regard those cases as establishing precedents. While every case needs to be considered on its facts, where facts are similar I look to CSA to volunteer comparable redress to other complainants in a similar position without intervention by their Members of Parliament or the Ombudsman. A failure to offer redress fairly and consistently to those affected by maladministration would be inequitable. It would also be maladministration in its own right. That is why I continue to urge CSA to take early action on the appointment of a complaints adjudicator.

W K REID
Parliamentary Commissioner
for Administration

March 1996

COMPLAINTS INVESTIGATED, SECTION ONE; PERSISTING ERRORS

The cases included in this section are further examples of errors of a kind identified in my report of January 1995.

(i) Cases showing general mishandling, delay and confusion over deduction from earnings order (DEO) action.

Complaints persist that CSA have handled maintenance matters badly. Whatever the specific issues raised by a complaint, they are all too often against a background of dissatisfaction with the way in which CSA have handled matters generally. A child support officer (CSO) may impose a DEO against an absent parent (AP) to secure payment of maintenance liability. A DEO is an instruction to an employer to make deductions direct from an AP's earnings. DEO action is normally taken only when it is clear to the CSO that other methods of collection have failed or are likely to fail. Confusion and breakdowns in information about DEO action are aspects which I view particularly seriously since they directly affect not only the income of the individual concerned but that individual's relationship with his or her employer. Furthermore it is a common experience that it is difficult to persuade CSA that such an order is not needed once it has been imposed. It is, therefore, all the more important that individuals are given clear and accurate advice and sufficient notice of CSA's intentions before DEOs are made to enable them to make informed decisions in the light of their maintenance position.

Mishandling of child maintenance affairs, improper imposition of DEO—C.376/95

Matters considered *Mishandling of maintenance affairs, incorrect claim that the AP had not been making payments. Possible detrimental effect of the imposition of a DEO*

Summary of case On 3 March 1994 CSA sent Mr M a maintenance enquiry form (MEF). On 7 July they assessed his liability for maintenance at £72.80 a week from 17 March. They mistakenly told Mr M to make payments direct to the parent with care (PWC) instead of to CSA and said that they would not impose a DEO to recover arrears of maintenance. In September they realised their mistake, took on the collection of maintenance, and sent Mr M the first of several letters about his failure to make maintenance payments. On 3 November CSA received the first payment of maintenance from Mr M. He continued to make regular payments but had incurred further arrears and paid nothing off the arrears owing from 17 March 1994. On 13 March 1995, after sending warning letters, CSA imposed a DEO.

Findings CSA misled Mr M into thinking that they would not enforce payment of the arrears of maintenance due from March 1994. After correcting their advice to him they warned him several times that he was failing fully to meet his liability and gave him ample time to comply before imposing the DEO. The standard letters used by CSA when implementing and reviewing the DEO were, however, inappropriate to Mr M's circumstances. I criticised CSA for slowness in making the maintenance assessment (MA), for their poor handling of correspondence, and for making several careless errors.

Remedy CSA amended the standard letters to cover those cases where the AP is paying regular maintenance but is not paying off the arrears. They agreed to redesign their standard letter for use when changing a DEO after a review of the MA. The Permanent Secretary of the Department of Social Security (DSS) apologised for the poor handling of the case. I regarded all that as a satisfactory response to a justified complaint.

Mishandling of maintenance liability—C.110/95

Matter considered *The handling by CSA of a man's maintenance liability*

Summary of case Mr X was liable for maintenance for his son C from December 1993. In July 1994 he told CSA that son C had started work. In September CSA began dealing with an application for maintenance for Mr X's son N. Instead of closing the account for son C and making a fresh assessment for son N, CSA told Mr X in November to maintain, in respect of son N, the level of maintenance he had been paying for son C. Mr X stopped paying maintenance under a court order for son N but then received a summons for non-payment. In December CSA wrongly reassessed Mr X's liability to cover both sons from January 1994, creating substantial arrears. They gave Mr X and his Member of Parliament inaccurate and conflicting information about the amount he owed.

Findings I criticised CSA for confusing Mr X's maintenance liabilities for his sons, for failing to get them right at the second attempt, and for the poor standard of their correspondence. I found that Mr X had had to go to considerable trouble and expense to obtain a correct statement of what he should pay.

Remedy CSA took advice from Central Adjudication Services (CAS) and corrected Mr X's MA, substantially reducing the amount of arrears he owed. The Chief Executive apologised for the Agency's errors and failure to give clear information. CSA agreed to make Mr X an *ex gratia* payment of £203.56 towards his expenses. I regarded all that as a satisfactory outcome to a justified complaint.

Complaint of imposition of a DEO without adequate warning—C.592/94

Matters considered *The handling of a MA and the imposition of a DEO*

Summary of case On 31 July 1993 CSA sent Mr G a MEF. They said that his liability started from that date. On 6 September they received back the completed form. On 13 November they told Mr G that his MA was £58.67 a week from 31 July. On 28 November the CSA Centre (CSAC) wrote to Mr G asking for an initial payment of £1,047.68 for the period from 31 July to 2 December. He made no arrangements to pay the arrears or to make regular maintenance payments and, after a warning, CSA imposed a DEO.

Findings I found that replies to Mr G's letters were subject to some delay, that the CSAC were slow to take into account voluntary payments which Mr G had been making and that they failed to explain the reason for an additional £10 a month being added to his regular maintenance payment; but I did not find Mr G's main complaints justified. Answers to most of the questions raised by Mr G could be found in letters and publications sent to him which he confirmed he had read, and he made no attempt to agree arrangements for payment. I found no maladministration in the imposition of the DEO.

Remedy The DSS Deputy Secretary of Resource Management and Planning apologised to Mr G for the shortcomings identified in my report. Organisational changes have been made to deal with incoming mail more efficiently and staff have been made aware of the need to reply to all communications properly. I regarded that as a suitable response to a mainly unjustified complaint.

There are two other similar cases on which I have yet to report. In one an AP complained that he asked for a review in April 1994 because in their calculations CSA had used incorrect figures for his pension. After he had agreed with them that, if he paid £10 a week toward his liability, no action would be taken in the meantime to recover the accruing arrears, CSA imposed a DEO without warning in September 1994, without the review having been completed. In the other case an AP complained of continual mishandling by CSA, of poor communications, the wrongful imposition of a DEO, and of prejudice against him by particular CSOs.

While there may have been some progress on this aspect of the work, and while CSA have shown a welcome readiness to amend procedures and forms when shortcomings are identified, there is still some way to go.

(ii) Mistaken identity cases.

In my report of January 1995 I included the results of my investigation into a case where CSA had asked the wrong man for financial information. Despite the assurances I was given that steps had been taken to prevent similar mistakes I have continued to receive other similar complaints. I have suggested to CSA (paragraph 19) that they should consider financial compensation in such cases; they however have maintained the position they first adopted—that they will reimburse out of pocket expenses and consider compensation for distress only on production of evidence that an individual's health has suffered. I reproduce below a summary of one case (C.739/93) which I used as a basis for my detailed discussions with DSS on this difficult subject, the full report of which case (in appendix 2) contains the details of those discussions, and a summary of another more up to date example (C.424/95). I also give here brief details of other similar cases which I have been asked to investigate.

Erroneous identification of complainant as father of a child for maintenance purposes—C.739/93

Matter considered *CSA wrongly identified a man as the absent father of a child; as a result he was sent a MEF*

Summary of case On 18 May 1993 Miss A gave the name of a man who she said was the father of her child. She gave his date of birth, said that he was a serving member of HM Forces and gave a service address in the south of England. On 6 July using the departmental central index (DCI) CSA identified a Mr E with the same date of birth but living in another county in the south of England as the person named by Miss A, and sent him a MEF. No other person with that name was listed with the same date of birth. On 8 July Mr E telephoned the CSAC denying knowing Miss A. The CSAC realised that they had made a mistake and apologised. On 9 July Mrs D, Mr E's mother-in-law, complained to the CSAC about what had happened, and about its effect on the family, in particular Mr E's wife. The CSAC were unable to disclose any information about Mr E's case to a third party, and said that Mr E should contact them. On 14 July Mrs D contacted the Member who wrote to the Secretary of State and to the Chief Executive of the Benefits Agency (BA). Both letters were passed to the Chief Executive of CSA who apologised for the distress caused. Mrs D and Mr E were not satisfied with that reply, and asked that the matter be referred to me.

Findings CSA were irresponsible in assuming that Mr E was the man named by Miss A as the father of her child, based only on the date of birth and a similar surname for, although the surname was similar, the addresses were not. CSA did not follow their instructions correctly in cases where the AP is in HM Forces, as the MEF should have been sent to the AP through his Commanding Officer. I criticised CSA for their very serious error. I asked the then Permanent Secretary on several occasions to consider compensating Mr E for the distress caused, but he declined to do so, saying that compensation would be considered only where the aggrieved could produce appropriate medical evidence to show that health had been directly affected by the Department's actions.

Remedy CSA had already apologised to Mr E for their error. The Chief Executive also offered her apologies to Mr E and his family, and wrote to all her staff stressing that the procedures for issuing MEFs should be strictly adhered to. Staff at the CSAC were firmly reminded that correct action needed to be taken to ensure

that APs had been properly identified. CSA have amended the layout of the covering letter which accompanies a MEF to make clearer why a person is being approached by CSA and to make it easier for an alleged AP to repudiate the allegation of paternity. DSS remained unwilling to compensate the aggrieved without evidence that maladministration had caused damage to his or his wife's health.

Erroneous identification of complainant as father of a child for maintenance purposes—C.424/95

Matter considered *CSA wrongly identified a man as the absent father of a child; as a result he was sent a MEF*

Summary of case CSA received an application for maintenance from a woman naming as the father of her child a man whose date of birth was the same as Mr F's. In December 1994 the DCI responded to interrogation in the woman's case by giving details of Mr F, with the annotation "No exact traces - relaxed traces shown". On 6 December CSA sent a MEF to Mr F.

On 7 December Mr F telephoned CSA. According to their account of the call he denied paternity and said he would take legal advice and seek compensation for distress; they told him their procedure for disputed paternity cases. He said he would not return the MEF and was told about the penalties for not doing so. On 9 December Mr F telephoned CSA again. According to CSA's record, he said he did not know the maintenance applicant or the child. He repeated his intention to pursue compensation. A supervisor checked the case papers and the DCI and confirmed that the MEF had been sent to the wrong person. CSA wrote to Mr F apologising that he had been sent the MEF by mistake.

On 20 December the Chief Executive wrote to Mr F offering her personal apologies for the mistake. She explained that a woman had given CSA some personal details of the father of her child with some similarities to his name and having the same date of birth. Human error had led staff to authorise the issue of the MEF to Mr F. She asked for any evidence of financial loss he had unavoidably incurred because of the mistake so that reimbursement could be considered.

On 11 January 1995 Mr F claimed reimbursement of £47.75 expenses, comprising loss of earnings, transport to his solicitor and doctor, prescription charges, telephone calls, postage and stationery. He also asked for compensation for distress and damage to his health. On 23 January CSA sent him £3.20 for his telephone calls.

Findings CSA's mistake in sending the MEF to Mr F was very serious. To assume from the date of birth and a similarity in his surname that he was the AP was an act of considerable irresponsibility and I criticised CSA accordingly. I considered whether the Chief Executive's apologies and the £3.20 CSA had paid towards his costs represented adequate redress for the consequences of their maladministration. It seemed to me that CSA had lost a chance to put matters right when Mr F telephoned them on 7 December 1994; as a result, the complainant had reasonably incurred the expenses for which he sought reimbursement. I therefore asked the Chief Executive if she would reconsider the matter. She replied that her special payments unit had carefully considered the facts of Mr F's case, but did not consider a further *ex gratia* payment to be appropriate. They would, however, consider such a payment if Mr F provided suitable medical evidence of damage to his health.

Remedy CSA had already admitted their error, have apologised to Mr F and taken disciplinary action against the officer concerned. The centre in question also arranged to have every MEF checked before issue, to minimise the risk of similar errors in future. However, CSA were unwilling to compensate Mr F further without evidence that maladministration had caused damage to his health.

Erroneous identification of complainant as father of a child for maintenance purposes—C.458/95

Matter considered *The issue by CSA of a MEF to a man who was not the AP*

Summary of case In May 1993 CSA received a maintenance application from a woman naming a man with the same name as Mr P as the father of her child. She said he was 30 years old and gave his last known address, but not his national insurance number. CSA searched the DCI and obtained the address, date of birth and national insurance number of the complainant Mr P. They sent him a MEF in June. His wife, who was in poor health, telephoned CSA on receipt of the MEF and said that her husband denied all knowledge of the matter. CSA later telephoned Mr P and told him how to complete the MEF if he denied paternity. Mr P contacted a solicitor, who returned the MEF to CSA suggesting that a mistake had been made. CSA traced the correct AP. They wrote to Mr and Mrs P apologising for the distress that had been caused. In July 1993 the solicitors asked CSA to compensate the couple; after several reminders, CSA refused the request in April 1994.

Findings I criticised CSA for the act of considerable irresponsibility whereby they had sent Mr P a MEF despite the fact that his age and address differed from those given for the AP by the maintenance applicant, and for failing to correct their mistake as soon as they could have done. They also took an unconscionably long time to decide his request for compensation.

Remedy The Chief Executive apologised unreservedly for the distress caused to Mr and Mrs P. At my request, CSA reconsidered the question of compensation, with reference in particular to medical evidence about Mrs P's poor health with which my Office supplied them. They agreed to make Mr P an *ex gratia* payment of £250; they also undertook to consider refunding any reasonable solicitors' costs he had incurred.

Further cases of this kind on which I have yet to report include one where the CSA officer read the wrong line on the DCI as a result of which the wrong man received an interim maintenance assessment (IMA) and fees invoice; one where the CSA field office wrongly accepted an application for maintenance from the partner of the PWC, then made an incorrect identification from the DCI, ignored the standard checking procedures to confirm the identity of the alleged parent and sent a MEF to the wrong man; and one where a possible trace was treated as definite due to an internal misunderstanding within CSA which resulted in the issue of a MEF to the wrong person.

I regard cases of this kind as being particularly serious, and as having the potential for ruining stable relationships. It remains my conviction that where an incorrect identification is made, and the blame for that rests on CSA, compensation for the distress caused should follow. This is perhaps the most intrusive aspect of CSA work and when *they* get it wrong it is right that they should make material amends to those affected by their error. That said I acknowledge CSA's efforts to make clearer to those who receive their forms that it is open to them to let CSA know if they dispute that they are the parent from whom maintenance is sought.

(iii) Communications with other agencies (in particular BA).

Cases where complaints have been made about the effectiveness of CSA's communications with other agencies continue to occur. The award of maintenance is often sufficient to remove a person's entitlement to state benefits. When that is so it is particularly important that correct action is taken so that those affected are not disadvantaged by the change. As the cases below illustrate the effect of failures in this area can be to reduce a vulnerable parent's income for what may be a considerable period.

Mishandling of maintenance and income support—C.99/95

Matters considered *Mishandling by BA and CSA of income support (IS) and maintenance payments*

Summary of case Miss S was receiving IS of £47.50 a week, and housing benefit and council tax benefit through the local authority housing department. She also received maintenance of £30 a week from the father of her three daughters. In November 1993 CSA assessed the AP's maintenance liability at £86.39 a week. They decided that any payments received from the AP should be paid to BA and Miss S would be paid through her IS. However, because the maintenance liability exceeded Miss S's IS, BA withdrew it from 11 January 1994 and told the housing department to stop her housing benefit and council tax benefit. The AP made payments of only £130 a month; CSA sent Miss S £87.22 and £77.28 in January, and £95 on 1 February. Thanks to the intervention of the local Citizens Advice Bureau, BA reinstated Miss S's IS on 18 February, taking into account maintenance of £30 a week. At the end of April CSA and BA completed the arrangements for the payments received from the AP to be paid to BA, and deductions from Miss S's IS ceased. In June BA told the housing department to reinstate her housing benefit and council tax benefit.

Findings I found that failure by CSA to give BA information about Miss S's maintenance payments caused her income to be reduced below the level of her IS entitlement for over a month. Haphazard payment of her maintenance by CSA compounded her resulting financial difficulties. I criticised CSA for those failings. When BA restored her IS, they overlooked the action needed to restore her housing benefit and council tax benefit; fortunately Miss S was by then receiving those benefits from her local housing department independently of her entitlement to IS.

Remedy The then Permanent Secretary offered Miss S his unreserved apologies for the mishandling of her case. His successor assured me that steps would be taken to prevent a recurrence. DSS made Miss S an *ex gratia* payment of £106 towards costs she had incurred due to the interruption of her benefit. I regarded that as a satisfactory outcome to a justified complaint.

Failure by CSA to pay regularly to the PWC maintenance received from the AP—C.953/95

Matter considered *Haphazard payment to a woman by CSA of maintenance which they were collecting regularly on her behalf*

Summary of case Mrs A was receiving IS for herself and three children and had been required to authorise the CSA to obtain maintenance from the AP. CSA paid her maintenance to BA, who passed it on in her benefit. In March 1995 Mrs A started work and asked CSA to pay her maintenance into her bank account. Although CSA were receiving £30 a week regularly from the AP, due to a combination of delay and various avoidable errors involving their accounts system they paid Mrs A haphazardly during April and May. They also failed to respond to her enquiries about the matter. It was not until June that she began to receive payments corresponding in frequency to those CSA were collecting on her behalf.

Findings I criticised CSA for the inadequate service they gave Mrs A, which caused her financial and emotional stress; for some two months she was unable to rely upon a significant part of her income, and had to devote considerable time and money to trying to sort the problem out.

Remedy The Deputy Chief Executive apologised to Mrs A for CSA's shortcomings. CSA agreed to consider making her an *ex gratia* payment towards expenses she claimed to have incurred as a result, on receipt of evidence to support her claim. I regarded that as a suitable outcome to a justified complaint.

Further cases on which I have yet to report include one where CSA delayed then mishandled the imposition of an IMA: when the AP claimed IS they and BA failed to implement deductions for the minimum amount of maintenance; and one where CSA were dealing with two different absent fathers on the same case.

(iv) Delay and confusion on reviews.

CSA assessments are open to review, either because a mistake has been made or because the circumstances of any party to the assessment have changed. The outcome of such a review is often vital to the financial well-being of one or other party, and the existence of a review request inevitably produces financial uncertainty for all parties. It is therefore vital that such reviews are progressed as quickly as possible and the period of uncertainty kept to a minimum. The cases which I have encountered indicate that there is still considerable scope for improvement in this area, and in general parents still have to wait far too long for the result of a review. Such delays also delay the onset of the next stage of the process on disputed cases which go to an appeal.

Failure to take action on a review request, unreasonable imposition of a DEO—C.95/95

Matters considered *The handling of a man's request for a review of his maintenance liability and related correspondence*

Summary of case Mr C asked for a review of his maintenance liability in December 1993. CSA did not carry out the review until March 1995. In the meantime, they had ignored many letters from Mr C saying that until the review was done he would pay only the amount of maintenance agreed with his former wife before CSA's involvement. CSA continued with their standard procedure to recover the current maintenance liability, which culminated in the imposition of a DEO in January 1995.

Findings I criticised CSA for unacceptable delay in completing the review and for failing to explain to Mr C, despite his many letters, that in the meantime he must pay the amount of maintenance currently assessed.

Remedy The then Permanent Secretary explained that a heavy volume of similar requests had delayed Mr C's review, while a lack of communication within CSA had caused the significance of his letters to be overlooked. He described measures being taken to improve performance in those areas. He apologised unreservedly to Mr C for the very poor service he had received. I regarded that as a satisfactory outcome to a justified complaint.

Failure to take action on a review request, unreasonable threat of DEO action—C.561/94

Matters considered *The handling of a MA by CSA; delay in carrying out a review; repeated requests for information already supplied; threat of a DEO despite payments direct to the PWC; and incorrect advice by CSA that a DEO would result in disciplinary action by the employer*

Summary of case On 20 September 1993 CSA received a completed MEF from Mr S. Between then and January 1994 CSA sought more information from Mr S. On 12 February a CSO calculated the MA. CSA told Mr S to make payments to the Agency. On 15 February Mr S wrote asking for a review of the assessment. CSA did not act on his letter. On several occasions Mr S said that he intended to make the maintenance payments direct to the PWC. He made the first two monthly

payments to the PWC. CSA sent reminders to Mr S about the arrears and said that a DEO would be imposed if he failed to comply. On 3 June a CSA officer spoke to Mr S on the telephone about his case and the imposition of DEOs. After my intervention DSS reported that enquiries about the telephone call had not revealed that any warning had been given that a DEO might result in disciplinary action by Mr S's employer. On 26 June 1995 a CSO carried out a review of the MA.

Findings I found that the five months' delay in calculating the MA had been caused by the lack of information needed by the CSO. I found no evidence that CSA had asked for information already supplied but they could have been clearer about what was required. CSA overlooked Mr S's letter of 15 February 1994 and also failed to address his reluctance to make payments through them. Contrary to the information given by DSS in response to Mr S's complaint, I found that on 3 June 1994 the CSA officer had mentioned to Mr S the matter of disciplinary action by his employers. In doing so she had been acting on information contained in a local instruction which had since been withdrawn. I accepted that the officer had acted out of a wish to be helpful. I criticised CSA's handling of Mr S's case and their inadequate investigation of his complaint to me.

Remedy The Permanent Secretary and the Chief Executive apologised for CSA's poor performance. I regarded that as a satisfactory response to a justified complaint.

There are three further cases of this kind on which I have yet to report. One concerns extreme delay in processing a request for a review of a MA. The original assessment was incorrect but the review was not completed until almost a year after the AP's request. The revised assessment meant that the AP had overpaid maintenance amounting to £1,460.10. CSA took five months to consider re-imbursement of the overpayment.

The second case concerns a delay of six months to May 1995 in completing a review. The result was that the AP overpaid maintenance. CSA told him to recover it by deduction from his maintenance payments. As his MA is only £6 a week it will take several years for him to recover his money.

The final case concerns a delay of nine months to June 1995 in completing a review for the AP; and failures to respond to his representations, and to give him appropriate advice when requested.

Delay in hearing an appeal against a MA—C.1418/95

Matter considered *Delay by CSA and the Independent Tribunal Service (ITS) in arranging the hearing of an appeal against a MA*

Summary of case In April 1995 CSA notified Ms C of a revised MA. Ms C appealed against the assessment to a child support appeal tribunal (CSAT) and asked for an early date for the hearing because she had already suffered delay in obtaining maintenance and was not receiving any money from the AP. In June Ms C asked for an urgent hearing of her appeal because her assessment had already taken two years and the AP was paying her only £2.30 a week. On 27 June ITS wrote to Ms C explaining that the Chairman of the Tribunal had decided that the appeal could not be listed without the customary written submission from CSA, and promised to arrange a hearing as soon as the submission was received. On 28 June Ms C contacted CSA, who promised to see that her appeal received urgent attention. They sent their submission to ITS on 17 July. A hearing date was arranged for 14 September but the AP was granted a postponement. The appeal was finally heard on 21 November.

Findings Five months passed between ITS's receipt of Ms C's appeal in April and the first hearing date in September. It took CSA three months to send ITS their submission. I criticised CSA for not treating the case with the urgency it required. I found no maladministration by ITS.

Remedy The Deputy Chief Executive apologised to Ms C for the delay. I regarded that, and the explanations of their procedures which CSA and ITS gave me, as a satisfactory outcome to a partly justified complaint.

(v) Family Credit for a widow

The single case I include under this heading is remarkable in that the circumstances are almost identical to those of another case which I included in my special report of 5 January 1995. Once again I was able to report that the fault did not lie with CSA but with the Family Credit Unit (FCU). That led me to question the effectiveness of procedural changes of which I had been told as a result of my earlier investigation; I discovered that the present case had arisen simply as a result of human error and that there was no reason to doubt the merit of the revised system.

A widow complained that CSA had asked her to authorise recovery of maintenance on her behalf—C.154/95

Matter considered *A letter telling a widow claiming family credit (FC) that she might be required to authorise recovery of maintenance from the other parent of her children*

Summary of case Mrs S, whose husband had died in 1989, claimed FC for herself and her two children in October 1994. FCU wrongly made an entry on their computer system which, if FC was awarded, would generate a notification telling CSA that there was a living parent who did not live with the claimant. Mrs S was awarded FC in December and CSA were automatically notified. In January 1995 they sent Mrs S a standard letter saying that she might be required to authorise the Secretary of State to take action to recover maintenance from the other parent of her children. The error came to their attention in February and the Chief Executive wrote to Mrs S apologising for it.

Findings FCU had wrongly made a computer entry which had generated a notification to CSA when Mrs S was awarded FC to the effect that there was an AP. After the earlier case (C.930/93), in which FCU had failed to change a computer entry from an indication that there might be a CSA interest to an indication that there was not although the correct position had been established, the possibility of erroneously entering such a potential interest had been removed. However, in Mrs S's case the problem was caused by a human error for which no systemic remedy could provide. A 'No' reply from Mrs S had been entered as 'Yes' on the computer. I criticised FCU for the mistake; I found no fault with CSA, who could not have suspected from the notification which FCU had sent them that Mrs S was a widow and who very quickly apologised once the mistake had been pointed out to them.

Remedy The Permanent Secretary apologised for the error; staff were reminded of the impact mistakes of that nature could have.

COMPLAINTS INVESTIGATED, SECTION TWO; CONFUSION OVER JURISDICTION

The illustrative cases which I have included in this section concern various aspects of CSA's right to be involved in the maintenance affairs of parents. PWCs in receipt of prescribed benefits such as IS and FC must authorise CSA to act for them. Other parents who have no existing maintenance agreement may choose to have CSA act for them. CSA may not at present act for a parent who has an existing court order for maintenance where there is no prescribed benefit in payment. A failure properly to identify the category into which a particular case falls can have serious consequences. The following cases demonstrate those consequences.

Failure of CSA to address the question of jurisdiction despite the PWC withdrawing her consent for CSA to act on her behalf—C.341/94

Matters considered *Wrongful involvement of CSA in maintenance affairs; monies paid to CSA not passed promptly to the PWC*

Summary of case On 26 November 1993 Mr G was assessed as liable for £89.04 a week maintenance. Two days later CSA cancelled his existing court order. The PWC had claimed IS but when that ceased she asked CSA to stop acting for her. Mr G sent a number of letters to CSA in which he questioned their jurisdiction in the case. He also complained that payments he was making were not being passed to the PWC. CSA did not reply to many of those letters and the question of jurisdiction was not seriously addressed until late April 1994 when they realised that jurisdiction ceased from the date on which the PWC's intentions had been made known (2 December 1993). As a result Mr G had paid £465.87 more than he would have been required to do under the arrangements to which he and the PWC would have reverted. CSA considered compensating Mr G for the amount he had overpaid but decided not to because that money had been paid to the PWC. They paid him 76 pence towards postage. CSA suggested to Mr G that he take up the matter of overpaid maintenance with his former wife, perhaps recovering the overpayment by reducing future payments for their daughter.

Findings I found that CSA initially had jurisdiction in the case but that that ceased when the PWC withdrew her consent for CSA to act on her behalf. CSA did not act on that request nor on a notification from BA that the PWC's qualifying benefit had ceased. They failed to take proper action to close the case despite a number of letters from Mr G in which he questioned their involvement. CSA showed a lack of judgment in failing to anticipate the additional upset a payment of 76 pence to Mr G would cause. I asked the then Permanent Secretary for further consideration to be given to compensating Mr G properly. CSA agreed to make him an *ex gratia* payment of £465.87, equivalent to the amount he had overpaid. A number of serious errors were made and the level of service given was totally unacceptable. I criticised CSA for their poor handling of the case.

Remedy The then Permanent Secretary added his apologies to those already given by CSA for the errors and confusion which had beset the case. He assured me that steps had been taken to ensure that similar failings do not occur in the future. CSA closed the case. I regarded the *ex gratia* payment of £465.87 and the apologies as a satisfactory outcome to a justified complaint.

Ineffectual handling of a MA—C.517/94

Matter considered *Delay and error in the handling of a maintenance application as a result of which the PWC claimed to have incurred financial loss*

Summary of case In July 1993 Ms M applied for maintenance for her daughter. She said that there was no court order in existence. In November CSA asked her to complete a second application because it appeared that the first had gone astray in CSA. They imposed an IMA in January 1994 and referred the case for enforcement action in April. In May they sent a MEF to the AP. They received it back in June but it was incomplete so they decided to proceed with enforcement of the IMA. However, they then decided to cancel the IMA because of procedural defects. They made a fresh IMA in July and in August they wrote to the AP's employer for information to enable them to impose a DEO. They received the employer's reply in September. In October the AP began paying the IMA.

Findings CSA temporarily lost Ms M's claim form, and four months later she was obliged to complete a duplicate when no action had been taken on it. They imposed an IMA on the AP without taking the necessary preliminary steps and subsequently had to restart the process. Their correspondence about the payment situation was not always accurate or complete. I criticised CSA for their shortcomings. It emerged after my intervention that CSA would not have accepted Ms M's application had they been aware of a court order which she had not mentioned on her claim form, because they did not have jurisdiction.

Remedy The Permanent Secretary apologised for the poor service Ms M had received. I accepted his decision that financial compensation was not appropriate in the light of Ms M's failure to disclose her court order. She later made a valid application which resulted in maintenance payments being made by the AP.

Mishandling of an application for maintenance—C.421/94

Matter considered *The handling of a woman's application for maintenance for her grandson*

Summary of case In April 1993 Mrs L applied to CSA as a private client for maintenance for her grandson, who was in her care. CSA sent a number of MEFs to the absent father but he did not co-operate. CSA imposed an IMA but made repeated errors in its calculation and they did not respond promptly to letters and telephone calls from Mrs L and the Member. In March 1994 the absent father completed a MEF which revealed the existence of a court order for the child. Because of that CSA did not have jurisdiction over the case and Mrs L had to take steps to obtain maintenance by getting her daughter (the child's mother) to apply for revocation of the court order.

Findings I found that Mrs L had received poor service from CSA. The case was not pursued with sufficient vigour and it was almost a year before they discovered that they did not have jurisdiction. It was unfortunate that Mrs L was not aware of the court order. Although DSS had obtained details of the order in January 1993, I accepted that CSA could not have been expected to associate that information, which was held in the name of the child's mother, with Mrs L's application. I criticised CSA for repeated errors in attempting to implement an IMA and for giving incorrect advice.

Remedy The Permanent Secretary apologised for CSA's poor handling of the case and gave an assurance that organisational changes would help prevent a repetition of the problems encountered by Mrs L. The Permanent Secretary agreed to change the wording of the maintenance application forms (MAFs) to ensure that they are appropriate to cases such as this. She also said that an Agency-wide Operations Bulletin would be issued urgently to all staff reminding them of the limits on CSA's jurisdiction. I regarded all that as a suitable response to a partly justified complaint.

There are several cases involving similar problems on which I have yet to report. An AP complained that CSA tried to obtain maintenance when they had no jurisdiction after the PWC had withdrawn her application; and that CSA were slow to rectify the situation or review his case.

A PWC complained that CSA imposed a MA and cancelled an existing court order for £50 a week after the child had reached the age of 19 and had therefore ceased to be a qualifying child for CSA purposes. CSA took four months to act on the application and received back the MEF from the AP only after they had warned him of a possible IMA. By that time CSA no longer had jurisdiction as the child had reached age 19; but they did not realise that and made a MA and cancelled the existing court order. That resulted in the PWC losing maintenance of £50 a week for the six weeks period during which the court order was revoked. A deficiency in the child support computer system which should have automatically prevented an assessment being made in such circumstances was reported in June 1994 and has been rectified, but not until January 1996.

A PWC complained that CSA wrongly closed her case in December 1994 and considerable prompting was required before, in September 1995, they calculated a MA which, because of phasing, would not be paid in full for another year.

A PWC complained that after failing to identify originally that they did not have jurisdiction in her case, CSA later calculated a MA on a valid application, using the original date. As a result the MA was invalid and the complainant was not able to obtain maintenance between April and November 1994.

A PWC complained that, CSA had closed her case because they had not checked that she had re-claimed FC and had wrongly thought they no longer had jurisdiction over the case. CSA took seven months to re-register the case. The effective date of the eventual MA was much delayed and the complainant considered that she had been financially disadvantaged by applying to CSA.

COMPLAINTS INVESTIGATED, SECTION THREE; BREACHING CONFIDENTIALITY OF INFORMATION

The illustrative cases included in this section all involved breaches of confidentiality. The Data Protection Registrar has expressed her concern about the amount of information routinely released by CSA: " . . . detailed disclosure of financial information to those party to an assessment which, in our view, seemed to go beyond the express requirements of the regulations . . . We have written to the Parliamentary Under Secretary of State expressing our concern" (Annual Report 1995). My investigations have been concerned largely with cases where the release of information has been the result of clerical action unrelated to formal action under the Data Protection Act.

Confidentiality and the disclosure of information— C.481/94

Matter considered *The handling by CSA and BA of allegations of fraud relating to a claim for maintenance*

Summary of case In January 1994 an AP, Mr G, disputed the assessment of his liability to pay maintenance; he alleged that the PWC, his estranged wife, was claiming benefit fraudulently. CSA said that his allegations would be investigated, but that he would remain legally liable for maintenance meanwhile. They sent him a reminder about paying maintenance, saying that legal action would be taken if no payment was made. After the intervention of Mr G's Member in May 1994 a BA fraud officer interviewed the PWC about the allegations. When asked by the PWC, the fraud officer confirmed that Mr G had provided information about her circumstances. Mr G said that that disclosure had severely damaged his relationship with his wife and that it appeared that, as a result of the disclosure, enquiries into his wife's circumstances had ceased. In November 1994 CSA wrote to Mr G telling him that it had been decided that maintenance should no longer be pursued.

Findings I criticised the error by the fraud officer in disclosing the source of information about the PWC. I also criticised the delay by CSA in considering and responding to Mr G about the allegations of fraud and the implications for his maintenance liability.

Remedy The Permanent Secretary apologised both for the error in disclosing confidential information and for the delays in acting on the allegations of fraud and clarifying the position regarding the MA. CSA were said to be considering disciplinary action against the fraud officer and they issued a circular reminding all staff of the confidential nature of information received.

There are three other cases on similar themes on which I have yet to report. An AP complained that CSA had noted on both their clerical and computer records for him that he was potentially violent. He obtained details under the Data Protection Act and challenged the classification. CSA could find no justification for it and promised to remove it. Despite that promise the marking still appeared on a further computer print sent to him and on records sent to the ITS in connection with an appeal and which were circulated to all interested parties, including the PWC.

A PWC complained that CSA had sent to the AP a record of a telephone call which the PWC had had with them and which contained confidential and embarrassing details. The AP was said to be violent and to have issued threats to the PWC as a result. The police have cleared the CSA official concerned of malicious intent, and management action has been taken within CSA.

A PWC complained that CSA incorrectly recorded the AP as living at her address and sent mail to him there. The PWC has claimed compensation because she felt obliged to move house as she was afraid that the AP, having been given knowledge of her address, would try to contact her.

COMPLAINTS INVESTIGATED, SECTION FOUR; DELAYS IN INITIATING MAINTENANCE REQUESTS

The illustrative cases included in this section relate to problems of delay in dealing with maintenance applications. In cases where there is no existing court order the date from which maintenance is payable is determined by the date on which CSA send a MEF asking for information from the AP. In cases where there is an existing court order, maintenance liability begins two days after the assessment has been made. Delay in issuing a MEF can represent a potential loss of maintenance in either type of case (although CSA can never guarantee that maintenance will be collected). I have had mixed success (paragraph 17) in obtaining financial compensation from CSA in such cases. Now that the initial problems caused by the high take-on of cases when CSA came into being are over I am in a dialogue with CSA about what constitutes a reasonable time allowance for the despatch of MEFs.

Delay in issue of a MEF—C.363/95

Matter considered *Delay in dealing with a maintenance application*

Summary of case In February 1995 Mrs F applied to CSA for maintenance. She telephoned in March to ask about progress and was told that a large number of applications were held, and were being dealt with in date order. CSA sent a MEF to the AP in May. In July Mrs F withdrew her application for maintenance.

Findings I criticised CSA for failing to handle the application with the urgency it required; every day of delay represented a potential financial loss to the applicant and it was wrong for the issue of the MEF to be held up after she had supplied sufficient information to enable it to be sent.

Remedy CSA said that revised operational procedures had been introduced which gave managers the scope to set different priorities and to apply more flexible criteria for dealing with the intake of work.

Delay in sending a MEF—C.145/95

Matter considered *Loss of maintenance due to a delay in sending a MEF*

Summary of case Mr O applied to CSA for maintenance in July 1993. In April 1994 CSA sent a MEF to the AP. It was completed and returned on 19 April. In September a CSO assessed the maintenance due to Mr O at £23.48 a week effective from 9 April. In November CSA agreed to an offer by the AP to pay off the arrears weekly from November, together with the regular payments.

Findings There was a delay of almost nine months between the receipt of Mr O's application and the issue of the MEF to the AP. I found that, although some of the delay was caused by a backlog of work, it appeared that some of the delay was due to the file having been lost for a time within CSA. I criticised CSA severely for the time it took to send the MEF.

Remedy The Chief Executive apologised for the delay that had occurred. CSA made an *ex gratia* payment of £626.33 to Mr O; that represented the loss of maintenance for the period from 16 October 1993 (three months after the date of receipt of the application) to the effective date of the assessment.

There are several cases involving similar problems on which I have yet to report. A PWC complained that CSA had twice lost her MAF. That had resulted in a loss to her as it deferred the date from which the AP's liability began. The first MAF had been completed with the help of an officer from the BA local office and sent

to the CSAC using their internal courier service. That form was lost, a replacement MAF was mislaid, and it was not until a third MAF had been received that CSA took action to process the application. After my intervention CSA discovered the second MAF despite the CSAC manager having assured the Member that a thorough check had been made and that there was no evidence of it having been received.

A PWC complained that the issue of a MEF was delayed between April and 31 July 1995. I asked CSA to pay compensation for that delay but they are insisting that three months is an acceptable period to take to issue such forms. I have raised the matter with the Permanent Secretary.

A PWC complained that CSA delayed from June until late August 1994 in issuing a MAF. The completed form was returned in September but CSA did not issue the MEF until January 1995.

A PWC complained of delay between March and July 1994 in issuing a MEF. A completed MEF was not obtained until May 1995. By the time the PWC made her complaint in June 1995 an assessment had been made but she still had received no money.

A PWC complained that CSA took six months to send a MEF to the AP. I found that CSA delayed sending the MEF and that, when it was sent, it went to the wrong address. I have asked DSS to consider compensation for the PWC for the maintenance lost.

CASES INVESTIGATED, SECTION FIVE; PROBLEMS WITH IMAs

The illustrative cases included in this section give a flavour of the problems that parents experience due to IMAs, and enforcement generally. Enforcement is a vital part of CSA's work; if an assessment cannot be enforced, much of CSA's other work becomes nugatory. IMAs can be imposed if insufficient information has been provided by the AP to enable a full maintenance assessment to be made. An IMA does not take account of personal and family circumstances and will usually be higher than the final assessment, so creating an incentive for the AP to provide the necessary information. IMAs therefore play an important role in defeating attempts by APs to avoid payment by refusing to co-operate with CSA. Failures to follow the correct procedures for imposing an IMA may result in assessments not being enforceable or in maintenance being lost for the period that an ineffective IMA remains in force. (The system relating to IMAs was changed from April 1995 so that those APs who eventually co-operate have their liability backdated on the basis of their full MA, whereas previously the amount due under the IMA remained due in respect of the period for which the IMA was in force.)

Alleged unreasonable imposition of IMA—C.916/94

Matter considered *The imposition of an IMA*

Summary of case On 27 April 1993 CSA sent a MEF to Mr F. After he had telephoned them to say that he would not co-operate, CSA imposed an IMA on 15 June. On 27 August CSA made a full MA but Mr F made no payments. On 13 June 1994 CSA imposed a DEO for regular payments of £66.17 a month plus £9.97 a month towards arrears of £1,737.91. On 20 July the PWC asked to withdraw her application. On 24 August CSA accepted that she had good cause for doing so. They cancelled the DEO. Mr F complained that CSA had unreasonably imposed the IMA.

Findings The fact that Mr F did not co-operate fully with CSA was the cause of some of his problems, and warranted the imposition of the IMA; but the IMA was invalid because the effective date was incorrect and it had been imposed without any written warning notice. There was confusion and delay in carrying out Mr F's requests for a review but he was not refused an appeal date. I criticised CSA for shortcomings in their handling of Mr F's case.

Remedy The Permanent Secretary apologised for the errors and confusion which had beset the case. The case has now been closed at the request of the PWC and a refund of £228.42 has been made to Mr F, representing the amount he had paid through the imposition of the DEO.

Inappropriate warning of possible IMA—C.1084/94

Matters considered *Incorrect issue of a MEF and subsequent IMA warning*

Summary of case On 2 September 1993 the CSAC sent a MEF to Mr P which he completed and returned. In December the PWC stopped claiming IS but then claimed FC, and her partner claimed IS for her and her children. That resulted in the CSA field office initiating a further claim from the PWC and the issue of a further MEF to Mr P, and subsequently a warning that an IMA would be imposed if he did not return the MEF. The MA was not made until 17 February 1995.

Findings A lack of communication between two offices of CSA led to the incorrect issue of a second MEF to Mr P. After telling him to ignore the second MEF, CSA warned him that an IMA would be imposed if he did not complete it. CSA responded poorly to the enquiries made by Mr P and the Member on his behalf. CSA were slow to complete a MA.

Remedy The Permanent Secretary apologised for the errors and for the delay in resolving the case. CSA have issued guidance to prevent similar mistakes in the future. I regarded that as a satisfactory response to a justified complaint.

There are several other cases involving similar complaints on which I have yet to report. I found problems persisting into 1995 where CSA had incorrectly imposed an IMA on an AP who they knew was in receipt of IS. That had the effect of raising the PWC's expectations of receiving maintenance which could never have been obtained.

In another case CSA made an error in calculating an IMA which rendered it unenforceable.

An AP paid more than his proper maintenance liability because of the wrongful imposition of a MA. CSA refunded £438.50 to the AP.

A PWC complained that the finalisation of her case was delayed by the issue of two invalid IMAs, the first in June 1994 and the second a year later, which had caused her financial loss.

An AP complained that both an IMA and a DEO had been improperly imposed after the PWC had withdrawn her consent for CSA to be involved.

COMPLAINTS INVESTIGATED, SECTION SIX; FAILURES TO ACT PROMPTLY, THEREBY LOSING THE OPPORTUNITY TO OBTAIN MAINTENANCE FOR CHILDREN.

This section concerns cases in which CSA lost opportunities to collect maintenance as a result of delay or inaction. An example of this type of case is where prompt action by CSA could have obtained maintenance from the AP before he lost his job. This aspect of CSA's performance is now featuring more regularly in the complaints being made to me (see paragraph 16).

There are several such cases on which I have yet to report. In one CSA sent correspondence to an AP's former address although they had been told by both the AP and BA of a change of address. An IMA could not be enforced as CSA could not confirm that warning letters had been sent to the correct address. When maintenance liability was re-assessed the AP refused to pay and the PWC asked for a review of the MA. CSA refused to take enforcement action against the AP until the review was completed. By the time the review was completed the AP was unemployed and arrears of maintenance could not be collected.

In a second case a PWC was owed maintenance between August 1993 and February 1994. While the AP was in employment, until February 1994, it would have been possible for CSA to have obtained payment from him by means of a DEO. Because of maladministration by CSA enforcement action did not begin until March 1994 by which time the AP had been made redundant. Due to further maladministration, CSA did not obtain a liability order until March 1995; the best prospect the PWC had thereafter of recovering any maintenance was through a charging order on the AP's home. I asked CSA if they would make the PWC an *ex gratia* payment equivalent to the amount of maintenance which could have been obtained in the absence of maladministration. After some argument they accepted that, in cases where they had failed to take appropriate enforcement action and by the time they did so there had been a change in the AP's circumstances which resulted in the AP being unable to pay, they should consider a special payment if there was a reasonable expectation that they would have collected maintenance. An example of such a case, they told me, would be an AP who was for a time employed and where, if CSA had actioned a DEO the PWC would have been likely to receive payment of maintenance. If CSA were directly culpable in failing to action a DEO and by the time the error was corrected the AP had become unemployed (assuming the AP did not become unemployed to avoid liability), CSA would consider a special payment. I welcome that helpful response. However, my discussions with the Department are continuing on this and on a similar case as to whether the individual circumstances warrant a special payment based on the above principle.

In a third case CSA cancelled a DEO in error, without telling the PWC, and reached an agreement with the AP on arrears which reduced the PWC's maintenance by some £13 a week and meant that it would take seven years for the PWC to receive the full amount of the arrears.

Another PWC complained that CSA's loss of her file prevented them from taking enforcement action at the appropriate time and meant that arrears due could not be recovered.

COMPLAINTS INVESTIGATED, SECTION SEVEN; DELAY IN PASSING ON TO PWCs MONIES RECEIVED FROM APs

Both the cases referred to in this section are still awaiting completion of my investigations. (There are other examples already outlined—C.99/95 and C.953/95 in section 1 and C.341/94 in section 2.) I thought it right to include these cases as an illustration of a new area of complaint, and potentially a very serious one. I note however that in her letter at appendix 1 the Chief Executive has said that between the end of April 1995 and the end of January 1996 97% of payments received by the Agency had been paid over to PWCs within 10 working days of receipt.

In the first case a PWC complained that between February and July 1995 CSA repeatedly failed to pay to her fully or timeously maintenance that they had collected from the AP.

In the second case, after problems in getting a DEO established CSA began receiving payments in October 1994. At the time when the PWC complained in February 1995 she had only recently started to receive payments.

THE COMMENTS OF THE CHIEF EXECUTIVE OF CSA

a) 'During its first three years the Agency expects that it will have collected or arranged about half a billion pounds in maintenance, and will have saved the taxpayer £1.4 billion in reduced social security expenditure. The introduction of child support legislation has thus brought about significant social change and has impacted considerably on both parents with care and absent parents. Now, as the Agency approaches the start of its fourth year, I am conscious that there is a growing public acceptance of, and support for, the concepts under which the Agency operates. There is now a general recognition that provision for maintenance for a child from a couple who are apart primarily falls to them, even if there is some initial shock at the level of maintenance the formula produces compared to the old Court system.

b) The Agency has a unique position amongst government operations in that, in each case it handles, it has to balance the (often conflicting) interests of the three potential providers of child maintenance: the mother, the father and the taxpayer. It is precisely the nature of having to strike such a balance that can give rise to some complaints. The Agency enters peoples' lives at what is usually an exceptionally difficult and upsetting time and has to deal with the parents who may already be involved in an adversarial situation. After all, if the parents have come to a mutually acceptable arrangement over child maintenance, and prescribed social security benefits are not being claimed, the Agency will not be involved with that couple. The sums of money that are involved may be significant and both parents have much at stake during the assessment and (possibly) enforcement process. In such situations even minor mistakes or delays can assume extreme importance to the people involved and even when the Agency is acting entirely within its remit its intentions can be misinterpreted by either (or both) of the parties as biased or partisan.

c) When the nature and complexity of the work is coupled with the size of the Agency's operations—and I estimate that it has impacted on the lives of over six million adults since its formation—it would be unrealistic not to expect some administrative errors to be made. Whilst I deeply regret any mistakes that are made by the Agency, it is important that their numbers are not viewed out of proportion. We must therefore put into context the 195 cases accepted for investigation and the additional 320 referred cases that were turned away by the PCA up to the end of 1995 with the number of adults on whose lives the Agency has had a bearing.

d) Having said all that, the Agency has already acknowledged the problems that surrounded its first eighteen months, and action has been taken on many fronts to learn from the mistakes made and to improve our performance. Since the first PCA Special Report was published there have been important procedural and legislative changes to the framework within which we operate. But the Agency has also introduced important operational changes to increase our effectiveness and address specific problem areas. Examples include the transfer of pre-Maintenance Assessment work (and the issue of Maintenance Enquiry Forms) to the Field, the centralisation of Appeals work, and the introduction of more integrated working in our Centres. The Agency regards the successful implementation of the forthcoming Departures system as a top priority and the scheme will be extensively piloted prior to full implementation. The Agency is by no means complacent, and recognises how much further there still is to go, but we welcome the Social Security Select Committee's recent expression of confidence in our ability to implement change and recognition of the clear evidence of improved performance.

e) The Agency Running Cost allocation for 1996/97 has increased over its 1995/96 level, and we could afford to recruit further staff in 1996/97. However, we

exist in a climate where there is continuous change within the civil service and as part of the Departmental Change Programme we will identify aspects of our work where we can achieve efficiencies by implementing simplifications and improving performance. We accept that there is scope for simplification and improvement throughout our entire organisation, but in reducing administrative costs it is our clear intent to maintain high standards of service to our clients.

f) The complexities of administering the formula have been recognised by the National Audit Office, the Social Security Select Committee and the Chief Child Support Officer; but the Agency has acknowledged that the accuracy of its assessments has been unacceptable in the past. As a result of measures taken, including enhanced training and better targeted quality checks, our monthly accuracy rates, calculated using methods acceptable to the NAO, now exceed 70%. We are on course to meet the target of at least 75% of cases checked during March 1996 to have been assessed as correct to the last penny.

g) I share the PCA's regret that some of the completed cases still represent areas of operations which were criticised in his last report. However, those completed cases which involve confusion and delay largely represent problems which began much earlier in the Agency's life, often during the first eighteen months. It must be recognised that the Agency has to continue to operate with a difficult legacy from this period, and although work has been prioritised, to expect full recovery to have been achieved by now, whilst managing a constantly increasing current workload would be unrealistic. Of course some of the cases in the PCA's report are incomplete and we cannot predict the outcome of his investigations.

h) I am keenly aware of the potential distress and embarrassment that can arise whenever the Agency issues a Maintenance Enquiry Form (MEF) to a person wrongly identified as an absent parent. The problem of incorrectly issued MEFs will always be with the Agency as we rely on information given to us by the PWC. We do, however, take all practicable steps to eliminate errors of our own making, and MEFs are now subject to a 100% accuracy check before issue, with all staff aware that contravention of strictly laid down criteria will result in disciplinary action. There will always be some scope for human error in the process, and some regard must be had for the scale of the problem. Between April 1995 and the end of January 1996 the Agency issued 153,049 MEFs, with only 28 (0.018%) issued in circumstances that might mean that the Agency was at fault. It is always made clear to the person receiving the MEF that the form has been issued as a result of information provided to the Agency, and the form issued gives recipients the specific opportunity to tell the Agency that they consider themselves incorrectly identified.

i) We are currently in the final stages of designing a CSA special payments scheme that will address many of the PCA's expressed concerns. It is our underlying intention that each case should be dealt with on its individual merit. However, in those cases where complaints arise because of delays in issuing MEFs it is proving difficult to move away from the concept of a uniform period of delay that would normally precede consideration of compensation.

j) The Agency has to meet the cost of any financial recompense from its running costs, and I see nothing incongruous in this. Whilst I can appreciate the point of view that the payment of recompense from our administrative budget reduces the balance that remains available for good administration, I find the corollary much more pertinent because our objective is to get our business right first time. And one of the tangible rewards for our improved efficiency will be the payment of less in compensation.

k) The Agency acknowledges that the nature of its work gives it access to sensitive and very personal information about its clients and that any breach of confidentiality can have serious consequences. This fact is firmly impressed upon all staff, both during training and on a regular day-to-day basis through

workplace posters etc. We investigate any breaches of confidentiality thoroughly, and take a robust line in imposing disciplinary action whenever culpability is established.

l) I regard the prompt transmission of payments of maintenance to PWCs made through the Agency collection service to be a very high priority, and I regret that delays in this area featured amongst the cases included in the PCA report, particularly as the overall performance in this aspect of our work is so good. Over £47 million has been passed on by the Agency between April 1995 and the end of January 1996 in over 483,000 payments; 97% of which were paid over within ten working days of receipt. Within the missing 3% are all the instruments of payment we received that were not honoured.

m) The Agency attempts to resolve complaints quickly as and when they arise. The very nature and scale of the work makes a high complaint level an expectation, although many complaints are directed towards the legislation, levels of assessment and enforcement procedures rather than our administration. I currently deal with around 2,000 cases per quarter in which I am asked to investigate further, whilst the overall numbers of complaints are around 8,000 per quarter. The Agency is carefully examining the practicalities of the case for the appointment of an independent complaints examiner, who could resolve concerns about our administration issues speedily if a complainant remains dissatisfied after senior management action. The cost is considerable, however, and a number of concerns remain to be clarified before we can launch such a scheme.'

MISS ANN CHANT

FULL TEXT OF SELECTED CASES

Case No. C.376/95—Mishandling of child maintenance affairs, improper imposition of DEO

1. Mr M complained that CSA mishandled his child maintenance affairs, in particular that they wrongly told him that they would not take action to collect arrears; and that they claimed that he had not been making regular payments of child maintenance, when he had evidence that he had. He complained that the resulting imposition of a deduction from earnings order (DEO) might have a detrimental affect on his career in the armed forces.

2. My investigation into Mr M's complaint began in July once the Commissioner had obtained comments from the Permanent Secretary of DSS after the referral of the complaint to him. I have not put into the report every detail investigated by the Commissioner's officers; but I am satisfied that no matter of significance has been overlooked.

Background

3. CSA are responsible for the assessment, collection and enforcement of child support maintenance. A parent with care (PWC) of a child applies to CSA for maintenance on a maintenance application form (MAF). CSA then send the absent parent a maintenance enquiry form (MEF) to obtain a financial statement so that the amount of child support maintenance may be assessed. Assessments are made by child support officers (CSOs). Under regulation 30 of the Child Support (Maintenance Assessment Procedure) Regulations 1992 in cases where there is no existing court order the absent parent's maintenance liability starts from the day the MEF is sent or given to the absent parent. That date is known as the effective date and there is often a lapse between it and the start of payments; during that period (the initial payment period) arrears will accrue. On completion of an assessment CSA calculate a separate figure for the initial payment which they notify to the absent parent.

4. Under section 18 of the Child Support Act 1991 a parent who is dissatisfied with a CSO decision may apply for a review which is carried out by a different CSO. If a parent remains dissatisfied he may appeal to a Child Support Appeal Tribunal. Reviews are also carried out, under section 17 of the Act, after a change in either parent's circumstances. Except in certain cases, which do not apply here, if a section 17 review results in a change to the assessment, a fresh assessment will be made only if the amount of maintenance payable would alter by £10 or more a week. A CSO can instigate a review under section 19 of the Act if he or she is satisfied that the assessment is defective because it was made in ignorance of or based on a mistake as to a material fact or it is wrong in law. Regular periodic reviews are carried out under section 16 of the Act. Until 18 April 1995 those reviews were carried out annually.

5. Under section 31 of the Child Support Act 1991 a CSO may make a deduction from earnings order (DEO) against an absent parent to secure the payment of any amount due under a maintenance assessment. A DEO is an instruction to a person's employer to make deductions directly from earnings. A DEO cannot be served on a serving member of Her Majesty's Forces. A CSO can ask the Paymaster General to make deductions for child maintenance from the absent parent's wages; but the Paymaster General is under no legal obligation to do so. For ease of reference I refer to this arrangement as a DEO in my report.

Investigation

6. Appendix A to this report sets out a chronology of the main events in the case.

The DSS response to the complaint

7. The Permanent Secretary of DSS acknowledged that delays and mistakes had occurred in handling Mr M's case and he apologised for CSA's shortcomings. In particular he apologised for the delay in making a maintenance assessment; that an incorrect effective date had been used; for the delay in carrying out a review to take account of Mr M's endowment policy; and that letters sent to Mr M's representatives had contained incorrect information. He added his apologies to those already given by the Chief Executive for the incorrect information given to Mr M on 30 August 1994 that arrears of maintenance would not be collected, saying that, as the Chief Executive had explained, CSA were required to collect all maintenance due from the effective date. The Permanent Secretary went on to say that CSA had sent Mr M a number of reminders telling him that his account was in arrears. While CSA preferred that arrears were cleared by a single payment, they would consider sympathetically a request to pay by instalments; but Mr M had made no attempt to contact CSA or come to an agreement on the arrears and that was why CSA had asked his paymaster to make deductions for child maintenance from his salary. In answer to Mr M's complaint that the DEO had stated that he had failed to make regular payments of maintenance, the Permanent Secretary apologised for that but said that CSA had to issue the notices in a standard format to ensure that the DEO was legally valid. He said that he had, nonetheless, asked CSA to consider the wording of the notices as part of their review of forms and procedures. The Permanent Secretary said that he could not comment on the possible effect of the DEO on Mr M's employment; but CSA did not take such decisions lightly and considered all aspects of a case before starting any action to enforce payment. As well as considering the possible effects on the absent parent, CSA had a responsibility to the PWC and the child on whose behalf maintenance was being collected and who might be relying on regular and predictable payments and on the recovery of arrears.

8. DSS later told the Commissioner that the standard letters to the absent parent and to the employer notifying the imposition of a DEO had been amended so that, in cases like that of Mr M, it would be clear that the action was being taken because of the non-payment of arrears, not regular maintenance. I have seen the standard letters which are now in use.

Findings

9. CSA told Mr M at the outset that his liability for child maintenance started on 3 March 1994 (although they mistakenly recorded the start date as 17 March). Although there was a delay in making the maintenance assessment, for which I criticise CSA, he had been made fully aware that liability was accruing in the meantime. Moreover, in view of the publicity surrounding CSA's work, I think he should have realised that his voluntary maintenance payments would fall substantially short of CSA's assessment of his liability. Regrettably, when CSA notified Mr M of his liability in July 1994 they wrongly told him to make the payments to the PWC instead of to CSA; and as a result also wrongly told his partner that CSA would not take enforcement action to recover the arrears owing. They took care to remind her that, notwithstanding CSA's intention, Mr M's liability for payment from March 1994 remained; but clearly Mr M felt less pressure on him to comply with CSA's assessment. I criticise CSA for their mistake which misled Mr M as to his position. CSA realised their mistake two months later and took on collection of the maintenance. Shortly afterwards they sent Mr M the first of many letters about the arrears of maintenance. Although CSA failed to reply promptly—or, in some instances, at all—to enquiries which Mr M, his partner and his solicitor made about his case and were slow to carry out the reviews under sections 17 and 19 (paragraph 4), Mr M remained liable to pay to CSA his assessed level of maintenance from March 1994. I accept that, contrary to what was said in the CSAC's letter of 9 May 1995, they probably did *not* tell how much he should pay each week off the arrears; but in my view CSA gave him ample warning that he was not fully meeting his liability and ample opportunity to discuss with them his proposals to remedy that. I do not find unreasonable the CSO's decision to impose a DEO.

10. That brings me to the implementation of the DEO and the second strand to Mr M's complaint (paragraph 1). CSA accepted that the standard letters used were inappropriate and gave a misleading impression (paragraph 7). I am satisfied that the new letters (paragraph 8) resolve the problem. I remained concerned, however, that the standard DEO implementation letters were also used when notifying the absent parent and the employer of a change to the DEO after a review. The letters did not seem to me to be suitable and I asked the new Permanent Secretary if she would consider adopting letters better suited to the circumstances. She said in reply that CSA agreed that a new letter is required which will make clear that deductions are already being taken from salary and that the amount of the deduction is to change as a result of the review of the maintenance assessment. The Permanent Secretary said that the new letter will be introduced to CSA operations as soon as is practicable.

11. The investigation has highlighted many careless errors made by CSA in their letters to Mr M and his representatives and I criticise them for their generally slipshod work. I now pass on to him, through this report, the apologies which the Permanent Secretary offered for CSA's poor performance. I regard those apologies, together with the amendments which have been made to the standard letters and CSA's agreement to introduce a new letter for notification of change to a DEO after a review, as a satisfactory response to a justified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

1994

24/02/94 The CSA local field office received a completed MAF from the PWC, who was receiving income support. She named Mr M as the father of her daughter and said that he was paying maintenance of £60 a month under a voluntary agreement arranged by DSS.

03/03/94 The field office sent Mr M a MEF with a letter explaining that liability for child maintenance under the Child Support Act started from the day the MEF was posted.

11/03/94 The field office received the completed MEF. Mr M said that he was unable to provide confirmation of his mortgage details because he was on duty in Northern Ireland as a member of the armed forces.

14/03/94 The field office asked Mr M for evidence of his mortgage and his partner's wages.

05/04/94 The field office received two wage slips from Mr M's partner.

06/04/94 The field office asked Mr M for verification of his mortgage and his partner's wage slip for January.

12/04/94 The field office received the requested pay slip and mortgage details.

??/??/?? The field office sent the papers to Plymouth Child Support Agency Centre (CSAC).

07/07/94 A CSO calculated Mr M's maintenance assessment at £72.80 a week (£315.47 a month) from 17 March. (The effective date should have been 3 March, the date the MEF was issued.)

08/07/94 The CSAC sent details of the CSO's decision to Mr M and the PWC. They told Mr M to make payments direct to the PWC. They asked the PWC what maintenance payments Mr M had made since 17 March.

19/07/94 Mr M's partner telephoned the CSAC to say, among other things, that Mr M's wages had reduced. She wrote to the CSAC enclosing two of Mr M's recent wage slips and saying that the maintenance assessment would place them in severe financial difficulty. She sent a copy of her letter to the Prime Minister and to the Member.

11/08/94 The CSAC acknowledged the partner's letter.

30/08/94 After a telephone conversation with Mr M's partner—which was not recorded—the CSAC wrote to her saying that a DEO would not be imposed to recover outstanding maintenance because the PWC had not asked for CSA's collection service. (The CSAC's advice was wrong. Because the PWC was receiving a prescribed benefit when she completed the MAF, the collection service applied from the effective date of the maintenance assessment.) The CSAC stressed that the assessed level of maintenance should be paid irrespective of whether CSA would take action on default.

02/09/94 Mr M's partner wrote to the CSAC asking why Mr M was liable for maintenance arrears when the PWC had not asked for CSA's services. She asked for a reply to her letter of 19 July and a guarantee that Mr M would not be liable for maintenance or incur arrears until his liability had been reassessed.

05/09/94 The PWC telephoned the CSAC. As a result the CSAC decided that Mr M should make the maintenance payments through CSA.

07/09/94 The CSAC wrote to Mr M pointing out that he was in arrears with his maintenance payments. They asked him to contact them warning that enforcement action might be taken if he failed to do so.

13/09/94 The CSAC completed a maintenance assessment taking into account Mr M's reduced wages. As the change did not alter the original assessment by at least £10, it was not implemented (paragraph 4). They told Mr M the result of the review. They also wrote to him saying that, on his MEF, he had said that he had a repayment mortgage but his partner's letter of 19 July had referred to an endowment premium. They asked for clarification.

19/09/94 The CSAC received details of Mr M's endowment policy.

21/09/94 The CSAC wrote to Mr M telling him that his maintenance payments were in arrears.

23/09/94 Mr M's partner telephoned the CSAC to query the arrears notice saying that she understood that the collection service applied from 5 September.

10/10/94 The CSAC sent Mr M a final reminder warning him that a DEO would be imposed if he failed to comply. They asked him to contact them.

13/10/94 The CSAC wrote again to the PWC asking about the voluntary payments made by Mr M.

17/10/94 Mr M's partner telephoned the CSAC asking for clarification of the arrears.

18/10/94 The CSAC replied to the letter of 2 September from Mr M's partner. They said that the information provided earlier had been incorrect for which they apologised. They explained that, as the PWC had been receiving a prescribed benefit when the effective date for child maintenance payments had been established, CSA had authority to collect maintenance on her behalf. They said that they would write as soon as a decision had been made about Mr M's endowment policy. The CSAC received a reply from the PWC saying that Mr M paid £60 each month.

24/10/94 The CSAC received a letter from Mr M's solicitors referring to the information about arrears given in the letter of 30 August. They said that Mr M had been given the clear impression that there were no arrears to be paid and had been extremely concerned to receive an arrears notice. They sought an assurance that the payments which Mr M had made direct to the PWC would be deducted from the amount of £1,747.20 owed for the initial period and that interest would not be charged. They also raised queries about the maintenance assessment.

26/10/94 Mr M's partner wrote to the CSAC saying that he was due to start repaying a long service award at £80 a month from 31 October. She also asked whether the maintenance assessment had been reviewed to take account of the endowment policy.

03/11/94 The CSAC received the first payment of £255.47 from Mr M. They tried unsuccessfully to telephone him to discuss the arrears.

04/11/94 The CSAC wrote to Mr M saying that they had received no payments from him and that, unless they heard from him within five days, a DEO would be served on his employer. They added that they were aware that he was paying the PWC £60 a month but reminded him that his monthly maintenance liability was £293.76 payable to CSA. (The figure quoted was incorrect. Mr M's liability was £315.47 a month.)

09/11/94 The CSAC tried to telephone Mr M but recorded that his home number was unobtainable.

10/11/94 The CSAC sent another reminder to Mr M's home address and one care of his employer. The CSAC received a letter from Mr M's partner querying the maintenance figure in their letter of 4 November. She asked whether the endowment policy had yet been taken into account.

05/12/94 The CSAC received a second payment of £255.47 from Mr M.

14/12/94 The CSAC sent Mr M another arrears notice, quoting the correct monthly maintenance liability of £315.47.

15/12/94 The CSAC wrote to Mr M telling him that the monthly payments of £60 which he had made direct to the PWC had now been deducted from the initial payment due thereby reducing it from £1,747.20 to £1,414.90. They went on to say that Mr M was also currently £375.47 in arrears on his regular maintenance payments. They asked him to contact them to arrange a payment schedule.

19/12/94 The CSAC received a letter from Mr M's solicitors asking for a reply to their earlier letter.

30/12/94 The CSAC wrote to Mr M about his failure to make full payments to CSA.

1995

05/01/95 The CSAC received a payment of £315.47 from Mr M.

09/01/95 The CSAC's enquiries and complaints manager wrote to Mr M's solicitors apologising for the delay in doing so. He told them, wrongly, that Mr M's weekly maintenance assessment had been reduced from £72.80 to £67.79 from 21 July and that the endowment premium of £84 a month had been taken into account. He said that maintenance payments made direct to the PWC had been deducted from the arrears due and that the matter of interest on Mr M's arrears had been referred to the Accounts Control Section who would reply.

30/01/95 The Member wrote to the Chief Executive of CSA enclosing a letter from Mr M complaining about CSA's handling of his case.

03/02/95 The CSAC received £315.47 from Mr M.

06/02/95 The CSAC tried unsuccessfully to telephone Mr M both at home and at work.

16/02/95 The CSAC sent annual review forms to Mr M and the PWC.

17/02/95 The Chief Executive replied to the Member confirming that the current maintenance assessment of £72.80 a week was correct. She said that a CSO had reconsidered the amount in light of Mr M's endowment policy but the change produced had not breached the £10 tolerance level. (That was incorrect. The review had not been carried out.) She apologised for the incorrect information given to Mr M that the arrears of maintenance would not be recovered, explaining that CSA were obliged to collect all the maintenance due from the effective date and had no authority to write off the arrears which currently stood at £1,466.89. She suggested that Mr M should discuss with the CSAC the possibility of paying the arrears by instalments. She went on to explain some of the proposed changes to child support legislation and said that they might help Mr M.

20/02/95 The CSAC received the PWC's completed review form.

22/02/95 The CSAC received Mr M's completed review form.

03/03/95 The CSAC received £293.76 from Mr M.

13/03/95 A CSO decided to impose a DEO.

14/03/95 The CSO wrote to Mr M saying that, as he had failed to make regular payments of child maintenance, a DEO would be imposed for £406.07 a month from 30 March reducing to £315.47 a month from 30 November 1996. The CSO sent a similar notice to Mr M's employer.

15/03/95 A CSO carried out a section 19 review to take account of the endowment policy. She reassessed Mr M's maintenance liability at £66.17 a week (£286.74 a month) from 17 March 1994. After receiving a facsimile message from Mr M's partner, the CSAC telephoned her about the DEO. The partner complained that the statement that Mr M had failed to make regular payments of maintenance was untrue. The CSAC explained that, although payments had been made, they had been made late; had been for incorrect amounts; and had included nothing off the arrears.

16/03/95 The CSAC notified the PWC and Mr M of the result of the section 19 review.

20/03/95 The CSAC received a letter dated 15 March from Mr M saying that the DEO had placed him in a very difficult position with his employer and that he found CSA unsympathetic to his financial difficulties. He complained that he had not received a reply to the letter of 19 July 1994 which had outlined the impossibility of his situation.

05/04/95 The CSAC received £315.47 paid by DEO.

12/04/95 The CSO wrote to Mr M saying that, as he had failed to make regular payments of child support maintenance, a DEO would be imposed for £375.53 a month from 30 April and £286.74 a month from 30 July 1996. The CSO sent a similar notice to Mr M's employer.

18/04/95 Changes to child support legislation reduced Mr M's weekly maintenance assessment to £60.79 from 18 April. The CSAC notified Mr M and the PWC of the change.

19/04/95 The CSAC replied to Mr M's letter of 15 March apologising for the delay in doing so. They said that they were sorry if Mr M felt that CSA's involvement had been unwarranted and regretted any distress caused by their actions; but CSA were required to act within the framework of the Child Support Act and could not always be as flexible as an individual might wish. They said that, if Mr M disagreed with the amount of the maintenance assessment, he could ask for a section 18 review.

21/04/95 Mr M wrote to the CSAC saying he was confused by the recent correspondence and the changes to his maintenance assessment. He also expressed his anger about the wording of the letter sent to his employer on 12 April.

26/04/95 The Member wrote to the Chief Executive saying that, contrary to the letter sent to Mr M's employer on 12 April, he had seen bank statements confirming that Mr M had made regular payments of maintenance to CSA at least since 7 December 1994.

03/05/95 The CSAC received £315.47 paid by DEO.

09/05/95 The CSAC told Mr M and his employer that the DEO should be £355.78 a month from 30 May and £263.42 a month from 30 July 1996. The CSAC replied to Mr M's letter of 21 April saying that the letters sent to him and his employer had been standard letters. They apologised if the wording had caused him problems. They said that they accepted that Mr M had been making payments of maintenance but the payments had been less than the amount required for regular maintenance and arrears. They had asked him to pay £315.47 maintenance and £90.60 for the arrears. They had written to him about that in December and had tried to telephone him several times since; but because they had received no reply they had imposed a DEO. They explained the effective date of the maintenance assessment; the subsequent changes made to the assessment; and the accumulation of arrears. They apologised for the delay in making the maintenance assessment which had allowed arrears to accrue but said that CSA had no authority to change the date of liability or to waive payment of the arrears.

10/05/95 The Chief Executive replied to the Member explaining the reasons for the imposition of the DEO. She said that, when the accounts had been set up in August 1994, Mr M had been required to pay £406.07 a month; £315.47 regular maintenance and £90.60 towards the initial period amount. He had paid only the regular maintenance which was not acceptable to CSA. They had written to him in December 1994 but had received no reply. She acknowledged that the wording of the letters sent to Mr M had been misleading; he had made regular payments but not full payments.

15/05/95 A CSO carried out the annual review of the weekly maintenance assessment and revised it to £68.65 from 16 March reducing to £63.13 from 18 April. (The date of the revised assessment should have been 2 March, 52 weeks after the correct effective date of the maintenance assessment.)

16/05/95 The CSAC sent notifications of the review to Mr M and the PWC.

19/05/95 Mr M wrote to the CSAC asking what his current liability was. He objected to the letters sent to his employer and said that he did not agree that he owed any arrears.

03/06/95 The CSAC received £355.78 paid by DEO.

08/06/95 The Member wrote to the Chief Executive asking for her comments on a letter in which Mr M said that, contrary to what had been said, CSA had never contacted him about making payments towards the arrears and had never told him that his payments should be £406.07 a month.

12/06/95 The CSAC wrote to Mr M setting out his weekly liability from 17 March 1994, 16 March 1995 and 18 April 1995.

03/07/95 The CSAC corrected the effective date of the maintenance assessment to 3 March 1994 and the date of the change after the annual review to 2 March 1995.

04/07/95 The CSAC sent Mr M an explanation of the calculation of the amount due in the initial payment period (3 March 1994 to 31 July 1994) and a breakdown of payments made and due from 1 August 1994 to 31 May 1995. The Chief Executive replied to the Member's letter of 8 June. She said that Mr M had failed to respond on numerous occasions to letters about arrears and she listed the correspondence which CSA had had with him on the matter. She said that, in addition, her letters to the Member on 19 December 1994 (which had been in response to an enquiry about CSA's fees) and 17 February 1995 had mentioned the possibility of a DEO and had advised that Mr M should contact the CSAC's debt management section in order to negotiate a reasonable settlement of the arrears. She said that she was satisfied that the imposition of the DEO had been the only course of action open to CSA because of Mr M's refusal to respond to their many communications. As to his statement that he had not been told that he must pay £406.07 a month, the Chief Executive said that CSA were aware that payment for the initial period might be too much to pay in full and absent parents were advised to contact them. A CSO would then negotiate a fair rate of repayment. Mr M had not contacted the CSAC as requested; had he done so the repayment rate would have been calculated at £90.60 a month but the figure would have been negotiable. If Mr M would contact the CSAC it might be possible to reduce the arrears' repayment rate.

Case No. C.110/95—Mishandling of maintenance liability

1. Mr X complained that the Child Support Agency (CSA) dealt with his maintenance liability in a confusing and inefficient manner, causing him considerable trouble and expense and leaving him uncertain of the amount he owed.

2. The Parliamentary Commissioner received so many complaints about CSA's performance that he made a special investigation of the problems being experienced. His report of that investigation was published in January 1995. My investigation into Mr X's complaint began in May once the Commissioner had obtained comments from the Chief Executive of CSA, after the Member's

referral of the complaint to him. I have not put into this report every detail investigated by the Commissioner's officers; but I am satisfied that no matter of significance has been overlooked.

Background

3. CSA were set up as a result of the Child Support Act 1991 to administer the assessment, collection and enforcement of CSM. A parent with care of a child applies to CSA for maintenance; CSA then send the absent parent a maintenance enquiry form (MEF) to obtain a financial statement so that the amount of maintenance can be assessed under a standard formula, according to the circumstances of both parents. If either parent's circumstances change the maintenance can be reassessed, provided the difference between the old and new assessments is at least £10 a week (or, in certain circumstances, £1 a week). Before 18 April 1995, the absent parent's liability started from the day the MEF was sent to him; where there was a court order in force, however, the effective date was two days after the assessment was made. If there is a court order CSA arrange for it to be cancelled from the effective date of the maintenance assessment (MA).

4. MAs are made by child support officers (CSOs) based at one of several regional Child Support Agency Centres (CSACs), which are supported by a network of field offices. A person who is dissatisfied with a CSO decision may apply for a review by a different CSO. He may then appeal to a Child Support Appeal Tribunal (CSAT) and thereafter, on a point of law, to the Child Support Commissioner. It is not for the Parliamentary Commissioner to determine a person's maintenance assessment. My investigation has been concerned solely with the administrative handling of Mr X's case by CSA.

Investigation

5. Appendix A to this report sets out a chronology of the main events in the case.

The CSA reply to the complaint

6. In her comments to the Commissioner, the Chief Executive of CSA apologised unreservedly for the errors that had been made with Mr X's MAs and for the CSAC's failure to give him clear information about the case. She apologised in particular for any confusion caused by the notification about arrears sent to Mr X on 2 November 1994 which had referred incorrectly to maintenance due for his son N, and for the fact that the CSAC's letter of 24 November had been addressed wrongly and had not said why the previous assessments had been incorrect. She said that in preparing the papers for the Commissioner it had been discovered that the effective dates of the assessments needed to be looked at again. On 15 May Mr X's maintenance liability was reassessed from the outset, reducing the amount he owed from several hundred pounds to £45.64.

Findings

7. Mr X's complaint was fully justified. CSA's handling of his maintenance liability began to go wrong on 18 July 1994 when he told the CSAC that his son C had started full-time work. Instead of writing to the parent with care for confirmation—action which they did not take until 24 November—they simply kept the account open and told Mr X that he was in arrears with his payments. That error might have done little harm had the situation not been complicated by the fact that the CSAC were by then dealing with an application for maintenance for N. On 22 September the CSAC decided that the account could not be closed because the assessment was for two children. That was patently not so. At that stage no assessment had been made on the application for N. The CSAC also confused the two applications, asking Mr X on 2 November to continue paying on the assessment for C, but saying that it was for N. They discovered their mistake towards the end of November, by which time Mr X was paying the incorrect maintenance, he had stopped paying the court order for N, and they had confirmation of C having started work. I criticise the CSAC for the confusion they caused, which resulted in Mr X receiving a summons for non-payment of the court order.

8. At that point the CSAC should have restored the case to a proper footing by terminating the assessment for C and making a new one for N. Instead, on 15 December they asked the CSO to revise the original assessment for C to include N, and to change its effective date. That had the effect of producing an incorrect assessment which made Mr X retrospectively liable for some £20 a week more than he had been paying. The confusion and dismay that that caused Mr X, who had always co-operated fully and had paid what was asked of him promptly, can only have been exacerbated by the incoherent fashion in which the CSO's assessments were communicated to him. Mr X tried to clarify matters by writing to the CSAC on 21 and 22 December, by asking the CSAT to help him on 23 December, and by telephoning the CSAC several times. All that was to no avail. To add to the confusion, the incorrect retrospective inclusion of N in the assessment from January 1994 caused the court to revoke the order for N retrospectively and direct Mr X to CSA for a refund of the payments he had made under it since then. By the end of 1994, Mr X's case badly needed sorting out but he seemed to be the only party making efforts to do so. Although the CSAC continued to send him forms, no progress had been made when, on 22 January 1995, his approach to the CSAT having proved fruitless, Mr X asked his Member of Parliament to refer his complaint to the Commissioner. Although Mr X's case was unusual, he had made countless efforts to get it sorted out and should not have had to take such a step to have it put in order. I criticise the CSAC for their continued failure to produce a clear description of his correct maintenance liabilities for his sons, C and N.

9. On 30 January 1995 the CSAC sent Mr X an explanation of the assessment position. Their letter to him on 27 February gave different information, and the Chief Executive's letter to the Member on 9 March gave yet another version. It was not until 31 March that they sent Mr X a complete and accurate summary of what they saw as his liabilities (albeit still on the basis of the CSO's incorrect decision of 16 December 1994). Even then the date from which he had started to pay arrears was given wrongly. I criticise the CSAC for the poor standard of accuracy in their correspondence, which put Mr X to yet more trouble and expense in trying to establish precisely how much he really owed. In May 1995 the CSAC, with guidance from Central Adjudication Services, finally arrived at the correct relationship between Mr X's maintenance liability for C and that for N. The consequent reassessment meant that Mr X's arrears were substantially reduced and would be paid off, at the agreed rate, over a year earlier than the CSAC had said in their letter of 31 March.

10. Mr X told his Member of Parliament that his efforts necessarily expended on getting CSA to correct his assessments had cost him £203.56 in correspondence expenses. On 7 April 1995, after the Commissioner's intervention, CSA referred the matter to their Treasurer. In the light of the fact that no decision had been given by November, I asked the Chief Executive to give the matter urgent consideration as it seemed to me that the catalogue of errors revealed during my investigation were ample justification for reimbursing Mr X for the cost of his actions. In reply the Deputy Chief Executive said that after considering the particular circumstances in Mr X's case a payment of £203.56 would be sent to him as soon as possible.

Conclusion

11. CSA gave Mr X an extremely poor service. Serious confusion about his different maintenance liabilities for his two children was made worse by inaccurate correspondence. For over six months his case was in disarray and it took persistent effort by him and his Member of Parliament to get it put right. The Chief Executive of CSA has apologised and CSA have agreed to make Mr X an *ex gratia* payment of £203.56. Through this report I pass on to Mr X the Chief Executive's apologies regarding them, the *ex gratia* payment and the clarification of Mr X's maintenance liabilities as a satisfactory outcome to a justified complaint.

CHRONOLOGY OF MAIN EVENTS

1993

12/10/93 The Belfast CSAC received a maintenance application form from a private client naming Mr X as the father of her sons C and N. She already had a court order for N's maintenance and wished to claim only for C, his maintenance order having expired in September.

07/12/93 The CSAC sent Mr X a MEF.

14/12/93 The CSAC received Mr X's completed MEF.

1994

26/01/94 A CSO assessed Mr X's maintenance liability at £48.43 a week from 7 December 1993.

27/01/94 The CSAC notified Mr X of the maintenance liability and sent him an invoice for their assessment and collection fees of £78.

31/01/94 The CSAC notified Mr X of the initial payment of maintenance due and the method of payment.

03/02/94 The CSAC received £78 from Mr X.

05/02/94 The CSO reassessed Mr X's maintenance liability at £38.36 a week from 7 February 1994 as a result of changes in legislation.

07/02/94 The CSAC notified Mr X of the new liability. They received £394.36 from Mr X for the initial payment of maintenance.

03/03/94 The CSAC received £160.63 from Mr X for his first monthly payment.

10/03/94 The CSAC notified Mr X that his maintenance payments were in arrears.

14/03/94 Mr X telephoned the CSAC and said that he had paid by standing order on 1 March.

07/04/94 The CSAC received £166.23 maintenance from Mr X.

05/05/94 The CSAC received £166.23 maintenance from Mr X.

03/06/94 The CSAC received £166.23 maintenance from Mr X.

08/06/94 The CSAC received a MAF in respect of N.

05/07/94 The CSAC received £166.23 maintenance from Mr X.

18/07/94 Mr X wrote to the CSAC saying that C had started full-time work on that day; he asked for confirmation that he should cancel his standing order for maintenance from 1 August.

10/08/94 The CSAC notified Mr X that his maintenance payments were in arrears.

11/08/94 Mr X telephoned the CSAC and said that C was now in full-time work.

08/09/94 The CSAC sent Mr X a MEF in respect of N.

13/09/94 The CSAC received Mr X's completed MEF. They asked their Accounts Control Section to close the account for C.

22/09/94 The CSAC noted that they could not close the account for C because the maintenance calculation was based on two children; a revised assessment would have to be calculated.

05/10/94 The CSAC asked Mr X to supply a wage slip. They received a letter from Mr X's local Magistrates' Court saying that they had been told by Mr X that the CSAC had made an assessment on him; they asked for a copy so that they could cancel the court order for N.

10/10/94 The CSAC received Mr X's wage slip.

02/11/94 The CSAC notified Mr X that his maintenance payments *for N* had been in arrears of £166.23 a month since 1 August.

04/11/94 Mr X telephoned the CSAC. He said he would send a cheque for two months' maintenance and pay off the arrears at £33.77 a month by direct debit from 1 December.

07/11/94 Mr X telephoned the CSAC about the dates of his initial maintenance payment.

08/11/94 The CSAC sent Mr X a form to complete for an annual review of his maintenance liability due on 6 December. They wrote to him separately saying that he had agreed to pay arrears of maintenance of £332.46 at £33.77 a month from 1 December. They enclosed a postal payment slip and a direct debit instruction.

09/11/94 The CSAC received £332.46 from Mr X.

14/11/94 The CSAC noted that they had received Mr X's direct debit mandate and sent it to the bank.

22/11/94 The CSAC sent Mr X a reminder about the review form.

24/11/94 Mr X telephoned the CSAC and said that he had not received the review form. They wrote to him (addressing him by a different surname) saying that his previous maintenance assessments had been incorrect and his case would be reassessed as soon as possible; any maintenance paid by him would be set against the new assessment. They wrote asking the parent with care to confirm that C was in full-time employment.

25/11/94 The parent with care telephoned the CSAC confirming that C was in full-time employment.

26/11/94 Mr X sent a fax to the CSAC comprising copies of all the correspondence he had received from them since 8 September and a letter pointing out that they had told him on 2 November that his maintenance payments for N had been due from 1 August, but they had not sent him the MEF until 8 September. He said he had discussed with them by telephone the arrears described in their letter of 2 November and, as a result of the agreement reached then, had made a payment of £332.46 for two months, with the arrears to be added to his normal monthly payments starting on 1 December by direct debit. On 24 November he had received a letter saying he had not returned his assessment form; on telephoning the CSAC he had been told that that was a yearly review, despite the fact that the assessment dated only from 1 August and had not been notified to him until 2 November. He had now received the letter of 24 November telling him he was to be reassessed. He said he was now really confused and asked the CSAC to explain what was happening and to tell him who was dealing with his case. He said that his circumstances had not changed since his last assessment form.

29/11/94 Mr X telephoned the CSAC asking them to telephone the Magistrates' Court urgently to tell them he was paying maintenance; he had received a summons as a result of the CSAC's failure to instruct the court to cancel the maintenance order for N. He asked to be told as soon as the CSAC had telephoned the court. The CSAC telephoned the court and said that Mr X had thought the court order no longer applied because they had made an assessment; they agreed to confirm in writing. They told Mr X that he should not have been assessed; a new assessment would be calculated.

08/12/94 The CSAC wrote asking Mr X to contact them because his direct debit appeared to have failed.

10/12/94 Mr X replied by fax saying that because they had told him not to make any more maintenance payments, he had cancelled his direct debit. He directed them to the officer to whom he had spoken on 29 November.

12/12/94 The CSAC noted their computer that Mr X's assessment was shortly to be cancelled.

15/12/94 The CSAC noted their papers that Mr X's maintenance liability should be reviewed because the wrong effective date had been used and only one qualifying child had been included in the original assessment.

16/12/94 The CSO reassessed Mr X's maintenance liability at £61.95 a week from 28 January 1994 and £59.62 a week from 7 February 1994. The CSAC wrote telling him about the £61.95 assessment and saying that they had sent him a letter at the same time which told him about the £59.62 assessment. They wrote telling the court about the assessment and that it superseded the court order. They wrote to Mr X saying that the assessment superseded the court order.

19/12/94 The CSAC notified Mr X of the £59.62 assessment. They said that the revised amount was payable for N. They sent him a review form in order to complete a reassessment from 15 July 1994 to take account of C having started work.

21/12/94 Mr X sent a fax to the CSAC saying he had received the letters sent to him on 16 December but could make no sense of them in the light of his recent correspondence with the CSAC. He said that he had received another review form despite the fact that he had recently completed one, had confirmed that his circumstances had not changed since, and had been told he would not be sent another. He asked them to sort matters out and to tell him what was going on. The court revoked the court order for N, the last payment due on it having been 24 January 1994.

22/12/94 Mr X sent further faxes to the CSAC saying he had now received the notification of the £59.62 assessment, which was invalid. He asked to be told what was going on.

23/12/94 Mr X wrote to the CSAT asking for help in sorting out his assessments. He said that he had been paying £166.23 a month; the CSAC had told him by telephone that he was in credit and should stop paying, and had then reassessed him at a higher amount. He asked to be allowed to continue paying £166.23 because he could not afford the new liability. He said he had written to, faxed and telephoned the CSAC but everyone to whom he spoke gave him a different story.

31/12/94 Mr X faxed the CSAC a copy of a letter he had received from the court saying that after receiving notification from CSA of a MA for N they had revoked his order and the case was now £322.50 in credit. The court suggested that Mr X contact CSA if he wanted to claim a refund. Mr X asked for a refund of that amount and also of the £332.46 that he had paid to the CSAC on 7 November, because the CSAC had told him that he had not been assessed at that date.

1995

04/01/95 The CSAC sent Mr X a reminder about the review form. The Independent Tribunal Service wrote to the CSAC asking for details of Mr X's case to enable the CSAT Chairman to decide whether Mr X's appeal of 23 December was within their jurisdiction.

05/01/95 The CSAC replied that they considered the appeal to be outside the CSAT's jurisdiction because a review had yet to be carried out.

07/01/95 Mr X sent a fax to the CSAC saying that before Christmas he had returned the review form marked "no change" as instructed. He asked again about the refund he was due.

09/01/95 The CSAC sent Mr X a periodic review form in the light of the approaching anniversary of the first assessment.

11/01/95 The CSAC sent Mr X a fee invoice for £78 for assessment, review and collection services from 26 January 1995 to 25 January 1996.

13/01/95 Mr X sent a fax to the CSAC querying the fee invoice. He suggested that, if it had to be paid, it be deducted from the money they owed him. He complained about the time and expense he had incurred trying to get his case sorted out and asked the name of the officer dealing with his assessment.

17/01/95 The Independent Tribunal Service told the CSAC that the CSAT Chairman had decided that Mr X's appeal was outside jurisdiction. (They also notified Mr X.)

22/01/95 Mr X asked his Member of Parliament to refer his complaint to me.

23/01/95 The CSAC sent Mr X a reminder about the periodical review form.

26/01/95 The CSAC sent Mr X a final reminder about his maintenance payments, warning that if he did not arrange to pay the amounts due within five days they would serve a deduction from earnings order on his employer.

27/01/95 The CSAC sent Mr X a reminder about the fee invoice. The CSO reassessed his maintenance liability from 15 July 1994 at £47.43 a week to take account of C having started work. The Member sent Mr X's complaint to the Chief Executive of CSA and to the Parliamentary Commissioner.

30/01/95 The CSAC notified Mr X of the new assessment. They also wrote telling him that his payments were in arrears. Mr X telephoned the CSAC saying that he would pay when he received notification of the assessment. The CSAC wrote to him apologising for the delay in replying to his letters. They said that his first MA for C had been effective from 7 December 1993. However, the assessment should have included N because the parent with care was receiving family credit; the effective date should have been 28 January 1994 and the court order should have been revoked from then. Those errors had not been discovered until November 1994 and the assessment had been reviewed on 16 December. They said that the payments he had made through the court order would be deducted from the arrears that had resulted from the increase in his maintenance liability. He would shortly receive notification of the review assessment. The CSAC apologised for the errors that had occurred.

01/02/95 The CSAC noted that Mr X had agreed to pay off his arrears at £44.47 a month by direct debit.

02/02/95 The CSAC amended Mr X's account to reflect the new liability of £47.43 a week and notified him of the revised payments due. His arrears stood at £1,279.61.

06/02/95 Mr X telephoned the CSAC about his direct debit. They told him that it should now be in order.

10/02/95 Mr X sent a fax to the CSAC asking for a direct debit mandate so that he could start payment, and details of the payments he had made for N and his arrears.

13/02/95 The CSAC wrote telling Mr X that the CSO had refused his request for a review of his maintenance liability. (They were referring to Mr X's letter of 23 December 1994 to the CSAT, which had been treated as a request for review.)

27/02/95 The CSAC replied to Mr X's request of 10 February, enclosing a direct debit mandate. They said that his liability for N had been £48.43 a week from 7 December 1993 to 6 February 1994, £59.62 a week from 7 February to 14 July, and £47.43 a week from 15 July, making a total of £3,124.12 due at 1 February 1995. They had received a total of £1,552.37 from him, leaving arrears of £1,571.75.

01/03/95 Mr X sent a fax to the CSAC querying the information in their letter of 27 February. He said there was no mention of the money he had paid through the court for N up to December 1994, which they had promised would be set against his arrears. He said he had not been notified at the relevant times of the various assessments and had been paying £166.23 a month in good faith. He said he had been told on 30 January that his arrears were £640.94 and had arranged to pay those off. He could not afford to pay the rest of the arrears he was now being told he owed. The CSAC received a payment of £250 from him.

09/03/95 The Chief Executive replied to the Member's letter of 27 January, apologising for the delay in doing so. She said Mr X's MAs had been £48.43 from 7 December 1993, £38.36 from 7 February 1994, revised on review to £59.62, and £47.43 from 15 July. His arrears stood at £1,279.61. She apologised for the fact that the letter sent to him on 24 November 1994 had been addressed incorrectly.

20/03/95 The Member wrote to the Chief Executive enclosing a letter dated 16 March in which Mr X complained that the CSAC had reassessed his liability several times without telling him, leaving him with a debt he could not afford. He also objected to paying the £78 fee, saying that since 1993 he had spent £203.56 on letters, facsimiles and telephone calls trying to get his case sorted out.

28/03/95 The CSAC wrote to Mr X saying that they had set maintenance payments he had made to the court for N against his maintenance arrears, leaving a balance due of £864.31. They told him to contact them within seven days to arrange payment in order to prevent enforcement action being taken.

29/03/95 Mr X replied by fax saying that the arrears were the result of mistakes by CSA; he had always paid what was asked of him. He said that he was already paying off the arrears at £44.47 a month from 1 March. He asked for a breakdown of his account.

31/03/95 The Member wrote to the Commissioner and to the Chief Executive enclosing a letter dated 29 March in which Mr X objected to having received another demand for payment of arrears, despite the arrangement he had made. He pointed out that on 27 February CSA had said his arrears were £1,571.75; on 9 March they had said they were £1,279.61; now they said they were £864.31. He said that he was unable to trust what CSA told him about his debt. The CSAC replied to Mr X's letter of 29 March. They said that his liability had been £61.95 a week from 28 January to 6 February 1994, £59.62 a week from 7 February to 14 July, and £47.43 a week since 15 July. The total maintenance due to date was £2,989.18 and Mr X had paid £1,802.37, leaving a balance of £1,186.81. When the credit of £322.50 from the court was deducted, the balance reduced to £864.31. They confirmed he had arranged to repay that at £44.47 a month from 1 April 1995 to 1 October 1996, with a final payment of £19.38 on 1 November 1996.

01/04/95 Mr X sent a fax to the CSAC querying the variations in his assessment, of which he said he had not been told at the time. He pointed out that his arrears payments had started from 1 March, not 1 April.

03/04/95 The CSAC received £250 from Mr X.

06/04/95 The Chief Executive replied to the Member's letters of 20 and 31 March. She listed the letters the CSAC had sent to Mr X. She apologised for having given an incorrect arrears figure in her letter of 9 March, and confirmed that they stood at £864.31. She apologised both for the fact that the CSAC had asked Mr X to arrange payment of his arrears when he already had done so, and for any distress caused to him by the delay in dealing with his case. She offered to consider compensation if he provided evidence to show that he had suffered financial loss. The CSAC replied to Mr X's letter of 1 April. They said that his assessment queries had been passed to the relevant Business Team Manager, whose telephone number they supplied. They said that the payment dates of his arrears agreement had been revised because of a change in the amount due. They apologised for having asked him, in their letter of 28 March, to contact them to arrange payment of arrears when he already had an agreement with them.

08/04/95 Mr X sent a fax to the CSAC pointing out that his first arrears payment had been made by direct debit on 1 March and the second on 1 April. He asked for confirmation that they had received both payments.

01/05/95 The CSAC received £250 from Mr X.

05/05/95 The CSAC replied to Mr X's letter of 1 April, apologising for the delay in doing so. They said that his first assessment had been effective from 7 December 1993 for C only; from 28 January 1994 he had been assessed for both children; from 7 February changes in the maintenance formula had produced a change in his liability; and from 15 July C had been taken out of the assessment. However, they had looked at his case again with guidance from CAS and found it should have been assessed as follows:—

7 December 1993–18 July 1994: assessment for C only

19 July–17 December: no liability because the case was suspended pending closure

18 December onwards: assessment for N only

They said that when they had completed their action they would reschedule his payments as necessary.

09/05/95 The CSAC replied to Mr X's letter of 8 April, confirming that they had received payments of £250 from him on 1 March, 3 April and 1 May.

10/05/95 Mr X sent a fax to the CSAC asking why he had been asked to pay maintenance between 19 July and 17 December 1994 if he had had no liability for that period.

15/05/95 The CSO reassessed Mr X's maintenance liability at £49.46 a week from 7 December 1993, nil from 18 July 1994, and £39.05 a week from 18 December.

16/05/95 Mr X sent the CSAC a reminder about his letter of 10 May.

22/05/95 The CSAC adjusted Mr X's account to reflect the new assessments. They calculated that £2348.01 child support maintenance had been due from 7 December 1993 to 1 May 1995; Mr X had paid £2302.37 so owed £45.64. They notified Mr X of the position.

Case No. C.592/94—Complaint of imposition of a DEO without adequate warning

1. Mr G complained about the way CSA had dealt with his child maintenance affairs. He said that they had failed to provide answers to questions and explanations that he had sought on the action they had taken in his case, that they had given him only three days in which to make a lump sum payment of arrears of child maintenance, and they had imposed a deduction from earnings order (DEO) without having given him the requisite period of notice in which to discuss arrangements for payment.

2. The Parliamentary Commissioner received so many complaints about CSA that he carried out a special investigation into the problems being experienced. His report on that investigation was published in January 1995 and a copy sent to the Member. My investigation began in October 1994 once the Commissioner had obtained comments from the DSS Deputy Secretary of Resource Management and Planning, after the Member had referred the complaint to him. I have not put into this report every detail investigated by the Commissioner's officers but I am satisfied that no matter of significance has been overlooked.

Background

3. CSA are responsible for the assessment, collection and enforcement of child support maintenance. They obtain information about the absent parent (AP) from the parent with care (PWC) of the child. They then send the AP a maintenance enquiry form (MEF) to obtain a financial statement so that the amount of child support maintenance can be assessed under a standard formula. Under section 6(1) of the Child Support Act 1991 a PWC who is claiming certain benefits (including income support (IS)) is required to authorise CSA to act on her behalf to recover child support maintenance from the AP.

4. Before 18 April 1995, unless there was an existing court order for maintenance, child support maintenance started from the day the MEF was sent or given to the AP. That day is known as the 'effective date' and there is often a lapse between it and the commencement of regular payments; during that period (the initial payment period) arrears will accrue. On completion of an assessment CSA calculate a separate figure for the initial payment which they notify to the AP. The maintenance due for the initial period should be paid in full but an AP who cannot pay it immediately is told to contact CSA to arrange payment by instalments. CSA make statutory charges for their services. The Child Support Fees Regulations 1992 provide that the AP and the PWC shall both pay assessment and collection fees to CSA unless exempted. The exemptions are listed and do not apply to Mr G.

5. Maintenance assessments (MAs) are made by child support officers (CSOs) working at one of several regional Child Support Agency Centres (CSACs), which are supported by a network of field offices. Under section 31 of the Act a CSO may make a DEO against the AP to secure payment of any amount due under a MA. A DEO is an instruction to an employer to make deductions direct from an AP's earnings. Copies of the order are sent to both the employer and to the AP. DEO action is normally taken only when it is clear to the CSO that other methods of collection have failed or are likely to fail. It is not for the Commissioner to determine a parent's MA or whether a DEO should be made. Under section 18 of the Act a parent who is dissatisfied with a CSO decision may apply for a review which is carried out by a different CSO. If a parent remains dissatisfied he or she may then appeal to a Child Support Appeal Tribunal (CSAT) and thereafter, on a point of law, to the Child Support Commissioner. Reviews are also carried out, under section 17 of the Act, after a change in either parent's circumstances. My investigation into Mr G's complaint has been concerned solely with the administrative handling of his case by CSA.

The DSS reply to the complaint

6. In his comments to the Commissioner, the Deputy Secretary said that it had been made clear to Mr G from the outset that liability for child support maintenance began from the date on the letter accompanying the MEF, so Mr G should have been aware that arrears were accruing from 31 July 1993. Mr G had also been told to contact the CSAC if he wanted to discuss payment arrangements; and the DEO had been imposed only after expiry of the time limit for Mr G to make suitable arrangements to pay the arrears of regular maintenance. The Deputy Secretary also said that the volume of correspondence received by CSACs had meant that replies to letters had often taken longer than the Department would have wished and he apologised for the delays in responding to Mr G's enquiries. A reorganisation of work in the CSAC had taken place and a specialist team set up to deal with mail. All incoming letters are

now examined by a central registration team and are then passed to the supervisor dealing with the case, who arranges for a reply as soon as possible. In addition all managers had been made aware of the need to reply to all communications promptly and professionally.

Investigation

7. Appendix A to this report sets out a chronology of the main events in the case.

Findings

8. Mr G complained about a number of aspects of the system for collecting child support maintenance; in particular the fees charged by CSA for their services and that IS paid to the PWC is reduced pound for pound by the maintenance paid. The Commissioner's remit does not entitle him to investigate the content of legislation or the possible need for amending it. Those are matters for Parliament to consider and determine. My investigation focused solely on the administrative handling of Mr G's case in determining his liability to pay child support maintenance.

9. Mr G complained that CSA failed to provide him with an explanation for some of their actions; in particular that they had not given him any warning about the arrears of maintenance building up. I find that when CSA sent the MEF to Mr G the accompanying letter said 'Please note that liability to pay child support maintenance starts from the date at the top of this letter. Delay in returning the form may increase any arrears of child support maintenance you are liable to pay.' The reminder sent to him on 13 August confirmed that information. Mr G also confirmed that he read leaflet CSA5 (An introduction). In the light of all that he should have been fully aware that arrears were accruing from 31 July and I do not uphold that part of his complaint. He did not, of course, know how much his MA would differ from the amount he was paying voluntarily. It seems to me that the publicity given to what CSA were doing ought to have suggested to Mr G that an increase in his liability was likely. Nevertheless, it must have come as a shock to him to be faced with such an increase; and because of the time taken between the issue of the MEF and the assessment of his liability, he was faced with a large back payment. Responsibility for the four months taken can be shared almost equally between Mr G for the time taken to return the MEF, and CSA for the time taken to act on it. I also find that the £1,047.68 quoted as due for the initial payment was inflated by some £340.72 because CSA had failed to take account of the voluntary payments of £70 a month which Mr G had been making (which he had declared on the MEF). I criticise CSA for that poor administration.

10. Mr G was told the amount due for the initial period in a computer-produced letter which was probably mailed to him on 29 November. CSA said that payment was due by 6 December and told Mr G to contact them if he could not pay. Mr G complained that he had received that letter only on 3 December and had been given just three days to pay that substantial sum. However, in his letter dated 2 December he referred to the letter dated 28 November and mentioned the sum of £1,047.68 due for the initial period. There is clearly some doubt over precisely when Mr G received the letter but, whatever the date, he ought to have been able to contact the CSAC to discuss suitable arrangements for payment and, in any event, the CSAC took no immediate action to enforce payment. An arrears letter sent to Mr G on 15 December again stressed the need for him to contact the CSAC to make arrangements to pay. Mr G had been told of the provision for paying by instalments but chose not to do anything about it. I do not uphold that part of his complaint.

11. I now turn to the matter of the DEO. On 11 March 1994, after Mr G had failed to pay regular maintenance for January, February and March, CSA wrote warning him that a DEO would be imposed if he failed to pay or to contact the CSAC to arrange payment within five days of the date of the letter. Mr G complained that the DEO had been imposed without him having been given the requisite five days to contact CSA. I have found no evidence to support that contention. He did not contact CSA within the time specified and they were acting within their powers in imposing the DEO—Mr G was not making regular

payments, nor had he reached an agreement with CSA for the settlement of the initial payment. When the DEO was imposed on 18 March an additional £10 a month was added to the regular maintenance to recover arrears of regular maintenance that had accrued. I criticise CSA for failing to tell Mr G about that decision and to explain the reason for it. The Deputy Secretary offered his apologies for that oversight.

12. I find that the CSAC failed to respond promptly to correspondence from Mr G. He wrote on 2 December 1993 and complained by letter on 16 and 19 December that he had not received a reply. The Member wrote to the customer service manager (CSM) on 6 January 1994 enclosing a letter dated 30 December in which Mr G complained about not having received a reply to his earlier letters. It was not until 4 March that the CSM replied to the Member answering the points raised by Mr G. Almost two months for the Member to get a reply was too long, and I criticise CSA accordingly. The Deputy Secretary has apologised for the delays in responding to Mr G's enquiries. He also said that organisational changes have been made to deal with incoming mail more efficiently and all managers have been reminded of the need to reply to communications promptly.

Conclusion

13. I have not found Mr G's main complaints to have been justified. There were, however, some shortcomings in CSA's performance for which the Deputy Secretary has apologised. I pass on to Mr G those apologies which, together with the steps taken to improve CSA's future performance, I regard as a suitable response to this largely unjustified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

1993

10/05/93 The CSAC received a completed MAF from a PWC in receipt of IS. She named Mr G as the father of her son.

31/07/93 The CSAC sent a MEF to Mr G and a letter telling him that liability to pay child support maintenance started from its date.

14/08/93 The CSAC sent a reminder telling Mr G that his liability to pay maintenance started from 31 July and warning that delay in returning the MEF could increase the arrears of maintenance payable.

06/09/93 The CSAC received the completed MEF together with supporting documents. Mr G said that he had an existing maintenance agreement with DSS under which he paid £70 a month.

12/11/93 A MA of £58.67 a week was made, effective from 31 July.

13/11/93 Computer notices were sent to Mr G and the PWC giving details of the assessment. A fees invoice was sent to Mr G.

27/11/93 The CSAC issued a fees reminder to Mr G. Accounts for the case were set up. The amount for the initial payment period 31 July to 2 December 1993 was calculated as £1,047.68. The regular payment was £254.24 a month starting on 2 January 1994.

28/11/93 The CSAC notified both parents of the amounts due and the payment arrangements (by direct debit). They invited Mr G to contact them if he needed help.

30/11/93 Mr G wrote to the CSAC protesting at the imposition of fees for services which he had not requested. He said he understood from their leaflet (An introduction) that no fees were charged if either parent was receiving IS. (That was a misunderstanding of the exemption conditions—a parent is exempt from paying fees only if receiving a prescribed benefit.)

02/12/93 Mr G wrote to the CSAC appealing against the amount of the MA. He complained at being given such short notice to pay the amount due for the initial period, for not having been warned that that might be the case, for the fact that the maintenance he paid would be recovered from the PWC's IS, and that his personal financial details had been sent to the PWC. He asked what had happened to the maintenance payments he had already made to DSS.

10/12/93 A CSO replied to Mr G's letter of 30 November. (CSA do not have a copy of the reply but Mr G's letter of 17 December below refers to it.)

11/12/93 The CSAC sent Mr G a reminder for the direct debit instruction.

14/12/93 The case was passed to the appeals section.

15/12/93 The CSAC sent an arrears notice to Mr G telling him that if he was unable to pay the full amount of the arrears he should contact them immediately to reach an agreement on payment.

16/12/93 Mr G wrote to the CSAC complaining that he had not received a reply to his letter of 2 December.

17/12/93 Mr G wrote to the CSAC acknowledging receipt of their response of 10 December. He said he was unable to meet their demand for £78 fees and should not be liable because he had not asked them to act on his behalf.

19/12/93 The CSAC acknowledged the letter of 2 December.

23/12/93 The CSAC received from Mr G a letter dated 17 December saying that he was still waiting for a reply to his letter of 2 December.

1994

06/01/94 The Member wrote to the CSAC's CSM enclosing a letter dated 30 December in which Mr G asked questions similar to those in his letter of 2 December. He complained that the CSAC had not answered that letter.

12/01/94 The CSAC told Mr G that a CSO had decided that he had not provided grounds for a section 18 review.

04/02/94 The CSAC received a request for background information on the case from the office of the CSAT to enable the CSAT Chairman to decide whether an appeal was within the Tribunal's jurisdiction. (Mr G had appealed direct to them after the CSO's decision to refuse a section 18 review.)

05/02/94 The MA was re-calculated to take account of changes in child support legislation. There was no change in Mr G's liability.

08/02/94 The CSAC sent the required information to the CSAT.

04/03/94 The CSM wrote to the Member apologising for the delay in doing so, and covering each of Mr G's questions in his letter of 30 December 1993 to the Member.

09/03/94 The CSAC sent an arrears notice to Mr G.

11/03/94 The CSAC sent a final reminder to Mr G telling him that a DEO would be imposed if he failed to make arrangements to pay his arrears of regular maintenance within five days of the date of the reminder.

18/03/94 A DEO was imposed to secure regular weekly maintenance plus recovery of arrears of £762.72 (January, February and March) at £10 a month.

19/03/94 The CSAC sent Mr G and his employer details of the DEO. (Mr G was not told that the DEO would include £10 a month to pay off the arrears.)

30/03/94 Mr G wrote to the CSAC asking for a reassessment of his maintenance as a result of increased tax and national insurance contributions.

17/05/94 The CSAC received from Mr G an application for phasing of his MA. They told Mr G that he did not qualify for phasing.

17/06/94 The CSAC wrote asking Mr G for further details about his mortgage.

20/06/94 The CSAC received details from the Benefits Agency of voluntary maintenance payments made by Mr G.

29/06/94 The CSAC reduced to £706.96 the amount due for the initial payment period, having taken account of voluntary maintenance payments of £340.72.

02/07/94 The CSAC sent a review form and a covering letter to Mr G. (CSA believe this was in response to his letter dated 30 March 1994 in which he had asked for a review.)

05/07/94 The CSAC received details of Mr G's mortgage.

15/07/94 CSA sent Mr G a reminder for the review form.

08/08/94 A CSO in the appeals section recalculated the MA as £53.78 a week. The first MA was incorrect as no account had been taken of pension contributions.

09/08/94 The appeal was sent to the Independent Tribunal Service with a submission inviting the CSAT to refer the case to the Secretary of State to arrange for the CSO to amend the MA.

06/10/94 CSA sent Mr G a further reminder for the review form.

04/11/94 The CSAT found that the MA was wrong as no allowance had been made for Mr G's pension contributions. They directed that the CSO revise the decision of 12 November 1993, carry out a reassessment taking into account the February 1994 legislative changes and a further reassessment with effect from 21 November 1994 when Mr G's housing costs increased.

21/11/94 A MA of £53.78 a week was made, effective from 31 July 1993.

22/11/94 Computer notices were sent to Mr G and the PWC. Mr G was asked to provide details of his increased housing costs.

1995

06/01/95 A MA of £50.52 a week was made, effective from 21 November 1994.

09/01/95 Computer notices were sent to Mr G and the PWC giving details of the assessment.

27/02/95 The CSAC wrote telling Mr G of the revised MA and of arrears of £619.64 due for the initial period and £438.53 for regular maintenance.

Case No. C.739/93—Erroneous identification of complainant as father of a child for maintenance purposes

1. Mrs D complained, on behalf of her son-in-law Mr E, that the Child Support Agency (CSA) wrongly identified him as the father of a child and as a result erroneously sent him a maintenance enquiry form (MEF).

2. My investigation began in December 1993 once I had obtained comments from the Chief Executive of CSA after the Member's referral of the complaint to me. I have not put into this report every detail investigated by my officers; but I am satisfied that no matter of significance has been overlooked. Throughout this report references are to the Chief Executive at the time, not to the present Chief Executive.

3. CSA is an executive agency of the Department of Social Security (DSS) set up as a result of the Child Support Act 1991 to administer the assessment, collection and enforcement of child support maintenance. CSA obtain information from the parent with care of a child about the absent parent. They then contact the absent parent to obtain a financial statement so that the amount of child support maintenance payable can be assessed.

4. **1993** On 18 May 1993 a woman (Miss A) made a statement to the CSA Centre at Falkirk (the Centre) naming a man, date of birth 29 March 1970, as the father of her child born on 13 April 1993. She said that he was in HM Forces and gave his present service address in the south of England. She did not give his national insurance number. On 6 July the Centre entered the name and date of birth on the computer system of the DSS Central Index (DCI). DCI identified a Mr E with the same date of birth living at an address in another county in the south of England (the complainant). As there was no other such person listed, and the address (which was in the same general area) had been updated as recently as October 1992, the Centre assumed that it was the same man and sent him a MEF together with notes on its completion, an explanatory leaflet about child maintenance, and a standard covering letter.

5. On 8 July Mr E telephoned the Centre about the correspondence. He denied knowing Miss A. The Centre realised that a mistake had been made and apologised. On the same day the Centre sent Mr E a letter of apology. They explained how the mistake had happened and gave an assurance that their records had been amended so that no further correspondence on the matter would be sent to him. On 9 July Mrs D wrote to the Centre complaining about what had happened and its effect on the family, in particular Mr E 's wife. The Centre's customer services manager replied on 15 July saying that information on the case could not be disclosed to a third party and suggesting that Mr E contact her if he wanted to discuss the matter. Mrs D contacted the Member and on 14 July he wrote about the case to the Secretary of State for Social Security and to the Chief Executive of the Benefits Agency. Both letters were forwarded to the Chief Executive of CSA for reply. She wrote to the Member on 17 August apologising for the distress caused to Mr E and his family. She said that procedures were being reviewed to minimise the risk of the error being repeated. Mrs D and Mr E were not completely satisfied with that response and asked the member to refer the matter to me which he did on 15 September 1993.

6. In her comments to me on the case the Chief Executive of CSA said that the mistake had arisen because the information given by Miss A about the absent parent's date of birth had been incorrect and because further corroborative evidence had not been sought in the light of the differences in Mr E 's name and address. Staff at the Centre had subsequently been reminded firmly of the impact on families which the incorrect issue of enquiry forms could have; and the need for the correct action to be taken to ensure that the absent parent had been properly identified had been emphasised. The Chief Executive said that, in addition, she had written to all Child Support Officers in October stressing the need for procedures relating to the issue of enquiry forms to be strictly adhered to. With her minute she had enclosed a new desk aid designed to help ensure that enquiry forms were sent to the correct absent parent. In conclusion the Chief Executive said that the layout of the letter issued with MEFs to alleged absent parents had been amended to make clearer why the Agency had approached them and that they could readily repudiate the allegation of paternity. The Chief Executive repeated her sincere apologies for the distress caused to Mr E and his family as a result of CSA's error.

Findings

7. The mistake which the Centre made in sending correspondence about child support maintenance to the wrong man (paragraph 4) was a very serious one and should not have happened. Although Miss A gave the Centre the wrong date of birth for the father of the child, which by chance matched that of a man—the complainant—with a similar name, the men's addresses were different. There was therefore a clear possibility that the Mr E whose details were held on DCI was not the man named by Miss A. To assume that he was, as the Centre did, was in my view an act of irresponsibility. My enquiries have revealed that the Centre did not follow CSA's instructions to staff for dealing with cases like that of Miss A. The instructions are that, when the parent with care says that the absent parent is in HM Forces and the address which is given is the service address, the MEF should be sent to the absent parent through the commanding officer.

Instead, the Centre decided—wrongly—to trace the absent parent's home address and send the correspondence there. If the proper procedure had been followed, there would have been no incident of mistaken identity. I criticise CSA for their very serious error.

8. Mr E and his family were understandably angry and distressed to receive correspondence about child support maintenance from CSA. Although the MEF, the notes on its completion and the explanatory leaflet all mentioned the possibility that the addressee might not accept that he was the parent of the named child and gave instructions in that event on how to respond, the standard covering letter which was sent to Mr E made no such reference. I note with approval that the letter has since been amended and it now includes the sentence 'If you do not agree that you are the parent of any of the children named in this letter, fill in the form up to page 2, sign the Declaration on page 32 and return it to us'. I see that as an improvement. Mr E, on the other hand, received the earlier print of the letter which conveyed the impression that parentage of the child was not in doubt and not open to challenge. The effect on him and his family—even if for a short time (paragraph 5)—must have been such that in my view the Chief Executive's apologies, prompt as they were, did not provide sufficient redress. I therefore asked her on 4 March 1994 if, in the exceptional circumstances of the case, she would consider making Mr E an *ex gratia* payment in compensation for the distress and anxiety which CSA's mistake had caused. On 8 April the Permanent Secretary of DSS replied adding his apologies to those already given by the Chief Executive but saying that such a payment was not appropriate because Mr E had not suffered any financial loss through CSA's actions. CSA had apologised immediately to Mr E , in response to his telephone call, for the error which had occurred and had also sent a letter of apology on the same day.

9. While there was no dispute that Mr E had suffered no financial loss, nor that CSA had quickly corrected their mistake and apologised, I remained concerned about the distress and anxiety which Mr E and his family had been caused. In my view, apologies did not diminish the anguish to which the family had been exposed by CSA's maladministration, particularly the effect on Mr E's wife who was having problems with her pregnancy after a previous miscarriage. I regarded the mistake as a very serious matter. Because DSS had not convinced me that they had sufficiently acknowledged that, I asked the Permanent Secretary if he would reconsider his position. On 13 May I met him to discuss the matter. He said that the DSS view on compensation in cases where CSA have mistaken the identity of an absent parent generally centred on whether the action which caused the distress had been malicious. I maintained the view that a completely avoidable mistake—although not malicious—had caused Mr E and his family a period, no matter how short, of extreme distress and anxiety for which apologies alone did not properly compensate. I again asked the Permanent Secretary to reconsider the matter.

10. On 15 August the DSS Deputy Secretary of Resource Management and Planning, in the Permanent Secretary's absence, wrote to me saying that DSS were willing to compensate aggrieved individuals for heads of loss or damage which would be compensated by the courts for comparable unacceptable behaviour in the private sector, but not more. He said that, as the law then stood, that included compensation for financial loss and actual injury to health, but not for anguish, embarrassment, distress or frustration; and that DSS draw a similar line in their system of *ex gratia* payments. Should a DSS official cause distress maliciously, he could see the argument for offering redress, but that was not what had happened in Mr E's case; nor was there evidence that the experience had in any way injured the health of Mr or Mrs E. In the absence of any evidence that CSA's error had had more serious effects the Deputy Secretary maintained the view that an *ex gratia* payment was not appropriate.

11. I was dissatisfied with that response and on 23 September wrote asking the Permanent Secretary to reconsider again. My letter pointed out that as the Ombudsman I am not restricted to seeking compensation only for injustices which are remediable at law; nor am I bound by legal rules on evidence. I have a

clear duty to seek equitable relief against injustice which is shown to have arisen directly from maladministration by a government department. Where I have found such maladministration, my concern is with its effect on the complainant, which is the same whatever its cause. I remained of the view that the distress and anxiety to which Mr E and his family had been subjected was sufficiently serious to justify financial recompense. On 12 December the Permanent Secretary replied that his legal advice was that there was no liability in respect of anxiety and distress without proof of either injury to health or bad faith on the part of CSA. He said that it was the view of DSS that such mistakes should be treated as broadly comparable to legal challenges, and similar principles applied in order that there should be consistency of outcome and ease of resolution.

12. On 18 January 1995 I replied quoting from the recent report on Maladministration and Redress by the Select Committee on the Parliamentary Commissioner for Administration:

> '43. . . . There are occasions when the wrong inflicted by a department is more than the inconvenience of a delayed payment or unnecessary costs. Departments must accept their responsibility where significant worry or distress has been caused by their maladministration. The acknowledged difficulty of arriving at a satisfactory figure for financial compensation does not affect the obligation to grant redress.'

> '45. We do not believe that the difficulty in ascertaining whether there has been significant worry or distress is a reason for not attempting effective and just redress for the citizen. We accept that such payments are and will remain exceptional. They are, nevertheless, possibly due even in cases where there is no medical certification of harm. To insist on such proof is an unnecessarily restrictive test which fails to address the real upset maladministration can bring to many lives. There is no substitute for the officials considering the complaint to come to a view on the basis on the seriousness of the maladministration and the effect on the life of the complainant.'

I pointed out to the Permanent Secretary that the views of the Select Committee gave backing to my opinion that his stance ran counter to the function of the Parliamentary Ombudsman.

13. When I met the Permanent Secretary again on 2 February he undertook to consider the matter further. On 2 March he told me that before responding he wished to see the Government response to the Select Committee report. On 31 August the Permanent Secretary wrote to me quoting from the Government's response, which had been published on 17 May:

> '30. Where mistaken identity of the absent parent is the fault of the Agency, any payment will depend upon, amongst other things, the Agency being satisfied on the basis of medical evidence that the person concerned had suffered some material and objective injury to their health directly attributable to the Agency's actions.'

The Permanent Secretary said that his view on Mr E's case had not changed. In the light of the Department's continuing refusal to make a special payment I reluctantly decided that I could not press them further on this matter. I regret that there is nothing further I can do for Mr E, though it is open to him to produce any appropriate medical evidence for the Department to consider.

Conclusion

14. Mr E and his family suffered quite unnecessarily at the hands of CSA. CSA have admitted their error and apologised to him but DSS have been unwilling to compensate Mr E without evidence that maladministration has caused damage to health. There is no other remedy which might now be secured for Mr E for this fully justified complaint.

Case No.C.424/95—Erroneous identification of complainant as father of a child for maintenance purposes

1. Mr F complained that CSA had failed to compensate him adequately for the costs he incurred and distress he suffered through them having wrongly identified him as the absent father of a child, as a result of which they had erroneously sent him a maintenance enquiry form (MEF). My investigation began in June 1995 once I had obtained comments from the Chief Executive of CSA after the member had referred the complaint to me.

2. CSA were set up as a result of the Child Support Act 1991 to administer the assessment, collection and enforcement of child support maintenance. CSA obtain information from the parent with care of a child about the absent parent. They then send the absent parent a MEF to obtain a financial statement so that the amount of child support maintenance payable can be assessed.

3. On 5 July 1994 the Falkirk CSA Centre received a completed maintenance application form from a woman (Miss A) naming as the father of her child a man whose date of birth was the same as Mr F's and whose last known address was in the north of England. She did not give his national insurance number. In December the Departmental Central Index (DCI) responded to interrogation in Miss A's case by giving details of Mr F, with the annotation 'No exact traces—relaxed traces shown'. On 6 December the Centre sent a MEF to Mr F.

4. On 7 December Mr F telephoned CSA. According to their record of the call he denied paternity and said he intended to sue CSA for harassment; they told him the procedure for disputed paternity cases. Mr F asked for the address of the maintenance applicant but that was (correctly) refused on grounds of confidentiality. Mr F was very angry and said he would take legal advice and seek compensation for distress. He said he would not return the MEF and was told about the penalties for not doing so. According to Mr F CSA told him that the child was his and that was proved by his national insurance number, and if he did not make arrangements to pay maintenance he would be taken to court for an attachment of earnings order to be made. On 9 December Mr F telephoned CSA again. According to CSA's record, he said he did not know the maintenance applicant or the child; they told him to return the MEF saying that and the case would be closed. He repeated his intention to pursue compensation, because they had ruined his birthday and Christmas, and had broken up his relationship with his girlfriend. He said he was visiting his doctor because of their mistake. He asked for a return call from the Chief Executive or her personal secretary. A supervisor checked the case papers and the Central Index and confirmed that the MEF had been sent to the wrong person. The same day an assistant to the Chief Executive wrote to Mr F saying that he should not have been sent the MEF, apologising for any distress or embarrassment caused and promising that the Chief Executive would write to him when a full enquiry had taken place.

5. On 20 December the Chief Executive wrote to Mr F offering her personal apologies for the mistake. She explained that a woman had given CSA some personal details of the father of her child with some similarities to Mr F's name and the same date of birth. Human error in their tracing procedures had led staff to authorise the issue of a MEF to Mr F; appropriate disciplinary action would be considered. She asked Mr F to let her have evidence of any financial loss he had unavoidably incurred because of the mistake so that reimbursement could be considered.

6. On 21 December the child support computer system automatically sent Mr F a standard letter warning that, if he did not return the MEF, they would make an interim maintenance assessment. When Mr F telephoned CSA on 29 December, they apologised and said they would make sure it did not happen again. They took the necessary action on the computer system on 4 January 1995.

7. On 11 January CSA received Mr F's claim for compensation. He claimed reimbursement of £47.75 expenses—£13.50 for the loss of one day's basic wage, £12.00 for tips and commissions, £2.95 for transport to his solicitor, £1.60 for

transport to his doctor, £4.75 prescription charges, £5.60 for seven telephone calls to CSA, £7.00 for 'private clients lost while writing this letter', and £0.35 for postage and materials. He also asked for compensation for the break-up of his relationship due to stress caused by CSA, the ruin of his birthday, damage to his health (he said he was on medication) and a cancelled trip abroad. CSA replied on 18 January. They said they had decided to pay him a total of £3.20 for his telephone calls on 9, 28 and 29 December, and the cost of sending the compensation claim. They said they could not reimburse his other costs. They said that when he had contacted CSA on 9 December action had been taken to investigate the issue of the MEF and an apology for the mistake had been given; they had dealt with his complaint as promptly as they could. They sent him £3.20 on 23 January.

8. On 7 February, the Chief Executive wrote to Mr F repeating that she was extremely sorry that a mistake within CSA had caused him to be issued with a MEF. She explained that over recent weeks Mr F had submitted his claim for expenses; that had been considered and CSA must now consider the matter as closed. She said that CSA had made considerable allowance for the fact that Mr F must have been upset and embarrassed by such an inappropriate enquiry which was why she had instructed her staff 'to deal as best they can with your many telephone calls on the subject.' The Chief Executive continued: 'But as these are persisting beyond all reasonable business limits and are serving no practical purpose I am regretfully writing to you again to explain something. The frequency of your calls and unnecessary nature of the conversations you want to sustain with my staff on this topic have now reached the point of being vexatious. I have therefore instructed my staff that they must not accept any further phone calls from you'. The Chief Executive concluded by saying that as Mr F was not a client of CSA, there should be no need for him to have any further contact. However, if he had to write on a relevant business matter, then of course his correspondence would be given the appropriate consideration.

9. In her comments to me, the Chief Executive acknowledged that a serious mistake had been made in Mr F's case, for which she offered her unreserved apologies. She said that a comparison of Mr F's details obtained from DCI with those of the alleged absent parent, which CSA had been given by the applicant, should have made it clear that Mr F was not the man in question. The Chief Executive assured me that staff are continually reminded of the consequences to CSA of sending a MEF to the wrong person. A manual containing detailed procedures relating to tracing on the DCI is readily available to all staff involved in tracing activities. Set tracing procedures are also laid down in the child support manual and attention is drawn particularly to a paragraph directing staff to make sure that the DCI record displayed matches the information about the absent parent provided by the applicant. The Chief Executive said that disciplinary action had been taken on 30 January against the officer responsible for sending Mr F the MEF. The consequences of failing to take appropriate action on 9 December to make sure that no further notifications were issued to Mr F had been discussed with the second officer involved, who had been told of the seriousness of her situation. Finally, the Chief Executive said that, in an attempt to minimise the risk of similar errors occurring, the Centre in question had, from 16 January 1995, arranged to have every MEF checked before issue.

Findings

10. The mistake which the Centre made in sending the MEF to Mr F was a very serious one and should not have happened. Although by chance the absent parent's date of birth matched that of Mr F, there was no similarity in the first name, only a passing resemblance in the surname and their addresses were in different parts of the country. To assume from that that Mr F was the absent parent was in my view an act of considerable irresponsibility and I criticise CSA accordingly. Mr F was understandably angry and distressed to receive correspondence about child support maintenance and expressed his feelings in his telephone call on 7 December 1994 (paragraph 4). That call should have

prompted CSA to check the facts and to clear the matter up immediately; but instead they simply outlined the procedure for disputing paternity and warned him of the penalties for not returning the MEF. It was not until Mr F's further telephone call on 9 December that appropriate action was taken and the error discovered. Even then, despite their investigation of what had gone wrong and the Chief Executive's letter of apology, there was further maladministration because CSA had forgotten to cancel continuing action against Mr F and their computer system automatically sent him a warning letter (paragraph 6). That careless oversight merits my further criticism.

11. I now consider whether the Chief Executive's apologies—which I pass on to Mr F through this report—and the £3.20 CSA have paid towards his costs represent adequate redress for the consequences for him of their maladministration. By Mr F's own account, when he had telephoned CSA on 7 December he had found the situation quite worrying so had arranged to take the first available day off work (9 December) to see a solicitor and his doctor and try to sort out the matter. Although Mr F's account of that telephone call does not accord in every detail with the one recorded by CSA (paragraph 4), they agree on the crucial point that CSA did not at that stage admit the possibility that they might have made a mistake. It was not until Mr F telephoned again on 9 December that the matter was referred to a supervisor and a check made which revealed what had gone wrong. That contradicts CSA's assertion, in their letter of 18 January to Mr F (paragraph 7), that they had put the situation right as promptly as possible. It does not seem unreasonable that, faced with CSA's initial intransigence, Mr F should have concluded on 7 December that he was facing a protracted dispute. I am not surprised that he found that prospect worrying, and the action he took on 9 December was an understandable response to that situation. In the light of the fact that the quantified claims Mr F submitted were detailed and did not appear in any way excessive, I asked the Chief Executive if she would reconsider the matter. She replied that her special payments unit had carefully considered the facts of Mr F's case, but did not consider a further *ex gratia* payment to be appropriate. When CSA received an application for child maintenance, it was often necessary to locate the absent parent. The details supplied by the applicant were not always completely accurate. There were rare occasions, as in the case of Mr F, when that led to a MEF being sent to the wrong person. CSA recognised that that was a very sensitive enquiry. Their literature specifically mentioned that, if the person receiving the form did not agree that he was the parent of the children named, he should contact CSA. The Chief Executive said that CSA had apologised unreservedly to Mr F for any distress caused. It had been his own decision to take time off work to see his solicitor. CSA could not be held responsible for the resultant loss of earnings or expenses incurred while visiting a doctor or solicitor. Although I found the Chief Executive's reply disappointing, I reluctantly decided that I could not press her further on this matter.

12. The Department of Social Security's arrangements for compensation do not normally cover such intangibles as worry and distress. It is only in wholly exceptional circumstances that I consider it appropriate to seek financial recompense for anything other than quantifiable loss. Although the events in Mr F's case were—I very much hope—far from normal, and I have found that CSA did not put their mistake right quite as quickly as they might have done, the situation was put right within a few days. While I do not underestimate the worry caused to Mr F I do not regard the circumstances as so exceptional as to warrant my support of his claim, made in his letter of 11 January (paragraph 7), for further compensation in respect of matters other than his actual expenditure—with one exception. Mr F has claimed that he suffered actual injury to his health which required medication. I asked the Chief Executive if she would be prepared to consider a claim in respect of such injury if supported by appropriate medical evidence. She replied that should suitable medical evidence be provided, a compensatory payment would be considered.

Conclusion 13. Mr F suffered quite unnecessarily at the hands of CSA. CSA have admitted their error; they have apologised to him, have taken action against the officers concerned and have improved the Centre's procedures, but are unwilling to compensate him further without evidence that maladministration has caused damage to his health. There is no other remedy which might now be secured for Mr F for this fully justified complaint.

Case No. C.458/95—Erroneous identification of complainant as a father of a child for maintenance purposes

1. Mr P complained that CSA had failed to compensate him for distress he and his wife suffered through CSA having wrongly identified him as the absent father of a child, as a result of which they had erroneously sent him a maintenance enquiry form (MEF). My investigation began in May once I had obtained comments from the Chief Executive of CSA after the Member had referred the complaint to me.

2. CSA were set up as a result of the Child Support Act 1991 to administer the assessment, collection and enforcement of child support maintenance. CSA obtain information from the parent with care of a child about the absent parent. They then send the absent parent a MEF to obtain a financial statement in order that the amount of child support maintenance payable may be assessed.

3. On 14 May 1993 the Dudley CSA Centre received a completed maintenance application form from a woman (Miss A) naming a man with the same name as Mr P as the father of her child. She said he was 30 years old and gave his last known address, but not his national insurance number. On an unknown date the Departmental Central Index (DCI) was searched in relation to Miss A's case and gave the complainant's address, date of birth and national insurance number. The officer carrying out the action noted that the details traced were 'Possible trace'. On 8 June the Centre sent a MEF to Mr P.

4. Mrs P telephoned CSA after receipt of the MEF. According to CSA's record of the call, Mrs P was distressed and said that her husband denied all knowledge of Miss A. She said that a similar situation had arisen before and the Department of Health and Social Security had paid him compensation for their mistake. CSA later telephoned Mr P and told him how to complete the MEF if he denied paternity. Mr P said that he would be taking the MEF to his solicitor. On 14 June Mr P's solicitors returned the MEF to CSA. They said that Mr P had never heard of Miss A and was not the father of any child. They added that there had been a similar incident some 16 years before when the Department of Health and Social Security had told Mrs P that her husband was a bigamist and had had a child by another woman; that had proved to be a mix up, as a result of which Mr P had received compensation of £100 from the Department. They suggested that a mistake had again occurred. They said that Mrs P was distraught; she had a severe medical condition, and this event had set her back considerably. They asked CSA to clarify the situation urgently, corresponding with them to avoid any further stress on the family.

5. On 22 June the Child Support Computer System automatically sent Mr P a reminder to return the MEF, because its receipt had not been noted on the system. On 24 June CSA, using DCI, traced another man with the same name, aged 30, at the address Miss A had given. That day Mr P's solicitors telephoned CSA about the reminder letter. CSA closed the case. On 29 June they wrote to Mr and Mrs P (separately) and to the solicitors, apologising for the distress that had been caused. They explained that Mr P had not been named as an absent parent by anyone and that the MEF had been sent to him in error after an incorrect identification during tracing procedures.

6. On 8 July the solicitors wrote to CSA claiming compensation on Mr P's behalf. They said that Mr P felt that it was more than coincidence that the incident of 16 years previously had recurred and asked for an assurance that it

would not do so again. CSA acknowledged the claim on 2 August and referred it to their treasurer the next day. The solicitors sent a reminder about the claim on 17 August. On 20 August CSA replied saying that the matter was being considered by the Treasury. The solicitors sent further reminders on 5 October and 9 November. On 29 November CSA replied that they were awaiting a decision from their solicitors branch. On 17 March 1994 Mr P's solicitors sent a further reminder. Meanwhile, on 10 February DSS headquarters had written to CSA recommending that Mr P be reimbursed for any reasonable expenditure incurred as a result of the error, but that no payment should be made to compensate for distress. On 14 April CSA wrote telling the solicitors it had been decided that there were no grounds for a payment for the distress or worry caused by the issue of the MEF. As to legal fees, they said that their legal advice was that it was reasonable for Mr P to contact the Agency which issued the MEF if he considered that it had been issued in error; when Mr P had contacted CSA it had been confirmed that a mistake had occurred. In those circumstances there were no grounds for any reimbursement of legal fees. They said that it had proved impossible to establish any link with the earlier incident, so the present claim had been considered purely on the most recent facts. On 26 April the solicitors wrote asking CSA to reconsider their decision. On 24 May and 16 June the solicitors sent reminders. On 20 June CSA replied confirming their original decision.

7. In her comments to me, the Chief Executive apologised that correct procedures had not been followed when CSA sent Mr P the MEF. That action should not have been taken, because the details obtained from DCI had been clearly noted only as a "possible trace" and Mr P's date of birth did not correspond with Miss A's statement that the absent parent was aged 30. She also apologised for any further distress caused by the issue of a reminder. She concluded:—

> 'The unfortunate error in Mr P's case happened in the early days of the Agency's operations when staff were relatively inexperienced and were grappling with new procedures. The Agency quickly realised that such errors caused distress, and comprehensive guidance on the correct procedure to follow when undertaking tracing action was issued to all staff, with a covering letter from my predecessor, in late 1993. This guidance underlines the point that there may be more than one record with the same name and emphasises that staff must stop and ask for advice if in doubt. As a result mistakes of this nature are now very rare.
>
> I can assure Mr P that there was absolutely no link between the issue of the MEF on this occasion and any previous action by the then Department of Health and Social Security. The records of the earlier incident, which apparently occurred long before the child in the present case was born, would no longer be available.
>
> Mr P's claim for compensation has been fully and carefully considered but there is no evidence that he has suffered any financial loss as a result of the Agency's action. I am satisfied, therefore, that an *ex gratia* payment is not appropriate under the criteria of the Department of Social Security's special payments scheme. I cannot, of course, comment on any previous award of compensation.
>
> I apologise unreservedly for the distress and embarrassment caused to Mr P and his family as a result of the incorrect action which was taken in this case . . . all records relating to Mr P have now been deleted.'

Findings

8. The mistake which CSA made in sending the MEF to Mr P was a very serious one and should not have happened. Although by chance the absent parent's name matched that of Mr P, their ages and addresses clearly differed. The details carried a warning note that they were no more than a 'possible trace'. To assume without further enquiry that Mr P was the absent parent was in my view an act of considerable irresponsibility and I criticise CSA accordingly. Mrs P was understandably distressed to receive correspondence suggesting that her husband had fathered another woman's child and she expressed her feelings in

her telephone call to CSA. That call should have prompted CSA to check the situation, which would have allowed the matter to be cleared up immediately; but instead they simply telephoned Mr P to tell him how to complete the MEF if he denied paternity. It was not until they identified the other Mr P on 24 June, and the solicitors telephoned them, that they closed the case. It took them a further five days to send Mr and Mrs P a written explanation of what had happened, a delay which in the circumstances was extremely inept. Then their initial maladministration was compounded by their failure to note on their computer system that Mr P's solicitors had returned the MEF. As a result of that failure the computer system automatically sent him a warning letter. That careless oversight merits my further criticism. Finally, CSA took nine months to give a decision on Mr P's compensation claim; that was not only an unconscionably long time but their letter said, quite wrongly, that when Mr P had initially contacted CSA, it had been confirmed that a mistake had been made. The MEF was issued on 8 June, the case was closed on 24 June and CSA wrote telling Mr and Mrs P on 29 June. During that three week period of uncertainty for the couple there were at least two telephone conversations where opportunities were missed to clear up the matter.

9. The Chief Executive's apologies I pass on to Mr P through this report. I now consider whether they represent adequate redress for the consequences for him and his wife of CSA's maladministration. The DSS arrangements for compensation do not normally cover such intangibles as worry and distress. It is only in wholly exceptional circumstances that I consider it appropriate to seek financial recompense for anything other than quantifiable loss. The events in Mr P's case were far from normal. In my view, apologies did not diminish the anguish to which the couple had been exposed by CSA's maladministration, particularly the effect on Mrs P. Mr P has supplied me with a medical report on his wife dated 12 May 1994 which said that she suffered from severe ischaemic heart disease with angina of effort, hyperlipidaemia, arthritis and severe episodic psoriasis. In March 1994 she had been treated for clinical depression and that treatment was continuing. The doctor concluded that 'she does have acute exacerbation of her depressive symptoms associated with any discussion of her many problems. Her condition and also the state of her marriage would be helped by a rapid resolution of the problems with the Child Support Agency.' Although the report did not directly attribute a deterioration in Mrs P's health to the events of June 1993, it seemed to me that the effect of those events was likely to have been particularly severe for a wife already in poor health, reinforcing the solicitors' contemporary assertion that CSA's error had 'set her back considerably' (paragraph 4).

10. In that letter the solicitors described a similar mistake by the Department of Health and Social Security 16 years previously. Not surprisingly, the Department no longer have a record of that incident, but I see no reason to doubt the solicitors' account. That added another exceptional circumstance to the case. I understand how the similarity of the situations would seem to Mrs P to give added substance to the suspicions that CSA's mistake inevitably created. The fact that the two incidents were quite separate, purely coincidental mistakes—which I accept—does not mean that they should not be linked when their impact upon Mr and Mrs P is assessed. There is no dispute that the maladministration in Mr P's case was very serious. I do not doubt the effect on the couple's lives. I concluded that this case was of the exceptional kind which merited financial compensation for distress and the effect on a person's health. I therefore asked the Chief Executive to reconsider the matter.

11. There appears to have been no dispute that Mr P would be entitled to reimbursement of any reasonable expenses he had necessarily incurred as a direct result of CSA's error. CSA's decision that no such expenses existed seemed to me to have been based on their understanding that they had put matters right as soon as the problem had been drawn to their attention. As my investigation has shown, that was not so—it was three weeks before the position was clarified for Mr P. During that time CSA had missed the opportunity to put

matters right when they telephoned Mr P (paragraph 4); rather than checking the situation they merely said what to do if he disputed paternity, and Mr P quite understandably told them that he would take the matter to his solicitor, which he did. I also criticise CSA for the time it took to decide Mr P's claim for compensation. Even allowing for the time needed to consult the Treasury and DSS headquarters, seven months was far too long for the matter to be under consideration. I criticise the Department for that, and CSA in particular for the further, quite unwarranted, two months' delay in passing on to Mr P's solicitors the recommendation which DSS headquarters made on 10 February 1994 (paragraph 6). In the circumstances, I regarded as reasonable Mr P's decision to involve his solicitors. The fact that they had far more continuing involvement than ought to have been the case I find was the responsibility of CSA. I therefore asked the Chief Executive to reconsider compensating Mr P for any reasonable costs he had incurred as a result of CSA's error.

12. The Chief Executive replied that CSA did not believe a compensatory payment for distress was appropriate because the doctor's report (paragraph 9) did not directly attribute a deterioration in Mrs P's health to CSA's actions. They also refused a payment towards solicitors' fees on the grounds that Mr P had chosen to consult a solicitor, presumably in the knowledge that a charge would be made for the service, despite having been given advice by CSA.

13. I was not convinced by CSA's arguments. I therefore put the matter to the Permanent Secretary. I told her that I believed there was sufficient contemporary and circumstantial evidence to indicate beyond reasonable doubt that CSA's error had had a severe effect on the couple's lives and in particular on Mrs P's health. In addition, I did not consider it unreasonable for Mr P to have consulted solicitors and their prolonged involvement had been attributable to further maladministration by CSA. The Permanent Secretary replied that CSA had reconsidered in the light of my letter and, on reflection, agreed with my view that the case was exceptional. They had therefore decided to make Mr P a compensatory payment of £250 and, in addition, to consider refunding any reasonable costs he had incurred by engaging solicitors.

Conclusion

14. CSA made a very serious error in identifying Mr P as the absent parent of a child. The Chief Executive offered her unreserved apologies for the distress and embarrassment caused to Mr P and his family. I regard those apologies—which I now pass on to Mr and Mrs P—the *ex gratia* payment of £250 and the undertaking by CSA to consider refunding Mr P's solicitors' costs as a satisfactory outcome to a fully justified complaint.

Case No. 99/95—Mishandling of maintenance and income support

1. Miss S complained that mishandling of her income support (IS) and maintenance payments by the Benefits Agency (BA) and the Child Support Agency (CSA) disrupted her income for several months, causing her financial losses and hardship.

2. The Parliamentary Commissioner received so many complaints about CSA's performance that he made a special investigation of the problems which had been experienced. His report of that investigation was published in January 1995. The investigation into Miss S's complaint began in May once the Commissioner had obtained comments from the Permanent Secretary of the Department of Social Security (DSS), after the Member's referral of the complaint to him. I have not put into this report every detail investigated by the Commissioner's officers; but I am satisfied that no matter of significance has been overlooked.

Background

3. IS is a cash benefit payable to those who are not in full-time work and have insufficient income to meet their needs. BA are responsible for the assessment and payment of IS through a network of local offices (LOs). Tenants who are entitled to IS may have their rent paid by housing benefit (HB) and council tax by

council tax benefit (CTB) through the housing department of their local authority. BA are responsible for telling the housing department that a tenant is entitled to IS.

4. CSA are responsible for the assessment, collection and enforcement of maintenance through regional Child Support Agency Centres (CSACs). Under section 6(1) of the Child Support Act 1991 a single parent with care of children who is claiming certain prescribed benefits (including IS) is required to authorise CSA to recover maintenance from the absent parent (AP).

Investigation

5. Appendix A to this report sets out a chronology of the main events in the case.

Findings

6. Miss S's complaint was fully justified. It should have been clear to the CSAC at the end of 1993 that the AP intended to pay maintenance at the rate of his former maintenance liability, £130 a month, rather than the higher amount at which they had assessed it. They should have told the LO that so that payment of Miss S's IS could continue. They did not do so until 17 February 1994, and then only as a result of intense effort by the Citizens Advice Bureau (CAB). The CSAC's mishandling of what should have been a simple exercise obviously put Miss S in considerable financial difficulty. That merits my strong criticism. For their part the LO were aware from their telephone conversation with Miss S on 18 January that she was receiving less than her IS entitlement, and should have reinstated payment.

7. The CSAC made matters worse by paying to Miss S irregularly, and at differing amounts, the £130 a month they were receiving regularly from the AP. It was not until the end of April 1994, when the process was at last put on a 'gross IS' footing (whereby payments received from the AP would be passed on to BA, who would pay Miss S through her IS), that Miss S could again rely upon the regular income she had had in 1993. I criticise CSA for the poor service given to her.

8. The LO were also at fault for failing to tell the housing department about the reinstatement of Miss S's IS to enable them to recommence payment of HB and CTB. In the event that omission did not affect Miss S's income, because she had made her own claim for HB and CTB direct to the housing department and been awarded both in full from the date at which the award dependent upon her entitlement to IS had stopped. The LO discovered their omission in June 1994 and told the housing department that Miss S had been entitled to IS continuously since 1993, thus putting her claim back onto a proper footing.

The DSS reply to the complaint

9. In his comments to the Commissioner, the Permanent Secretary of DSS acknowledged that Miss S's income had been below her IS entitlement between 11 January and 14 February 1994, and offered her his unreserved apologies for the delays and errors which occurred in the CSAC and the LO. He explained that the CSAC should have sent a form to the LO telling them that the AP was not paying his full maintenance liability. On receipt of the notification from the LO that IS was to stop, the CSAC should have changed the account so that the maintenance would be paid to Miss S. Those omissions had been due to a backlog of work in the CSAC. In May 1994 BA offices had been instructed to contact the appropriate CSAC by telephone shortly before the maintenance commencement date if maintenance exceeded IS and was paid direct to CSA. That action, the Permanent Secretary assured the Commissioner, should prevent a recurrence of the situation in which Miss S was placed. I welcome that development.

10. The Permanent Secretary said that he had not been able to establish clearly why the payments of maintenance received from the AP had been split up before being passed on to Miss S. With at least one of the payments it was possible that that had happened because of a system fault.

11. As to the LO's failure to tell the housing department at the proper time about the reinstatement of Miss S's IS, the Permanent Secretary explained that, although the IS computer system automatically notifies the housing department

when IS is terminated, special clerical action is needed to tell the housing department that a termination no longer applies. He regretted that that had not been done in Miss S's case. Because hers was not the first case the Commissioner had investigated where that particular action had been overlooked, I asked the Permanent Secretary if he saw any scope for automating the procedure or improving it in other ways. His successor replied that an enhancement to the IS computer system was clearly desirable, but that there were other more important system changes to be made first. In the meantime, she had arranged for a bulletin to be sent to all staff reminding them to send the necessary notifications clerically in such cases.

12. The Permanent Secretary had also apologised for the delay by the CSAC in replying to the CAB's letter of 21 February 1994 and for the delay in dealing with the AP's change of circumstances review and the enforcement of a full maintenance assessment. After the Commissioner's intervention, he arranged for consideration of the CAB's request for a special payment to compensate Miss S for the financial losses she had incurred as a result of the mishandling of her IS and maintenance. DSS noted that Miss S had been unable to pay her telephone account, leading to disconnection and a reconnection charge of £24; her bank account had become overdrawn and resulting in charges of £44.50; and she had been charged £10 for copy bank statements which she had been required to obtain as proof of the state of her account at that time. Finally, while Miss S had been receiving IS, part of her benefit had been paid to her local authority to pay off a community charge debt. As a result of the local authority being told that IS was no longer in payment and consequently that the payments for the debt had ceased, bailiffs had been sent to Miss S's home. For that she had been charged £27.50. DSS decided to make Miss S an *ex gratia* payment of £106 to cover those costs. Payment was sent to her on 8 September.

Conclusion

13. DSS managed the interaction of Miss S's maintenance and IS payments very poorly. That put her in serious financial difficulties. The Permanent Secretary has offered his apologies—which I pass on through this report. DSS have paid Miss S £106 towards costs she incurred as a result of their maladministration, and steps have been taken to prevent a recurrence of such problems. I regard that as a satisfactory outcome to a justified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

In 1993 Miss S was receiving IS from her local BA office at a weekly rate of £47.50 and child benefit at a weekly rate of £26.20 for her three daughters. HB and CTB were in payment through the local authority housing department. She also received maintenance for the children from their father under a court order at a weekly rate of £30.

1993

18/11/93 Belfast CSAC notified Miss S and the AP that they had assessed maintenance liability at £86.39 a week from 19 November. They also notified the court.

20/11/93 The CSAC telephoned Miss S and confirmed she had been receiving £130 a month maintenance from the AP and had last received a payment on 26 October. They set up a maintenance account for the case. They calculated an initial payment of £172.78 for the period 19 November to 2 December, due on the latter date, followed by regular

payments of £374.36 a month from 2 January 1994. They noted that the payments should be made on a 'gross IS' basis, that is, any payments received from the AP would be paid to BA and Miss S would be paid through her IS. They sent the LO details of the assessment saying that payment of maintenance would start on 13 January 1994 direct to CSA and would not be passed on to Miss S. They also gave details of the initial payment and asked to be told the amount of IS to be recovered from it.

22/11/93 The CSAC notified the AP of the maintenance payments due. They notified Miss S that payments would be made direct to CSA and the LO responsible for her IS would make sure that her full weekly entitlement to benefit was paid; that would include her maintenance. They received a telephone call saying that the AP wished to pay £130 a month pending the outcome of a review of his maintenance liability.

25/11/93 The CSAC received a letter in support of the AP's request for a review. They passed it to the appeals section.

01/12/93 The LO recalled Miss S's IS payment book, because the maintenance would remove the need for IS. They notified the local housing department that Miss S was no longer entitled to IS. They told the CSAC that IS was no longer in payment and the last full week would be paid on 10 January. They asked them to recover £95 (two weeks' IS) from the initial payment.

02/12/93 Miss S called at the LO. She said the CSAC had told her she would receive maintenance payments with her IS. She said she had last received a maintenance payment from the AP on 26 October (£130). She asked them to sort the matter out urgently.

03/12/93 The CSAC received a maintenance payment of £130 from the AP.

06/12/93 The LO reassessed Miss S's IS to increase it by £30 a week from 23 November to 10 January, to take account of the fact that she was no longer receiving £130 a month maintenance from the AP. They disallowed IS from 11 January.

08/12/93 Miss S telephoned the CSAC saying that she was due additional IS because of the cessation of maintenance payments from the AP. They referred her to the LO. The LO received her IS payment book, cashed to 6 December. They sent her arrears of IS of £60 for the period 23 November to 6 December, a payment book for the period 7 December to 10 January, and notification of disallowance from 11 January.

23/12/93 The CSAC received a maintenance payment of £130 from the AP.

1994

15/01/94 The CSAC refused the AP's request for review of his maintenance liability. They noted that a change of circumstances review might be appropriate.

18/01/94 Miss S telephoned the LO because she had received no maintenance. The LO telephoned the CSAC, who said they would send her a payment that day.

19/01/94 The CSAC sent Miss S a maintenance payment of £87.22.

28/01/94 Miss S telephoned the LO. She said she had not received any maintenance and had been told by the CSAC that she would not do so until 2 February. The LO telephoned the CSAC, who said they had not realised that Miss S's IS would cease; they would send Miss S a payment that day.

31/01/94 The CSAC sent Miss S maintenance payments totalling £77.78.

01/02/94 The CSAC sent Miss S a maintenance payment of £95. They received £130 from the AP.

11/02/94 The local Citizens Advice Bureau (CAB) telephoned the LO. They said that Miss S was receiving less maintenance than the CSAC had originally told the LO she would. They asked them to pay IS. The LO telephoned the CSAC but got no reply.

16/02/94 The LO telephoned the CSAC who said their computer system was down and promised to ring back as soon as possible.

17/02/94 The CAB telephoned the LO. They said they had contacted the CSAC who would telephone the LO within the hour. The CSAC did not do so. The CAB rang again and the LO agreed to contact the CSAC. When they did, the CSAC said they would send Miss S £130 but could not say when. The LO told the CAB that they could do nothing until they received clearer information from the CSAC. The CAB telephoned the BA customer service manager and explained the situation. The customer service manager telephoned the local CSA field office, who telephoned the CSAC and asked them to send to the LO, urgently by facsimile, the information needed to review Miss S's IS. The CSAC faxed a form saying that on 1 February they had paid Miss S maintenance of £95 for the period 19 November to 19 January and £130 a month from 19 January to date.

18/02/94 The LO reinstated Miss S's IS from 11 January taking account of maintenance payments at £30 a week. They sent her arrears of £237.50 (five weeks at £47.50) for the period 11 January to 14 February, and a payment book from 15 February.

21/02/94 The CAB wrote to the CSA area manager complaining about the handling of Miss S's case by the CSAC and the LO. They said they had first contacted the CSAC on 1 February and been assured that Miss S would start receiving regular payments of maintenance from 11 February. When they had telephoned the LO on the latter date they had been promised a return call; they had not received one, so had telephoned again on 14 February. On that occasion the LO had promised to send a payment. When no payment had been received by 17 February the CAB had again contacted the CSAC and the LO but it had only been after they had involved the BA customer service manager that the CSAC had given the LO the necessary information. The CAB complained about the lack of communication between the CSAC and the LO. They said that as a result Miss S had been left without money for about two weeks and been forced to take out a bank overdraft, with consequent charges. They asked that measures be taken to make sure that Miss S was not again left without income until the CSAC started sending her regular payments of full maintenance. They said that they understood that Miss S should not have been disallowed IS until the assessed maintenance payments had actually been paid to her; they asked for confirmation by telephone of whether she was still entitled to IS. They copied the letter to the BA customer service manager.

24/02/94 The CAB telephoned the CSAC saying that Miss S was having £130 a month maintenance deducted from her IS despite the fact that the AP had not been paying. They sent Miss S a maintenance payment of £130. They telephoned the LO and said that Miss S had not received £130 in January.

03/03/94 The CSAC received £130 from the AP. The local CSA office sent the CAB's letter of 21 February to the CSAC for reply.

08/03/94 The BA customer service manager wrote to the CAB confirming that Miss S was entitled to £47.50 a week IS and would continue to be so unless circumstances changed, for example if the amount of maintenance changed or if it was paid direct to CSA; the calculation was based on her receiving maintenance of £30.00 a week.

14/03/94 The CSAC sent Miss S a maintenance payment of £130.

15/03/94 The CSAC customer service manager wrote to the CAB saying that he would reply to their letter of 21 February as soon as possible.

28/03/94 The CSAC received £130 from the AP.

19/04/94 The CSAC noted that Miss S had asked to be paid her maintenance on a 'gross IS' basis and wrote to the LO asking them to arrange it. They said they would stop sending maintenance payments to Miss S; they expected to receive the next payment from the AP on 2 May.

20/04/94 The CSAC sent Miss S a maintenance payment of £89.36. They sent the LO a form saying they would pay no maintenance to Miss S from 3 April onwards; they asked the LO to review her IS as necessary.

21/04/94 The CSAC sent Miss S a maintenance payment of £40.64.

22/04/94 The LO reassessed Miss S's IS to exclude the £30 a week maintenance from 26 April, and recalled her payment book.

28/04/94 The LO received Miss S's payment book, cashed to 25 April.

29/04/94 The LO sent Miss S IS at the increased rate for the period 26 April to 2 May, and a payment book from 3 May.

22/06/94 The CSAC customer service manager replied to the CAB's letter of 21 February, apologising for the delay in doing so. He said that Miss S had been entitled to claim IS until her full maintenance was paid, and apologised for any distress caused to her. The CSAC were unable to enforce payment of the full amount of maintenance as the AP had asked for a change of circumstances review. If after that review he failed to pay the full amount, CSA might take enforcement action by imposing a deduction from earnings order.

Case No.C.953/95—Failure by CSA to pay regularly to the PWC maintenance received from the AP

1. Mrs A complained that the Child Support Agency (CSA) of the Department of Social Security failed to make regular payments to her of maintenance which they were collecting regularly on her behalf. As a result, she had suffered hardship and stress, incurred bank overdraft charges and a large telephone bill, and had been obliged to borrow a large sum from a friend to buy essentials.

2. The Parliamentary Commissioner received so many complaints about CSA's performance that he made a special investigation of the problems which had been experienced. His report of that investigation was published in January 1995. My investigation into Mrs A's complaint began in November once the Commissioner had obtained comments from the Deputy Chief Executive of CSA, after the Member's referral of the complaint to him. I have not put into this report every detail investigated by the Commissioner's officers; but I am satisfied that no matter of significance has been overlooked.

Background

3. CSA are responsible for the assessment, collection and enforcement of maintenance through regional Child Support Agency Centres (CSACs). Under section 6 (1) of the Child Support Act 1991 a single parent with care of children who is claiming certain prescribed to the parent with care as part of her IS.

Investigation

4. Appendix A to this report sets out a chronology of the main events in the case.

The CSA reply to the complaint

5. In his comments to the Commissioner, the Deputy Chief Executive of CSA apologised for the errors that had been made with the accounts when Mrs A had stopped claiming IS, and that several of the payments due to her at that time had been delayed. He added that payments from the AP took six working days to clear through the banking system. He also apologised that Mrs A had not received the help she was entitled to expect when she contacted CSA, and that her calls had not been returned as promised. The CSAC manager had reminded his staff that that was not acceptable, and that all telephone calls must be returned promptly. The Deputy said that CSA had passed the case to their special payments unit to consider the matter of compensation.

Findings

6. Mrs A gave the CSAC ample notice of the need to make arrangements to pay to her bank account the payments they were receiving regularly from the AP from 20 March 1995. She should have experienced no interruption in payment. Instead, due to a combination of delay and various avoidable errors involving the CSAC's accounts system, they sent her £60 on 12 April, £60 on 21 April, £30 on 5 May, £30 on 11 May and £30 on 23 May. She had to wait until June before her payments began fully to correspond in frequency with those the AP was making to the CSAC. Although the CSAC did not record all her telephone calls about the matter, her letter of 19 June gave a detailed and convincing account which I have no reason to doubt. It is clear that the CSAC's poor handling of Mrs A's maintenance payments created emotional and financial stress by making a significant part of her income unreliable; their poor handling of her enquiries on the matter also caused her extra expenditure and frustration. In their letter of 4 August the CSAC apologised for the latter but offered no apology or explanation for the mishandled payments, despite the fact that Mrs A had pointed out in her letter of 19 June that she had received neither with the payments themselves. I criticise the CSAC for providing Mrs A with a wholly inadequate service at a time when she especially needed an effective one.

7. It seemed to me that the CSAC's shortcomings provided ample justification for reimbursing Mrs A for the costs and considerable trouble caused to her between March and June 1995. I therefore asked the Chief Executive of CSA if the special payments unit could give the matter their urgent attention. In reply the Deputy Chief Executive said that the special payments unit had considered Mrs A's claim and had asked her to provide evidence to support it. She had not replied and they had written to her again on 11 January 1996. The Deputy Chief Executive said an *ex gratia* payment could not be made without evidence; should Mrs A provide it, CSA would be happy to reconsider her claim. I considered that a reasonable stance for CSA to take.

Conclusion 8. Mrs A's complaint was fully justified. The Deputy Chief Executive of CSA has offered his apologies—which I now pass on to Mrs A—for the poor service she received and has undertaken to consider making her an *ex gratia* payment if she produces the necessary supporting evidence. I hope that Mrs A will avail herself of the opportunity. I regard all that as a suitable outcome to a justified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

At the beginning of 1995 Mrs A was receiving IS for herself and three children and had been required to authorise CSA to recover maintenance from the AP.

24/01/95 Belfast CSAC made an interim maintenance assessment for £143.70 a week from 26 January 1995.

25/01/95 The CSAC notified Mrs A and the AP of the assessment. The first weekly payment was due on 10 February.

10/02/95 The CSAC received £30 from the AP.

16/02/95 The CSAC received £30 from the AP.

23/02/95 The CSAC received £30 from the AP.

02/03/95 The CSAC sent BA the payments received on 10 and 16 February.

03/03/95 The CSAC received £30 from the AP. They sent BA the payment received on 23 February.

09/03/95 Mrs A telephoned the CSAC to report that she would no longer be claiming IS from 20 March. She said she would confirm in writing. The CSAC received £30 from the AP.

13/03/95 The CSAC received a letter from Mrs A confirming that she would no longer be claiming IS from 20 March; she would be starting work and making a claim for family credit. She said that her last IS payment, inclusive of maintenance, would be made to her on 13 March and she would then return her payment book to her local BA office. She asked the CSAC to arrange for her maintenance to be paid into her bank account, details of which she supplied.

20/03/95 The CSAC received £30 from the AP.

23/03/95 The CSAC received £30 from the AP.

27/03/95 The CSAC asked their accounts section to change the method of payment of maintenance urgently because Mrs A was no longer receiving IS.

28/03/95 The CSAC passed Mrs A's letter of 10 March to the accounts section.

31/03/95 Mrs A telephoned the CSAC about the change in payment of her maintenance. They told her that they had referred the matter to the accounts section.

04/04/95 The CSAC noted that the payments received from the AP on 20 and 23 March were due to Mrs A. They transferred them from the account by which they were paying BA into one by which to pay Mrs A. They received £30 from the AP, but it was automatically allocated to the BA account because the CSAC had not closed it.

10/04/95 The CSAC received £30 from the AP. It was allocated to the BA account, which had still not been closed.

12/04/95 The CSAC sent Mrs A the payments received from the AP on 20 and 23 March.

18/04/95 The CSAC received £30 from the AP.

21/04/95 The CSAC noted that the payments received on 4 and 10 April were in the BA account. They reallocated them and sent them to Mrs A.

24/04/95 The CSAC received £30 from the AP.

26/04/95 The CSAC sent the payment received on 18 April to BA. That error occurred because the account the CSAC had set up for Mrs A had failed to operate, and the only arrears outstanding at that stage were due to BA.

02/05/95 The CSAC received £30 from the AP.

04/05/95 The CSAC sent BA the payments received on 3 and 9 March.

05/05/95 The CSAC sent Mrs A the payment received on 24 April.

11/05/95 The CSAC received £30 from the AP. They sent Mrs A the payment received on 2 May.

15/05/95 The CSAC received £30 from the AP.

19/05/95 The CSAC sent the payment received on 11 May to the Paymaster General. That error occurred because the payment had been made using the wrong type of paying-in slip and had been allocated automatically to an account used for the payment of fees for CSA's services.

22/05/95 The CSAC asked for recovery of the payment received on 18 April which had been wrongly paid to BA on 26 April, and the payment received on 11 May which had been wrongly paid to the Paymaster General on 19 May.

23/05/95 The CSAC sent Mrs A the payment received on 15 May.

25/05/95 The CSAC received £30 from the AP.

26/05/95 The CSAC received £30 from the AP.

31/05/95 Mrs A telephoned the CSAC about the payments that had gone into the wrong accounts. They told her that that had been corrected and action taken to redirect the payments to her.

05/06/95 The CSAC received £30 from the AP. They sent Mrs A the payment received on 25 May. They recorded that their National Enquiry Line had received a call about the recoveries of the wrongly paid sums. They referred the matter to the accounts section.

06/06/95 The CSAC sent Mrs A the payment received on 26 May.

07/06/95 The CSAC sent Mrs A the payments received on 18 April and 11 May (recovered from the Paymaster General).

08/06/95 The CSAC received £30 from the AP.

13/06/95 The CSAC sent Mrs A the payment received on 5 June.

15/06/95 The CSAC received £30 from the AP.

16/06/95 The CSAC sent Mrs A the payment received on 8 June.

19/06/95 Mrs A wrote to the CSAC. She copied her letter to the Chief Executive of CSA, to her Member of Parliament, and to the Commissioner. She said that since coming off IS on 20 March she had not been receiving her maintenance payments regularly, despite the fact that the AP had been paying the money to the CSAC every week five days before it was due to come to her. She said she was complaining to the Commissioner, because over the last 12 weeks she had made at least 20 telephone calls about the matter to no effect. Eventually in early June she had received two payments of £30 and another two the next day, with no accompanying explanation or apology. CSA had told her during several of their conversations that regular payments could not be guaranteed despite the AP's regular advance weekly payments. She sought redress for the cost of telephone calls to Belfast; bank and overdraft charges she had incurred and the cost of telephone calls to her bank; stress and embarrassment caused by inability to pay her bills on time, added to the stress of starting a new job and taking on a mortgage; having had to borrow a large sum of money from her best friend because the bank were withdrawing her overdraft facility; the near-ruin of the amicable relationship she had with the AP over maintenance payments; and hardship caused to herself and her children by lack of money to pay for petrol and school bus fares.

23/06/95 The CSAC received £30 from the AP. They sent Mrs A the payment received on 15 June.

29/06/95 The CSAC received £30 from the AP.

03/07/95 The CSAC sent Mrs A the payment received on 23 June.

06/07/95 The CSAC received £30 from the AP.

07/07/95 The CSAC sent Mrs A the payment received on 29 June.

10/07/95 The Member referred Mrs A's complaint to the Commissioner.

14/07/95 The CSAC received £30 from the AP. They sent Mrs A the payment received on 6 July.

21/07/95 The CSAC received £30 from the AP.

24/07/95 The CSAC sent Mrs A the payment received on 14 July.

31/07/95 The CSAC received £30 from the AP. They sent Mrs A the payment received on 21 July.

04/08/95 The CSAC received £30 from the AP. The Customer Services Manager replied to Mrs A's letter of 19 June, apologising for the delay in doing so. She apologised for the handling of Mrs A's telephone calls and said that staff had been reminded to return calls promptly. She said that regular maintenance payments of £30 a week were being made by the AP and forwarded to Mrs A; steps would be taken to obtain payment of the full £143.70 a week due.

08/08/95 The CSAC sent Mrs A the payment received on 31 July.

11/08/95 The CSAC received £30 from the AP.

14/08/95 The CSAC sent Mrs A the payment received on 4 August.

17/08/95 The CSAC received £30 from the AP.

21/08/95 The CSAC sent Mrs A the payment received on 11 August.

25/08/95 The CSAC sent Mrs A the payment received on 17 August.

Case No.C.95/95—Failure to take action on a review request, unreasonable imposition of a DEO

1. Mr C complained that for over a year the Child Support Agency (CSA) of the Department of Social Security (DSS) ignored his request and many reminders for a review of his maintenance liability and then unreasonably enforced payment by a deduction from earnings order (DEO).

Background

2. CSA are responsible for the assessment, collection and enforcement of maintenance. A parent with care of a child applies to CSA for maintenance; CSA then send the absent parent a maintenance enquiry form to obtain a financial statement so that the amount of maintenance can be assessed under a standard formula, according to the circumstances of both parents. If the absent parent's circumstances change his maintenance can be reassessed, but not if the difference between the old and new assessments would be less than £10.00 a week (or, in certain circumstances, £1.00 a week); that is known as the 'tolerance rule'. The assessment is carried out at one of several regional Child Support Agency Centres (CSACs), which are supported by a network of local offices. If the absent parent fails to pay his liability, CSA may obtain payment by a DEO.

3. Maintenance Assessments (MAs) are made by child support officers (CSOs). A person who is dissatisfied with an assessment may apply for a review which will be carried out by a different CSO. If the person remains dissatisfied he may appeal to a Child Support Appeal Tribunal (CSAT). It is not for the Commissioner to determine a person's maintenance liability. My investigation has been concerned only with the administrative handling of Mr C's case by CSA.

Investigation

4. Appendix A to this report sets out a chronology of the main events in the case.

The DSS reply to the complaint

5. In his comments to the Commissioner, the Permanent Secretary acknowledged that initially no reply had been sent to the detailed queries raised by Mr C in his letter of 15 December 1993, and that his series of 14 letters had gone unanswered until customer service staff had become involved in January 1995. That had been totally unsatisfactory and the Permanent Secretary appreciated Mr C's frustration at the lack of replies. He said that, although

a review did not carry any right to defer payment of maintenance, the actions taken in Mr C's case should have been influenced by his letters. It appeared that some staff dealing with the case had not known that Mr C had written so often and that others had not realised the significance of his correspondence. If the staff had spoken to Mr C it might have been possible to reach some agreement on the payment of maintenance pending the outcome of the review. The Permanent Secretary apologised unreservedly to Mr C for the very poor service he had received from the CSAC.

6. The Permanent Secretary explained that the delay in carrying out the review had been due to the heavy volume of similar requests received by the CSAC. Although the number of staff allocated to that area of work had been increased substantially, it had for some time been difficult to keep pace with the intake of work. Considerable efforts had been made to reduce the number of outstanding reviews and that was now showing good results, although it would be some time before the problem was completely resolved.

7. The Permanent Secretary said that Mr C's case had shown that there had been a lack of communication between staff in different work areas in the CSAC. Insufficient attention had been paid to the content of his letters and the fact that there should have been a full reply had not been appreciated. A central registration team now sifted all post and passed it to the team responsible for dealing with it. Where more than one team had an interest, all were notified. In recent weeks additional scrutinies had been carried out by the Business Teams where the purpose of correspondence was not immediately clear. The CSAC Manager was looking at ways in which that could be extended to make sure that no post was filed without action having been taken. He was also looking at the procedures for contacting absent parents before DEOs were imposed to establish whether any changes should be made. It was, however, essential to make sure that any new procedures did not allow too much freedom to defer payment. The interests of the child would not be served by too long a deferment and the build-up of arrears could cause difficulties for the absent parent.

Findings

8. I accept the Permanent Secretary's explanation in paragraph 6 above and I criticise CSA on three counts: for the quite unacceptable delay of 15 months in carrying out the review Mr C asked for in December 1993; for failing to explain to Mr C, despite his many letters, that he must pay the amount currently assessed pending the review; and for compounding that error by wrongly asserting, in the Chief Executive's letter to the Member of 17 February 1995, that they had made the position clear. I criticise those who drafted that letter for the Chief Executive's signature.

9. The result of CSA's shortcomings was a long period of considerable frustration for Mr C and the imposition of a DEO which might not have been needed if they had discussed the position with him, as they later acknowledged they should have done. Mr C has said, in a letter to the Member dated 26 April 1995, that he had suffered emotionally and physically because of the strain caused by CSA's failings, and had had to take out a loan to finance the DEO. In the light of that I considered whether the Permanent Secretary's explanation and apology were sufficient redress. It is only in the most exceptional circumstances that the Commissioner regards distress caused by maladministration as calling for financial compensation. I do not consider Mr C's case to be so exceptional as to demand such a remedy. With regard to his loan, I note that the CSO's review produced a maintenance liability only slightly less than that under the original decision. Since the amount of maintenance Mr C would have had to pay, had CSA handled his case properly, would have been much the same as that taken by the DEO, and his maintenance account has now been adjusted to reflect the review, I cannot attribute to CSA's maladministration any significant financial loss on his part. I have therefore decided not to seek further redress for Mr C.

Conclusion 10. Mr C's complaint was fully justified. CSA's inept handling of their correspondence with him made their slowness in carrying out his review much worse than it need have been and led to the imposition of a DEO. The Permanent Secretary has explained what went wrong and offered assurances of improvement in future. I regard that, together with the Permanent Secretary's apology, which I now pass on to Mr C, as a satisfactory outcome to a justified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

1993

01/12/93 A CSO assessed Mr C's maintenance liability as £89.48 a week from 3 December 1993.

02/12/93 Dudley CSAC notified Mr C of the assessment.

06/12/93 The CSAC notified Mr C of the first monthly payment of maintenance, which was due on 2 January 1994, and the method of payment.

15/12/93 Mr C wrote to the CSAC asking for a review and raising a number of queries about the assessment and collection process. He said that he had agreed with his former wife to continue in the meantime to pay the level of maintenance agreed with, and in payment to, her before CSA's involvement.

1994

13/01/94 The CSAC sent Mr C a standard letter telling him that his maintenance payments were in arrears and warning that failure to pay would probably result in a DEO being served on his employer.

17/01/94 Mr C replied referring to his letter of 15 December; he repeated his assertion that he would continue to pay the previous level of maintenance until the review had been satisfactorily resolved.

01/02/94 A CSO decided that there were grounds to review Mr C's assessment.

03/02/94 Mr C wrote to the CSAC reminding them of his letter of 15 December. He enclosed a letter from his employer about an imminent reduction in his salary and asked them to take it into account in the review.

06/02/94 A CSO reassessed Mr C's maintenance liability as £66.57 a week from 7 February 1994 as a result of changes in legislation.

07/02/94 The CSAC notified Mr C of the new assessment.

14/02/94 Mr C wrote to the CSAC pointing out that the new assessment did not take account of his request for a review. He repeated that he would continue to pay the previous level of maintenance until that request had been satisfactorily met.

26/02/94 A CSO calculated that Mr C's maintenance liability would be £62.03 a week from 7 February taking account of his pay decrease; the 'tolerance rule' (paragraph 2) meant that the assessment was not revised.

27/02/94 The CSAC notified Mr C of the CSO's decision.

02/03/94 Mr C wrote to the CSAC acknowledging the latest notification and asking when he could expect a reply to his letter of 15 December.

19/03/94 The CSAC sent Mr C and his former wife a standard letter saying that they intended to review the MA and inviting comments about the application for review within 14 days.

30/03/94 Mr C replied saying that he expected satisfactory answers to all the points raised in his letter of 15 December. He asked why the review had so far taken 15 weeks against CSA's published target of eight weeks.

07/04/94 The CSAC sent Mr C another warning about his arrears.

12/04/94 Mr C replied that he would continue to pay the previous level of maintenance until he received a satisfactory reply to his letter of 15 December.

30/06/94 The CSAC sent Mr C another warning about his arrears.

04/07/94 Mr C replied reiterating his position as stated in his previous letters.

22/09/94 The CSAC sent Mr C another warning.

26/09/94 Mr C replied reiterating his position.

04/11/94 The CSAC sent Mr C a form to complete in connection with the regular annual review of his maintenance liability, which was due in December.

08/11/94 Mr C replied that he was unwilling to complete the review form while his request of 15 December remained unactioned.

18/11/94 The CSAC sent Mr C a standard reminder about the review form, saying that if he failed to return it within 14 days the CSO might calculate an interim assessment which was likely to be more than the current assessment.

22/11/94 Mr C replied, referring the CSAC to his letter of 8 November, of which he enclosed a copy.

15/12/94 The CSAC sent Mr C another warning about his arrears.

16/12/94 The CSAC sent Mr C a final reminder about his arrears saying that, unless he contacted them to arrange payment within five days, they would serve a DEO on his employer.

20/12/94 Mr C replied that he had been amazed to receive their letter of 16 December after they had failed to reply to any of his letters for the past year. He repeated that he had had no reply to his review request of 15 December 1993 and said that he expected the CSAC to defer any action until that was resolved.

1995

12/01/95 The CSAC wrote to Mr C asking about the amount of his previous maintenance payments and for his pay slips for February and March 1994.

13/01/95 The CSAC sent Mr C and his former wife a standard letter saying that they intended to review the MA and inviting comments within 14 days.

16/01/95 The CSAC sent Mr C and his employer a DEO for £288.47 a month, for implementation from his next payment of salary.

19/01/95 Mr C wrote to the CSAC objecting strongly to the issue of a DEO while his review application was still outstanding. He pointed out that he had made the application over 12 months previously and it had still not been dealt with despite the many reminders he had sent. He said he intended to take up the matter with his Member of Parliament and the CSAT, and to seek legal advice.

20/01/95 The CSAC acknowledged Mr C's letter of 19 January saying that his complaint would be investigated.

23/01/95 Mr C asked the Member to refer his complaint to the Commissioner and to the Parliamentary Under Secretary of State for Social Security.

26/01/95 Mr C wrote to the CSAC asking them to suspend the DEO until the review of his maintenance liability and the investigation of his complaint had been satisfactorily concluded. He asked for the address of the CSAT.

27/01/95 The Member asked the Commissioner to investigate Mr C's complaint.

28/01/95 The Member asked the Chief Executive of CSA to look into Mr C's complaint.

30/01/95 The CSAC acknowledged Mr C's letter of 26 January.

31/01/95 Mr C wrote to the CSAC asking whether the DEO would be suspended and repeating his request for the address of the CSAT.

06/02/95 The CSAC wrote to Mr C's employer asking for details of his earnings for February and March 1994.

13/02/95 The CSAC replied to Mr C's letters of 19, 26 and 31 January, apologising for the delay in doing so. They said that his review was now being dealt with and he would be notified of any changes in his liability after its completion. They said that the DEO would remain in force because Mr C remained legally bound to make maintenance payments while a review was in progress and the assessment remained in force until it was replaced or cancelled. The DEO was for regular maintenance only; no arrears would be collected until the review had been completed. They said that an appeal could be made only after a review had been completed, and explained the appeal procedure.

16/02/95 The CSAC received from Mr C's employers details of his earnings for February and March 1994.

17/02/95 The Chief Executive replied to the Member's letter of 28 January, enclosing a copy of the CSAC's letter to Mr C of 13 February. She said that the CSAC had begun work on Mr C's review in March 1994 but volume of work had prevented it being considered further until very recently. She apologised to Mr C for the frustration and inconvenience the delay had caused him and said she had instructed

the CSAC to give the matter top priority. She said it had been made clear to Mr C that payment of maintenance should continue while the assessment was being reviewed and, in the absence of payment, the CSAC had had no option but to impose a DEO. She apologised that Mr C had not received the standard of service he was entitled to expect from CSA.

03/03/95 The CSAC wrote to Mr C asking for details of his household arrangements and for his February, March and April 1994 pay slips. (The latter request was an error; information about Mr C's earnings had been received on 16 February.)

16/03/95 The CSAC wrote to Mr C, apologising for their failure to reply to his letters since December 1993 and the delay in dealing with his review, which had been due to volume of work. In answer to the queries he had raised in his letter of 15 December, they explained various aspects of the MA and collection process and the principles behind it. They said that they hoped to complete the review when they received his reply to their letter of 3 March; the review would include the February 1994 assessment and any other changes that had taken place. Regarding the review form they had sent him on 4 November 1994, they explained that they were required to carry out periodic reviews on the anniversary of the assessment and that was not affected by any outstanding review asked for by the client. They explained that the maintenance assessment took precedence over any other maintenance arrangements and that asking for a review did not have the effect of suspending maintenance payments. However, CSA tried to be as flexible as possible in making payment arrangements. The CSAC recognised that they had failed to discuss the matter with Mr C; they therefore invited him to telephone them, as it might be possible to withdraw the DEO if he made an acceptable offer.

17/03/95 A CSO reviewed Mr C's weekly maintenance liability from 3 December 1993 and decided that the amount payable from that date remained unchanged at £89.48; from 4 February 1994 it reduced to £84.22 to reflect the reduction in Mr C's income; from 7 February 1994 the changes in legislation reduced it to £63.41, and from 8 April 1994 an increase in the benefit rates used in CSA's calculations increased it to £64.62. The CSAC wrote to Mr C explaining the review and the revised amounts, and telling him about his right of appeal to the CSAT if he remained dissatisfied. They told Mr C that they would consider lifting the DEO if he agreed to payment by direct debit. They recorded that Mr C had rejected that suggestion.

31/03/95 Mr C replied to the CSAC's letter of 16 March. He said he did not consider their apologies sufficient redress for the wholly inadequate service he had received, in particular the indignity of having a DEO served on his employer due to problems caused by CSA; he asked what action he could take if he considered CSA to be in serious breach of their standards of service. He also asked whether the serving of the DEO had been due to the absence of payment of their original MA or his failure to complete the anniversary review form, because he had had good reason for not doing the latter in view of the CSAC's failure to act on his outstanding review request; and whether the serving of the DEO had been due to a mistaken belief by the CSAC that he had stopped paying maintenance to his former wife—he had continued to make regular payments to her throughout. He raised several further queries about his MA and the principles behind it.

13/04/95 The CSAC replied that the Commissioner, in his report to the Member, would give his opinion on what was suitable redress for the poor standard of service Mr C had received. They explained that the

imposition of the DEO had been due to his failure to make the payments of maintenance calculated by the CSO. The CSO's assessment took precedence over any previous maintenance arrangements; CSA accepted that he had not defaulted on his arrangement with his former wife but those payments had been for a smaller sum than that calculated by the CSO. They gave further explanations in connection with Mr C's queries about the MA.

Case No.C.561/94—Failure to take action on a review request, unreasonable threat of DEO action

1. Mr S complained about the way the Child Support Agency (CSA), an executive agency of the Department of Social Security (DSS), handled his child support maintenance assessment (MA). He said that there had been delay in making a MA; delay in carrying out a review; repeated requests for information he had already supplied; that CSA had threatened him with a deduction from earnings order (DEO) although he had made some payments direct to his wife; and that CSA had told him, incorrectly, that a DEO would result in disciplinary action by his employer.

2. The Parliamentary Commissioner received so many complaints about CSA's performance that he made a special investigation of the problems being experienced. His report on that investigation was published in January 1995 and a copy was sent to the Member. The investigation into Mr S's complaint began in September 1994 once the Commissioner had obtained comments from the Permanent Secretary of DSS after the Member's referral of the complaint to him. I have not put into this report every detail investigated by the Commissioner's investigation officers (IOs); but I am satisfied that no matter of significance has been overlooked.

Background

3. CSA are responsible for the assessment, collection and enforcement of child support maintenance. A parent with care (PWC) of a child applies to CSA for maintenance on a maintenance application form (MAF). CSA then send the absent parent a maintenance enquiry form (MEF) to obtain a financial statement so that the amount of child support maintenance payable can be assessed. Under regulation 30 of the Child Support (Maintenance Assessment Procedure) Regulations 1992, in cases where there is no existing court order, the absent parent's maintenance liability starts from the day the MEF is sent or given to the absent parent. That date is known as the effective date and there is often a lapse between it and the start of regular payments; during that period (the initial payment period) arrears will accrue. Under section 31 of the Child Support Act 1991 a DEO may be made against an absent parent to secure the payment of any amount due under a MA. A DEO is an instruction to a person's employer to make deductions directly from earnings. CSA make statutory charges for their services.

4. MAs are made by child support officers (CSOs). A parent who is dissatisfied with a CSO's decision may apply for a review which is carried out by a different CSO. If the parent remains dissatisfied he or she may appeal to a Child Support Appeal Tribunal and, thereafter, on a point of law, to a Child Support Commissioner.

Investigation

5. Appendix A to this report sets out a chronology of the main events in the case.

6. After the Commissioner's intervention CSA realised that they had not dealt with Mr S's request for a review made in his letter of 15 February 1994. On 26 June 1995, after obtaining further information from Mr S, the CSO revised the weekly MA to £70.31 from 13 September 1993 to 20 February 1994, £76.36 from

21 February to 13 March, £73.42 from 14 March to 10 April, £74 from 11 April to 15 May, £77.06 from 16 May to 17 July, £76.96 from 18 to 24 July and £73.11 from 25 July 1994. The CSAC recalculated the arrears due for the initial period which on 2 August 1995 stood at £1,438.60.

7. In his comments to the Commissioner on the complaint the Permanent Secretary of DSS apologised for the time it had taken the Falkirk Child Support Agency (CSAC) to make a MA in Mr S's case. He said that, although that had been partly due to Mr S's failure to send in the information requested, the CSAC had been slow to explain why the information he had already supplied had been insufficient for assessment purposes. Similarly, the CSAC had not replied to Mr S's letters about his unwillingness to send maintenance payments to CSA other than to warn him that a DEO could be issued if he missed one monthly payment. The Permanent Secretary offered his apologies for that and for the confusion which had arisen because Mr S had sent his maintenance payments direct to his wife instead of to CSA. On that aspect, the Permanent Secretary said that the CSO had considered representations from both parents and had decided that payment should be made direct to CSA by means of direct debit. In making that decision, the CSO had had regard to a letter received from the PWC on 3 February 1994 in which she had spoken of her relationship with Mr S. In conclusion the Permanent Secretary said that it would have been quite improper for a member of staff to have told Mr S that the issue of a DEO might result in disciplinary action being taken by his employers. Enquiries made at the CSAC had failed to reveal that any such warning had been given.

8. An IO asked DSS for more details about the enquiries which had been made at the CSAC. The IO identified the officer (to whom I refer as officer A) who the CSAC papers indicated might have been the officer to whom Mr S had referred in his complaint. DSS replied that enquiries had been made in the CSAC's Accounts Department whose response had been that they would not tell an absent parent that he or she would be disciplined should a DEO be imposed. They had pointed out that they would not have such information. As to the involvement of officer A, the records showed that she had spoken to Mr S on 3 June 1994 but there was no indication that she had mentioned disciplinary action to him. Officer A had not been individually questioned about the matter but she had been party to the enquiries made in the Accounts Department.

9. Two IOs interviewed officer A who could not remember speaking to Mr S on 3 June 1994. She said that the CSAC held a list of professions in which employees could be dismissed if a DEO was imposed; that list included prison officers, the occupation of Mr S. She had felt it her duty to place that information before absent parents, not in a threatening way but as a warning. Officer A produced a local CSAC instruction giving a list of categories of employees who might be dismissed or subject to internal discipline if a DEO or wages arrestment was in operation. The instruction advised staff to ensure that the absent parent was told that such enforcement methods could be used if regular payments were not made. Officer A said that the instruction was no longer operational but it had been in force at the time of her conversation with Mr S.

10. The IO put to DSS the new information which had been obtained pointing out that it was at odds with that which DSS had given previously. DSS confirmed that the instruction had been issued by Falkirk CSAC on 16 August 1993; it had been a local initiative of the accounts and enforcement team and had not been approved by the CSAC or CSA senior management. DSS confirmed that the instruction was no longer in force but were unable to say when it had stopped being followed. They said that its purpose had been to advise absent parents in the professions listed that, if maintenance was not paid, enforcement action could be taken and that a DEO was one such method open to CSA. The instruction had not told staff to tell absent parents that they would face disciplinary action if a DEO was imposed. DSS said that it seemed that officer A had misinterpreted the instruction. Both the accounts and enforcement

managers at the CSAC in August 1993 had left by the time CSA had replied to Mr S's complaint. The Chief Executive of CSA offered her sincere apologies to the Commissioner because it now appeared that Mr S had indeed been told that disciplinary action could be taken by his employer should a DEO be issued. She also apologised for the confusion caused by the discrepancy between the information provided in the response to the complaint (paragraph 7) and the subsequent discovery of the CSAC's written instruction. DSS acknowledged that the enquiries carried out at the CSAC had clearly been inadequate.

Findings

11. Mr S's maintenance liability was not decided until almost five months after CSA received his completed MEF. The reason for the delay was that they did not have all the information the CSO needed to make an assessment. I have found no evidence to support Mr S's contention that CSA asked him for information which he had already supplied; but they could have made clearer where the difficulty lay, particularly after Mr S's letter of 3 December 1993. The issue of the reminder on 24 January 1994 was not helpful in the circumstances. After the MA and the initial payment had been calculated the case continued on a rocky path mainly due to the CSAC's failure properly to deal with Mr S's enquiries. They overlooked his letter of 15 February 1994 seeking a review and did not address his reluctance to make payments through CSA rather than direct to the PWC. If the CSAC had dealt with both those matters when they first arose, the subsequent difficulties could have been avoided. Instead, the CSAC sent Mr S standard reminders about payment, eventually warning him that a DEO would be imposed. They missed several opportunities during the period from March to June 1994 to make Mr S's position clear to him. I criticise the CSAC for their unsatisfactory performance.

12. That brings me to the conversation which Mr S had with officer A on 3 June 1994. I was disappointed that CSA's enquiries into Mr S's complaint were so inadequate that they resulted in misleading information being given to this Office (paragraphs 7 and 8). I regard that lapse as a serious one and I criticise CSA accordingly. The Chief Executive has acknowledged that disciplinary action by Mr S's employers was wrongly mentioned in the conversation with him and has apologised for that (paragraph 10). I am satisfied that the introduction of the matter of disciplinary action arose out of officer A's wish to be helpful; but I understand how Mr S might have interpreted it as a threat. I was pleased to learn that the local instruction which gave rise to the episode has been withdrawn.

Conclusion

13. CSA did not handle Mr S's case as well as they should have done and the quality of their communications with him fell short of a satisfactory standard. I pass on to him the apologies which the Permanent Secretary and the Chief Executive have offered which I regard as a satisfactory response to a justified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

1993

13/09/93 A CSA field office received a MAF from the PWC of Mr S's two children. She said that she was receiving no maintenance from Mr S. The PWC did not complete the section asking how she wanted maintenance to be paid. The field office sent Mr S a MEF.

20/09/93 The field office received the completed MEF. Mr S said that he did not want to use CSA's collection service but preferred to pay maintenance by standing order direct to the PWC.

22/09/93 The field office telephoned Mr S to ask him for his payslip for July or September and a recent statement about his mortgage from the building society.

29/09/93 The field office received from Mr S a certificate of mortgage interest in respect of the tax year 1992/93.

24/10/93 The field office received from Mr S copies of his payslips for August and September and his original mortgage offer. The field office sent the papers to the CSAC.

26/10/93 The CSAC received the papers.

13/11/93 The CSAC wrote to the PWC and Mr S asking them to clarify the number of nights the children spent with each of them each week. The CSAC also asked Mr S what mortgage interest and endowment premium he currently paid.

25/11/93 The CSAC received the PWC's reply.

03/12/93 The CSAC received Mr S's reply. He said that his endowment premium payments were shown on his payslips and the information about mortgage payments could be obtained from his bank statements and payslips. He said that it was not possible to say how often his children stayed with him each week because of variations caused by his work pattern.

1994

24/01/94 The CSAC sent Mr S a reminder saying that, unless he provided the information for which they had asked on 13 September 1993, the CSO would make an interim maintenance assessment.

26/01/94 Mr S telephoned the CSAC querying the reminder saying that he had provided all the information required.

27/01/94 The CSAC telephoned Mr S to explain that they needed a statement showing his current monthly mortgage interest payment.

07/02/94 The CSAC received an up to date mortgage interest statement from Mr S. In an accompanying letter Mr S complained about the delay in making a MA.

12/02/94 A CSO calculated Mr S's MA at £72.95 a week from 13 September 1993 (the date the MEF had been issued).

13/02/94 The CSAC notified Mr S of the MA and sent him an invoice for assessment, review, and collection fees.

17/02/94 The CSAC received a letter from Mr S dated 15 February asking for a review of the MA. He also said that he would not be using CSA's collection service.

23/02/94 The CSAC told Mr S that an initial payment of £2,101.36 in respect of the period from 13 September 1993 to 2 April 1994 was due by 2 April and that regular monthly payments of child maintenance of £314.04 were due thereafter, payable to CSA by direct debit.

25/02/94 A CSO revised the MA and the initial payment because incorrect figures had been used in the original calculation.

26/02/94 The CSAC notified Mr S that the initial payment had been amended to £2,105.13 and the monthly MA to £316.12.

01/03/94 The CSAC sent Mr S a reminder about the fees.

03/03/94 Mr S telephoned the CSAC to say that he intended to pay the MA direct to the PWC not to CSA.

08/03/94 The CSAC sent Mr S a reminder about the direct debit instructions, telling him that missing one monthly payment could result in a DEO being served on his employer.

14/03/94 The CSAC received a letter from Mr S returning the direct debit instruction form which he said that he did not need as he would be paying the MA direct to the PWC. He also returned the reminder sent to him on 1 March saying that he did not require the collection service and that CSA could not enforce the fee for assessment and review because he had not asked for CSA's involvement.

14/04/94 The CSAC wrote to Mr S telling him that his maintenance payments were in arrears. They received a letter from Mr S saying that payments of maintenance to the PWC would start on 1 May. He reminded the CSAC about his request for a review of the MA. He enclosed details of his increased living expenses and said that he was also paying more tax.

29/04/94 The CSAC wrote to Mr S saying that increased tax and living expenses did not affect a MA.

31/05/94 The CSAC wrote to Mr S saying that they had not received his maintenance payments for the period from 3 to 31 May and that if they did not hear from him within five days a DEO would be imposed.

03/06/94 Mr S telephoned the CSAC to say that he would not pay maintenance through CSA. He said that the PWC did not want that method of payment. The CSAC wrote to the PWC asking her to contact them about the method of payment.

06/06/94 The PWC telephoned the CSAC to say that she wanted the MA collected by CSA. She confirmed that in writing. The CSAC wrote to the PWC asking her what payments she had received direct from Mr S.

13/06/94 The CSAC received the PWC's reply saying that she had received two payments of £316.12 in respect of May and June.

15/06/94 The CSAC received a letter from Mr S complaining about the amount of maintenance he had been assessed to pay and that no account was taken of debts and travel to work expenses. He said that CSA had not negotiated with him the repayment of the arrears but were demanding £20 a week which would place him in financial difficulty. He complained that CSA had needlessly threatened him with a DEO which they had wrongly told him would lead to disciplinary action by his employer.

20/06/94 The Member referred Mr S's complaint to the Parliamentary Commissioner.

22/06/94 The CSAC confirmed that Mr S should clear the initial payment at £80 a calendar month beginning on 2 August.

28/06/94 The CSAC replied to Mr S's letter explaining the operation of the formula for calculating MAs. They set out the arrangements which had been made for clearance of the arrears.

Case No. C.1418/95—Delay in hearing an appeal against a MA

Matters considered

1. Ms C complained that CSA and ITS were allowing the absent parent (AP) to delay a hearing of her appeal against an assessment for maintenance. The Parliamentary Commissioner received so many complaints about CSA that he made a special investigation into the problems being experienced. His report on that investigation was published in January 1995. My investigation began in December once the Commissioner had obtained comments from the Deputy Chief Executive of CSA and the President of ITS. I have not put into this report every detail investigated; but I am satisfied that no matter of significance has been overlooked.

Background

2. Maintenance assessments are made by child support officers (CSOs) based in regional Child Support Agency Centres (CSACs). A person who is dissatisfied with an assessment may appeal to a Child Support Appeal Tribunal (CSAT). Under the Child Support Appeal Tribunals (Procedure) Regulations 1992, a CSAT must hold an oral hearing of every appeal, which any party to the proceedings is entitled to attend. The usual practice is for CSA's central appeals unit (CAU) to send ITS a written submission on behalf of the CSO explaining how the decision appealed against was made. ITS send a copy of the submission to the parties concerned, together with a questionnaire about availability to attend a hearing. On receipt of the completed questionnaires ITS arrange a convenient hearing date. Regulation 5 provides that at any stage of the proceedings a tribunal chairman, either of his own motion or on a written application made to the clerk to the tribunal by any party to the proceedings, may give such directions as he may consider necessary or desirable for the just, effective and efficient conduct of the proceedings. Regulation 8 provides that where a person to whom notice of a hearing has been given wants a postponement of that hearing he should give notice in writing to the clerk to the tribunal stating his reasons for the request. A chairman may grant or refuse the request as he thinks fit. The decisions of CSAT chairmen are outside the Commissioner's jurisdiction. This report is concerned only with the administrative actions of CSA and ITS in dealing with Ms C's appeal.

Investigation

3. **1995** On 7 April 1995 Birkenhead CSAC notified Ms C of a revised MA. On 11 April she wrote to ITS appealing against the assessment; she asked for an early date for the hearing because she had already suffered delay in obtaining maintenance and was not receiving any money from the AP. On 12 April ITS received the letter and copied it to CAU. They asked for details of the case to enable the CSAT chairman to decide whether the appeal was within the CSAT's jurisdiction. They received CAU's reply on 24 April.

4. On 1 June ITS received a letter dated 25 May from Ms C asking for an urgent hearing of her appeal because her MA had already taken two years and the AP was now paying her only £2.30 a week. On 19 June they referred the letter to a CSAT chairman. On 22 June the chairman decided that the appeal could not be listed without CSA's submission. ITS wrote to Ms C on 27 June conveying the chairman's decision. They said that they were regularly sending reminders to CSA asking for further action on all overdue submissions; they promised to arrange a hearing as soon as the submission was received. On 28 June Ms C telephoned the CSAC customer service section, who promised to see that her appeal received urgent attention. On 5 July the CSAC sent Ms C's casepapers to CAU for completion of the CSO's submission; they asked them to treat the case as urgent.

5. On 17 July CAU sent ITS the CSO's submission; ITS received it the next day. They sent questionnaires to Ms C and the AP about availability to attend a hearing. On 31 July they received Ms C's reply, indicating that she was available on any date within the next three months. ITS did not receive a reply from the AP. They arranged a hearing for 14 September. On 17 August they received a letter from the AP asking for a postponement. On 19 August the chairman granted the request. On 30 August ITS wrote to Ms C and the AP asking when they would be able to attend over the next three months. On 7 September they received replies from both. ITS arranged a hearing for 21 November. The appeal was heard on that date.

6. In his comments to the Commissioner on the complaint, the Deputy Chief Executive of CSA acknowledged that there had been some initial delay in dealing with Ms C's appeal. He apologised for that. He said:—

> 'In order to be fair to clients CAU process all appeals submissions in chronological order unless it is identified that a particular case should be given priority. The CSAC's customer service officer requested such a priority marking on 4 July and the submission was dispatched to ITS on 17 July. I should also advise that since the set-up of CAU on 30 August 1994, 8,555 appeals have been cleared—5410 of these being cleared since April. At the beginning of April this year 29.3% of appeals were more than six months old: as of 8 December, this figure has reduced to 2.4%.'

7. The President of ITS said that, although he accepted that the appeal process could be lengthy, every effort was made to arrange tribunals timeously; he did not consider that the delay from receipt of the CSO's submission to the date of the first tribunal hearing arranged for Ms C's case had been unacceptable. The second hearing date had been the earliest suitable for both parties to attend. He did not therefore believe that there had been undue delays caused by ITS.

Findings

8. Five months passed between ITS's receipt of Ms C's appeal in April 1995 and the first date set for the hearing in September. For almost three months of that period progress was held up while CAU waited for Ms C's casepapers from the CSAC. It seems that it was only after Ms C contacted the customer services section—an action which coincided with the Commissioner's intervention on an earlier complaint by her—that the case was treated with the urgency it required. I criticise the CSAC for that. I am satisfied that ITS can and do try to overcome such difficulties by seeking the chairman's permission to proceed without the CSO's submission in appropriate cases. In Ms C's case the chairman decided that such action was not warranted; as I have said (paragraph 3), it is not for the Commissioner to comment on that decision. I have seen no evidence of maladministration by ITS in their handling of the matter.

9. I find no maladministration by CSA or ITS after CAU received Ms C's casepapers on 6 July. I sympathise with Ms C's frustration that, having waited so long, the hearing arranged for September was postponed at the request of the AP; but that again was a matter for the CSAT chairman. The hearing has now taken place and I regard the Deputy Chief Executive's apology for the initial delay—which I now pass on to Ms C—and the explanations which he and the President of ITS have given about their procedures as a satisfactory outcome to a partly justified complaint.

Case No. C.154/95—A widow complained that CSA had asked her to authorise recovery of maintenance on her behalf

1. Mrs S complained that the Child Support Agency (CSA) had written requiring her to authorise them to recover child maintenance on her behalf; that had caused a great deal of distress, because her husband had died in 1989.

2. CSA is an executive agency of the Department of Social Security (DSS) set up as a result of the Child Support Act 1991 to administer the assessment, collection and enforcement of child support maintenance. Under Section 6 of the Act where family credit (FC) (or certain other benefits) is claimed by the parent of a qualifying child she shall, if she has care of the child and is required to do so by the Secretary of State, authorise the Secretary of State to take action to recover child support maintenance from the absent parent. Authorisation is given by completing and returning a maintenance application form. It is not required if there are reasonable grounds for believing that giving it would put the parent with care or children at risk of harm or undue distress.

3. FC is an income-related benefit payable to those working a minimum of 16 hours a week who have responsibility for one or more children. It is administered by the DSS Family Credit Unit (FCU) in Blackpool. The FC claim form contains a question 'Does this child have a living parent who does not normally live with you?', which must be answered in respect of each child included on the form. If the claimant answers 'yes', or indicates that she is receiving maintenance, FCU make an entry on their computer which generates a notification to CSA if an award of FC is made. On receipt of such notification, CSA send a standard letter to the claimant saying that she may be required to authorise the Secretary of State to take action to recover child maintenance from the other parent of her children. The letter asks the claimant to tell CSA within 14 days whether she believes authorisation will put her or her children at risk. If no reply is received within 14 days, a letter is sent saying that CSA have decided that she should authorise them to recover child maintenance on her behalf, and enclosing a maintenance application form for her to complete.

4. **1994** On 21 October 1994 FCU received from Mrs S a claim to FC for herself and her two children. On her claim form she ticked 'no' to the question about an absent parent and indicated that she was not receiving maintenance. She declared that she was receiving widowed mother's allowance and a pension from her late husband's superannuation payable to her children. FCU wrongly made the computer entry which would generate a notification to CSA if FC was awarded.

5. On 26 October FCU notified Mrs S that the adjudication officer had disallowed her FC claim. On 31 October she asked for a review of the decision because the superannuation pension was paid monthly and not weekly as the adjudication officer had assessed. The adjudication officer reviewed the decision on 12 December and awarded FC of £19.39 a week. On the same day the award was automatically notified to CSA by virtue of the entry on the computer.

6. **1995** On 4 January 1995 CSA received the notification from FCU that there might be an absent parent involved. On 17 January they sent Mrs S their standard letter saying that she might be required to authorise the Secretary of State to take action to recover child support maintenance from the other parent of her children (paragraph 3). On 31 January, having received no reply, they sent their second standard letter, asking her to complete a maintenance application form which they enclosed.

7. On 3 February, as a result of Mrs S's Member of Parliament having raised the matter on 1 February at a hearing of the Select Committee on the Parliamentary Commissioner for Administration, CSA closed the case. On 8 February the Chief Executive of CSA wrote to Mrs S offering her sincerest apologies for the distress caused by the incorrect issue of the letters. She said that she had personally been in touch with the office concerned to ensure that the problem did not happen again and would write to the member with details when she had found out how the mistake had occurred. She did so on 17 February.

Findings

8. FCU made a similar—although not identical—error in case C.930/93 on which I reported on 7 July 1994. In his comments on that case the Permanent

Secretary of DSS told me that following a change of procedure in FCU, that type of error should not recur. In the light of that information, I was concerned as to whether the procedural change had failed to rectify the problem. I found that in case C.930/93 the error had been a failure to change a FCU computer entry from an indication that there might be CSA interest to one that there was not, once the correct position had been established. My officers have confirmed that FCU's amended instructions addressed that problem by eliminating the option of entering potential CSA interest, so that only positive or negative interest could be registered. The entry should always be negative until CSA interest is positively identified. That seems sensible to me. In the case of Mrs S I find that the problem was one of human error for which there is no systemic remedy—Mrs S's 'No' reply was entered as 'Yes' on the computer. I criticise FCU for that careless mistake, the results of which were undoubtedly distressing for Mrs S. I find no fault with CSA, who could not have suspected from the notification which FCU sent them that Mrs S was a widow, and who very quickly apologised to Mrs S once the mistake had been pointed out to them.

9. In his comments to me on the case the Permanent Secretary of DSS acknowledged that the error had been preventable and told me that the staff had been reminded of the impact mistakes of that nature can have. He added his sincere apologies to those of the Chief Executive. I now pass those on to Mrs S regarding them, together with the explanation given and the reminder to staff, as an appropriate response to Mrs S's fully justified complaint.

Case No. C.341/94—Failure of CSA to address the question of jurisdiction despite the PWC withdrawing her consent for CSA to act on her behalf

1. Mr and Mrs G complained about what they believed to be erroneous involvement by the Child Support Agency (CSA) in Mr G's maintenance affairs in relation to his daughter from his first marriage. They also complained about the way in which CSA dealt with his child support maintenance assessment and that monies paid to CSA were not passed promptly to the parent with care (PWC).

2. I received so many similar complaints about CSA's performance that I made a special investigation of the problems which had been experienced. My report of that investigation was published on 19 January 1995 and a copy sent to the Member. My investigation into Mr and Mrs G's complaint began in July 1994 once I had obtained comments from the Permanent Secretary of the Department of Social Security (DSS) after the Member had referred the case to me. I have not put into this report every detail investigated by my officers; but I am satisfied that no matter of significance has been overlooked.

Background

3. CSA are responsible for the assessment, collection and enforcement of child support maintenance. They obtain information about the absent parent from the PWC. They then send the absent parent a maintenance enquiry form (MEF) to obtain a financial statement so that the amount of child support maintenance can be assessed in accordance with a standard formula. Under Section 6(1) of the Child Support Act 1991 a PWC who is claiming certain benefits (including income support—IS) is required to authorise CSA to take action on his or her behalf to recover child support maintenance from the absent parent. Under Section 6(11) of the Act a PWC may ask CSA to stop such action when benefit ceases. The absent parent can make maintenance payments by a number of methods. CSA can collect payments from the absent parent and pass them on to the PWC but a fee is usually chargeable if the CSA collection service is used.

4. Under Regulation 30 of the Child Support (Maintenance Assessment Procedure) Regulations 1992 the absent parent's maintenance liability starts from the day the MEF is sent or given to the absent parent. However, if there is an existing court order, under Regulation 3(5) of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 liability starts two days after the assessment has been made. This date is known as the 'effective date' and there is often a lapse between it and the commencement of regular payments. In cases where there is an existing court order, the court normally retains jurisdiction until March 1996. However, Section 6 of the Child Support Act 1991 gives the CSA jurisdiction when the PWC has made a claim for IS, Family Credit or Disability Working Allowance. In these cases CSA can revoke the court order in favour of a full maintenance assessment (MA).

5. Appendix A to this report sets out a chronology of the main events in the case.

The DSS response to the complaint

6. In his comments to me on the case the Permanent Secretary of DSS added his apologies to those already given. He acknowledged that there had been a failure to deal properly with correspondence from Mr G and that no action had been taken on the request by the PWC to close the case. He accepted that Mr G had been put to a great deal of trouble trying to clarify his position and must have suffered frustration at not being able to get answers to his questions. The Permanent Secretary said that new procedures had been introduced in the CSAC to ensure that similar failures were not repeated.

Findings

7. As the PWC had claimed IS, she was required to apply for child support maintenance. Once application had been made CSA retained jurisdiction unless or until the PWC withdrew her application. That happened on 2 December 1993 when the PWC telephoned the local field office, who next day told the CSAC that the PWC was not receiving IS and wanted the case to be closed. (The legislation provides that an assessment should be cancelled from the date on which the PWC's intentions are made known.) If proper action had been taken on that—as it should have been—none of the subsequent problems would have arisen and Mr and Mrs G would not have been put to such needless trouble. I criticise CSA for a very serious error.

8. From mid-December 1993 Mr G sent a number of letters to CSA querying their jurisdiction in the case. CSA failed to reply to many of those letters and Mrs G was obliged to write to the Member a number of times in order to obtain information from them. The question of jurisdiction was not seriously addressed by CSA until late April 1994. They decided that they had had jurisdiction to make an assessment as the PWC had claimed IS but that jurisdiction had ended on 2 December 1993 when the PWC, who had ceased to claim IS in September, asked CSA to close the case. I pass on to Mr and Mrs G the apologies which the Permanent Secretary has offered for the failure to reply to many of Mr G's letters and the failure to act on the PWC's request. That led me to consider what arrangements there were for exchanging information about qualifying benefits. When a claim to IS is made by a PWC, CSA's interest should be recorded on the IS Computer System as under a service level agreement both the Benefits Agency (BA) and CSA are required to report to the other relevant changes of circumstances. When the PWC stopped claiming IS a report should have been produced automatically and sent to the CSAC as such a change clearly had a bearing on the case. Although BA do not have a record of the issue of such a report in this case, CSA accept that in all likelihood one was issued but not acted upon. On receiving the report the CSAC should have asked the PWC whether or not she wished to continue to use their services as a private client. Such action could have prevented all the subsequent problems arising and I criticise CSA for their failure to take the appropriate action. The Chief Executive offered her apologies for that error.

9. I turn now to the consequences of the failure to close the case. The court order ceased to have effect from 28 November and Mr G made the first payment of maintenance to CSA on 17 December. Mr G wrote to the CSAC on 17 January 1994, sending a copy of his letter to the Chief Executive, complaining that the December payment of maintenance had not yet been paid over to the PWC. The CSAC replied on 28 January apologising for the delay and explaining that the accounts had been set up incorrectly, showing the PWC as receiving IS. Although the PWC had said that she had no objection to receiving payment direct from Mr G by standing order into her building society account the reply from the CSAC to Mr G said that a field officer would ask the PWC what method of payment she wished to use and whether she wanted payments made through CSA. The December payment was not made to the PWC until 2 March and a further payment was delayed for a month. I criticise CSA for their inept handling of payments to the PWC.

10. On 17 January 1994 Mr G made a payment of £385.83 by credit transfer to CSA's bank in Newcastle. They were unable to allocate the payment to Mr G's account as no reference number had been quoted. The signature on the paying-in slip was unclear but enquiries with Mr G's bank, for whom he was employed, elicited the likely signature as Mr R G. There is no evidence of any follow-up action as a result of that information which the originating bank provided on 7 February. Mr G submitted evidence of payment on 25 April but no action was taken until 19 May and it was another month before the CSA confirmed to Mr G that they had credited his account. Although the delay was partly caused by the lack of the appropriate account number it was poor administration not to have acted sooner on the information provided by the bank and I criticise CSA accordingly.

11. On 11 May Mr G was told that action had been taken to suspend his case and close the account. He was assured that no further arrears letters would be issued. However, the account was re-opened to make a repayment to Mr G on 23 June and not closed again. Consequently an arrears letter was subsequently issued wrongly. I criticise CSA for their carelessness; it resulted in further distress and anxiety for Mr and Mrs G.

12. CSA considered Mr G's claim for compensation and after some three months' deliberation awarded him 76 pence to meet the cost of his first four letters. That seems totally unreasonable for a number of reasons. It was only a week after the MA had been made and the court order cancelled, and before any payment was due, that the PWC withdrew her consent for CSA to act on her behalf. My investigation has shown that Mr G did not at any stage fail to co-operate with CSA, and did not behave in any other way so as to cause or compound any error or delay (other than omitting the reference number from the payment he made in January 1994). On the other hand, CSA did not act reasonably both in taking no action when the PWC asked for the case to be closed and in failing until April 1994 properly to address the question of jurisdiction which Mr G raised on a number of occasions. None of the subsequent events need have occurred if CSA had acted promptly on the PWC's withdrawal of consent. They did not do so despite persistent prompting and questioning from both Mr and Mrs G. The shortcomings of the CSAC were readily acknowledged by the Centre manager, who, in her letter of 8 July 1994, apologised to Mr G saying 'The distress suffered by both you and your wife is clearly attributable to errors made at this Centre.' As a result of the CSAC's shortcomings—and for no other reason—Mr G paid £465.87 more than he would have been required to do under the arrangements to which he and the PWC would have reverted. Those monies have since been paid to the PWC but in my view it is quite wrong for CSA to suggest, as they have done, that Mr G should seek to recover them by reducing future payments for his daughter. Given the sensitivities of the case such action would carry the very real risk of seriously damaging relationships and causing yet more distress, not only for Mr and Mrs G, but also the PWC and her daughter.

Had it not been for maladministration by the CSAC Mr G would not have made those payments and it does not seem unreasonable to me that they should compensate him accordingly. I find the subsequent payment of 76 pence made 'in the exceptional circumstances of your case' quite insulting and I criticise CSA for their total lack of judgment in not anticipating the additional upset that such a payment would be likely to cause. In the light of that I asked the Permanent Secretary for further consideration to be given to compensating Mr G properly. The Permanent Secretary replied that the Chief Executive had asked for the question of compensation to be looked at again. CSA subsequently agreed to make an *ex gratia* payment of £465.87 to Mr G. I welcome that development.

Conclusion

13. Mr and Mrs G suffered quite unnecessarily at the hands of CSA. Serious errors were made by the CSAC and the level of service given was totally unacceptable. CSA have admitted their errors and have apologised to Mr and Mrs G. I pass on to them through this report the additional apologies which the Permanent Secretary has offered for the frustration they suffered when they were unable to get answers to their questions. I regard those apologies, the award of an *ex gratia* payment and the Permanent Secretary's assurances about the steps taken to ensure that similar failures do not occur in the future, as a very satisfactory outcome to a justified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

1993

16/08/93 Dudley CSAC received a completed MAF from the PWC, Mr G's former wife, who was receiving IS. She named Mr G as the father of her daughter and said that he was paying maintenance under a court order. She said that she had no objection to receiving payment direct from Mr G and gave details of her building society so that automated credit transfers could be made.

19/08/93 The PWC's IS claim ended.

26/09/93 CSAC sent Mr G a MEF.

11/10/93 CSAC received the completed MEF.

26/11/93 A MA of £89.04 a week was made and the court order was cancelled from 28 November.

02/12/93 The PWC telephoned the local field office asking CSA to stop acting on her behalf as she was not in receipt of IS, or any other qualifying benefit.

03/12/93 Dudley CSAC received notification from the field office of the PWC's request.

13/12/93 CSAC received £78.00 from Mr G for assessment and collection fees (neither parent had asked for the collection service to be used).

14/12/93 Mr G wrote to CSAC questioning their jurisdiction to make an assessment since the PWC was not in receipt of a qualifying benefit. He also asked why fees for collection had been imposed when neither parent had asked for the service.

17/12/93 CSAC received £330.72 from Mr G.

1994

10/01/94 CSAC received a letter from Mr G dated 9 January asking for a reply to his letter of 14 December.

16/01/94 Mr G wrote to CSAC referring to his earlier letters and to impending changes to CSA legislation. He again queried their involvement in his case, asked why the collection service was being used and said that he was arranging for £385.83 due by 23 January to be paid, but he would not set up a standing order until he had received satisfactory answers to his queries.

17/01/94 Mr G wrote to the Chief Executive of CSA enclosing a further letter which he had sent to CSAC that day. He asked what legal right CSA had to pursue maintenance by a deduction from earnings order without reference to the courts. He again raised the question of jurisdiction and complained that his December payment had not been paid over to the PWC.

17/01/94 Mrs G wrote to the Member enclosing a copy of the letter to CSAC dated 17 January. She was annoyed that CSA had not replied to letters from her husband and asked why the December payment had not been sent to the PWC.

17/01/94 A payment of £385.83 was received by CSA's bank, but as no account reference had been quoted it could not be allocated to Mr G's account. CSA could not identify the signature and asked the bank to make further enquiries.

19/01/94 The Member wrote to the Chief Executive asking for urgent comments on Mrs G's letter.

24/01/94 and 26/01/94 Further enquiries into the payment of £385.83 were unsuccessful.

28/01/94 CSAC wrote to Mr G apologising for the delay in paying out his December payment. They explained that the accounts had been set up incorrectly showing the PWC as in receipt of IS. A field officer had been asked to contact the PWC to find out what method of payment she wished to use and if she wanted payments made through CSA.

03/02/94 As CSA were unable to trace the source of the payment made on 17 January they wrote to Mr G's bank in an attempt to trace its source.

04/02/94 Mr G wrote to CSAC again questioning their involvement in the case as he believed that the PWC was not in receipt of IS. He questioned his liability for collection service fees and asked for a refund of fees already paid. He repeated his concern that money had not been passed on to the PWC.

04/02/94 Mr G wrote to CSAC about an arrears letter dated 2 February he had received for his January payment. He said he had made the payment by bank giro on 17 January.

04/02/94 Mr G copied both letters of 4 February to the Chief Executive and reminded her that he had not received a reply to his letter of 17 January. Mrs G wrote to the Member complaining about the arrears letter. She expressed concern about the stress and anxiety they were experiencing.

07/02/94 The Member wrote to the Chief Executive enclosing the further letter she had received from Mrs G and asking her to look into the matters raised.

07/02/94 Mr G's bank replied to the enquiry of 3 February. They were unable to give any further details but said that the name on the paying-in slip was probably R G.

07/02/94 Because of changes in legislation a revised MA of £65.82 a week was made. Notifications of the revised amount were sent to Mr G and the PWC.

21/02/94 The PWC telephoned the CSA National Enquiry Line asking why she had not received a reply to her letter sent to CSAC a month before. She asked when she would receive maintenance. There is no indication that CSA received such a letter.

23/02/94 The Chief Executive wrote to the Member replying to letters from her and Mrs G. She said that maintenance paid by Mr G had been used to offset IS paid to the PWC but that the case was being reviewed so that maintenance payments could be sent to the PWC.

02/03/94 CSA sent the December payment of £330.72 to the PWC.

04/03/94 Mrs G wrote to the Member expressing her concern that CSA had not clarified the issue of jurisdiction. She also referred to her husband's January payment which was said not to have been received.

08/03/94 The Member wrote to the Chief Executive enclosing Mrs G's letter of 4 March and asking her to look into the outstanding points. CSA received payment of £215.93 from Mr G.

23/03/94 CSA wrote to the PWC saying that they would not proceed with her application unless she wished to use their service as a private client.

28/03/94 CSA received a payment of £163.22 from Mr G. (Because of the continuing difficulties with CSA over payments Mr G was paying the amount of the original court order direct to the PWC and the balance to CSA.)

07/04/94 CSA sent the £215.93 payment of 2 March to the PWC.

08/04/94 CSA sent the £163.22 payment of 28 March to the PWC.

18/04/94 Mr G wrote to CSAC reminding them of the outstanding matters, including jurisdiction, in his previous letters. He enclosed a further cheque for £163.22.

19/04/94 The Chief Executive wrote to the Member saying that despite a full investigation CSAC had been unable to trace the payment made by Mr G on 17 January. She apologised for the lack of full replies to letters and said that she had asked CSAC to reply urgently to the outstanding points.

21/04/94 As no reply had been received from the PWC to their letter of 23 March CSAC decided to close the case.

21/04/94 Payment sent by Mr G on 18 April was received by CSA and allocated to his maintenance account. (It was held pending a decision on whether it should be returned to Mr G or paid to the PWC.)

25/04/94 Mr G wrote to the Chief Executive saying that he was unhappy with her reply to the Member. He complained that they had heard nothing from CSA since her letter to the Member dated 23 February. He enclosed proof of the payment made in January and said that he was asking the Member to refer the matter to me.

26/04/94 The CSA computer system issued an arrears notice to Mr G.

28/04/94 The customer service manager CSM wrote to the Member. He explained that jurisdiction was under review and the case had been referred to the CSA policy branch. They were holding £163.22 pending advice from the policy branch.

28/04/94 Mr G wrote to CSAC saying that he was very upset to have received the arrears letter which showed not only his January liability unpaid but also that for February, March and April, some of which had already been passed on to the PWC. He said that he was up to date with payments and provided details of those made. He asked again that CSA deal with all outstanding matters detailed in earlier letters.

28/04/94 Mr G wrote to the Chief Executive appealing for help in sorting out the problems he was having with CSAC and protesting at the issue of the arrears letter.

28/04/94 Mrs G wrote to the Member complaining about the arrears notice.

03/05/94 The Member wrote to the Chief Executive asking why the payments had been ignored. She said the matter had been referred to me.

10/05/94 Mr G wrote to the CSM on the jurisdiction issue. He asked for the immediate refund of payments made to CSA less the amount due under the court order, plus compensation.

11/05/94 The PWC telephoned CSAC to express her concern that arrears letters were being sent to Mr G. She was told that the accounts had been closed.

11/05/94 The CSM wrote to Mr G confirming that, as his accounts had been closed, no new system-generated arrears letters would be sent to him. He was told that his case had been referred to their policy branch for an urgent decision on jurisdiction and that his request for a refund would be considered when a decision was given.

17/05/94 The Chief Executive wrote to the Member replying to her letters of 8 March and 3 May and Mr G's letter of 28 April. She confirmed that CSAC had suspended the MA and that the case had been referred for a decision on jurisdiction.

19/05/94 CSA central finance section asked all six CSACs to check for Mr G's payment of £385.83 on 17 January.

04/06/94 The CSM received a reminder from Mr G for a reply to his letter dated 10 May.

23/06/94 CSA sent a payment of £549.05 to Mr G representing refunds of his payments of £385.83 made on 17 January and £163.22 on 21 April. (The account was re-opened for this transaction but was not closed again.)

24/6/94 CSAC wrote to Mr G explaining that the January payment had been traced and that it would be repaid together with the April payment.

08/07/94 The CSAC manager wrote to Mr G to clear all outstanding issues. She said 'The distress suffered by both you and your wife is clearly attributable to errors made at this Centre ...' and apologised for the poor service he had received and for the failure to act on the PWC's request to cancel the assessment. The manager said that it was not possible to make a full refund because the bulk of the funds had been passed to the PWC but his case would be considered for a special compensatory payment in lieu of a refund.

11/07/94 The Chief Executive wrote to the Member to explain the Agency's position in the case. She recognised that her staff had failed to act on the PWC's request to cancel the MA and that greater consideration should have been given to the requests of both parties that the existing arrangements for paying maintenance be maintained. Consideration would be given to the repayment of the collection fees and to a special payment to Mr G for the maintenance which he had paid but which CSA were unable to refund. She asked the Member to convey her sincere apologies to Mr and Mrs G for the difficulties encountered in their dealings with CSA and for any anxiety or distress caused.

20/07/94 An arrears notice was issued to Mr G.

23/07/94 Mrs G wrote to the Member complaining about the arrears notice.

28/07/94 The Member wrote to the Chief Executive enclosing Mrs G's letter and asking that the matter be resolved once and for all.

15/08/94 The Chief Executive wrote to the Member apologising for the arrears notice.

16/08/94 CSAC made a submission to the CSA Treasurer for consideration of a special payment to Mr G to cover the amount by which the payments made to the PWC exceeded his previous agreement. The CSAC manager recommended that a payment of £465.87 should be considered because no action had been taken on the PWC's withdrawal of her application.

18/08/94 A fees refund of £78.00 was made to Mr G.

22/08/94 The CSAC manager wrote to Mr G apologising for the arrears notice sent in error. She said that the fees would be refunded.

23/08/94 The CSAC manager wrote Mr G saying that she had made her recommendations on compensation in a report sent to her headquarters and that she would let him know the outcome.

04/11/94 CSAC wrote to Mr G confirming that CSA had terminated the case and closed all accounts.

14/11/94 Mr G wrote to CSAC asking for an update on compensation.

08/12/94 CSAC replied saying that the case was still being considered.

1995

06/01/95 CSAC wrote to Mr G saying that compensation had been considered and they had decided 'in the exceptional circumstances of your case' to make a special payment of 76 pence to meet the cost of postage (four second class stamps). They suggested that Mr G might care to discuss with his former wife the offsetting of any overpayment of maintenance against future payments.

10/01/95 Payment of 76 pence was made to Mr G.

11/01/95 Mrs G wrote to the Member protesting at being offered 76 pence compensation 'after 13 months of alternate inaction and harassment'. She enclosed a letter of the same date sent by Mr G to the CSM in which he asked which of his many letters had been deemed worthy of compensation. He said that he was amazed that they should suggest he recouped money from payments he was making for his daughter.

Case No. C.517/94—Ineffectual handling of a MA

1. Ms M complained that the Child Support Agency (CSA) lost her claim for child support maintenance; delayed progress of her further claim by errors; failed adequately to pursue payment from the absent parent (AP), and misinformed her about the payment situation. As a result she had not received maintenance amounting to £4,666.20 due between July 1993 and May 1994. She had also lost money through buying educational materials for her daughter, reducing her income from lodgers, and delaying claiming family credit; and had incurred correspondence costs, solicitors' fees and bank charges.

Background

2. CSA are responsible for the assessment, collection and enforcement of maintenance. A parent with care of a child applies for maintenance on a maintenance application form (MAF); CSA then send the AP a maintenance enquiry form to obtain a financial statement so that the amount of maintenance can be assessed in accordance with a standard formula, which takes account of each parent's income and expenditure. Maintenance assessments are made by child support officers (CSOs) based in regional Child Support Agency Centres (CSACs), which are supported by a network of field offices. Under section 12 of the Child Support Act 1991 a CSO may make an interim maintenance assessment (IMA) when there is insufficient information to make a full assessment. Before doing so, CSA must give the AP written notice of their intention and 14 days in which to supply the missing information. If the AP fails to pay, a CSO may make a deduction from earnings order (DEO) against the AP to secure payment of any amount due under a maintenance assessment. A DEO is an instruction to an employer to make deductions direct from an AP's earnings.

Investigation

3. Appendix A to this report sets out a chronology of the main events in the case.

The DSS response to the complaint

4. In his comments to the Commissioner, the Permanent Secretary of DSS apologised for mistakes and delays that had occurred in Ms M's case. He said that the delay in processing the MAF completed by her in July 1993 had arisen initially because of the unexpectedly large number of applications for maintenance received during the first few months of CSA's operation. The delay had been compounded when her papers had been lost temporarily and had not been transferred to Plymouth CSAC for further action in September 1993. After Ms M had completed a duplicate MAF in November there had again been a delay due to volume of work.

5. The Permanent Secretary explained that when the IMA was imposed in January 1994 it had been based on the incorrect belief that Dudley CSAC had sent a MEF which the AP had failed to return, and that warning notices had been issued; there was no evidence that that had been done. That had led to the cancellation of the IMA in June, and the imposition of a further IMA in July. Regarding the information given to Ms M when she telephoned CSAC on

15 April about the number of payments the AP had made, the Permanent Secretary was unable to confirm that that had been incorrect, but apologised if she had been misinformed or had misunderstood what was said to her. The Permanent Secretary added his apologies to those already given by the Chief Executive for the delay in replying to the Member's letters. He confirmed that all letters from Members of Parliament to the Chief Executive were acknowledged and the aim was to reply within 20 days. CSA had received very high volumes of correspondence from Members and clients and it had not always been possible to meet that target. Steps had been taken to ensure that Members' correspondence was answered as promptly as possible and delays had been significantly reduced. The Permanent Secretary also said that he was sorry if some of the Chief Executive's letters had contained inaccuracies; those had arisen mainly from the incorrect assumption that the AP had been sent a MEF after Ms M's claim in July 1993.

6. DSS kept the Commissioner's officers informed of developments while the investigation was in progress. In particular, they said that on 21 November 1994 Ms M had written to the CSAC telling them that a court order for maintenance for her daughter had been in force since 1982. Legal advice obtained by the CSAC was that they had had no jurisdiction in respect of Ms M's claim in July 1993, because she had had a court order for the qualifying child and had not been receiving a qualifying benefit. On her MAFs of 16 July and 22 November 1993 Ms M had said incorrectly that she had no court order, and the AP had not mentioned the existence of one. On 24 November the CSAC sent Ms M a fresh MAF because she had started to receive a qualifying benefit (family credit). It was returned on 28 November. On 30 November the CSAC wrote to the AP saying that all action on his case prior to 24 November 1994 had been cancelled and that he had no liability for the assessments made. They returned the cheque for £330.20 which he had paid and said that the court order would remain in force until a new assessment was calculated. On 6 December the CSAC sent the AP a MEF which was not returned. On 17 January 1995 the CSAC notified the AP and Ms M of an IMA of £76.20 a week, payable from 19 January and replacing the court order from that date. On 30 January the CSAC received £141.51 maintenance from the AP for the period 19 to 30 January. In the light of that development, DSS reconsidered Ms M's claim for compensation but decided it was not appropriate because CSA had not had jurisdiction over her case. The Member's secretary later told me that Ms M was no longer pursuing the matter of compensation.

Findings

7. Ms M was very poorly served by CSA. I found serious mistakes in all three areas of which she complained: handling of her claim for maintenance, pursuit of payment, and supply of information about payments. Confusion arose in CSA from the fact that Dudley CSAC were dealing with an earlier claim for maintenance from the AP as the parent with care of Ms M's daughter at the same time as Ms M put in her claim. That, and the transfer of work from Hastings to the newly opened Plymouth CSAC in September 1993, apparently caused CSA to lose sight of Ms M's MAF, delaying her claim for four months and putting her through the trouble and distress of having to get the process started again. To make matters worse, the Chief Executive's letter to the Member of 9 March was poorly informed and gave the impression of glossing over the error. I criticise CSA for those shortcomings.

8. CSA's failure to deal adequately with their task of pursuing payment of maintenance from the AP can likewise be attributed to confusion caused by the existence of his own claim. Apparently assuming that Ms M had been the parent with care all along, and accordingly mistaking action by Dudley CSAC to pursue maintenance from her on the AP's behalf, for action directed at the AP, Plymouth CSAC concluded that the necessary preliminary steps for imposing an IMA on the AP had been taken. They had not, which meant that when Plymouth CSAC decided to take enforcement action in June 1994 they found they had to restart the assessment process. That must have been an especially frustrating setback for Ms M.

9. My findings on the quality of information given to Ms M about the payment situation are restricted by the fact that CSA did not record all their telephone conversations with her. I have been unable to establish precisely what Ms M was told on 15 April 1994 about the payments received from the AP. (I note in this connection that her own accounts of what she was told differ in her letters of 27 and 29 April 1994 to the Member.) However, CSA's written communication on the subject was not always up to the standard that Ms M had a right to expect: the CSAC's letter of 4 August gave wrong amounts for payments due under the second IMA; and Ms M received no reply to her query of 6 June about arrears. The Permanent Secretary offered his apologies for those shortcomings.

10. On the matter of compensation DSS decided that as they had not had jurisdiction over the case no compensation was payable. I see no reason to press them on that matter since it was due to a mistake by Ms M that they were dealing with the case at all. After the Commissioner's intervention Ms M successfully pursued a valid application for maintenance, having become entitled to a qualifying benefit.

Conclusion

11. CSA's administration of Ms M's claim for maintenance was very poor, but it has since emerged that they would not have accepted the claim if not for an error by Ms M. In the light of that, although Ms M's complaint was fully justified, I accept the Permanent Secretary's decision not to make an award of compensation. I regard his apologies—which I pass on to Ms M through this report—as a suitable outcome.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

1993

16/07/93 Ms M was interviewed in her local field office and completed a MAF for maintenance for her daughter. She said that there was no court order in existence.

26/07/93 Hastings CSAC received Ms M's MAF.

28/07/93 The CSAC received details of Ms M's second mortgage obtained by the local office.

17/08/93 Dudley CSAC, who were dealing with a claim for maintenance for Ms M's daughter from the AP, with whom she had been living until recently, received details of Ms M's second mortgage.

20/08/93 Hastings CSAC received details of Ms M's second mortgage.

03/09/93 Dudley CSAC received Ms M's MAF.

05/09/93 Plymouth CSAC began to take on some of the work of Hastings CSAC.

10/09/93 Hastings CSAC received Ms M's MAF.

Undated A note among the papers shows that Ms M's file was to be sent back to Dudley but was received in Plymouth at some time in September.

09/11/93 Ms M telephoned Plymouth to ask about her claim. They noted that they had no trace of a claim.

10/11/93 Plymouth telephoned Hastings and Dudley CSACs, who said that they had no file for Ms M. Plymouth asked the field office to interview Ms M again and complete a second MAF because the first one had gone astray.

15/11/93 Ms M wrote to her Member of Parliament to complain that CSA had lost her claim and had been insensitive and inconsiderate in dealing with telephone enquiries she had made about it. She wanted compensation for the time and money spent dealing with the problem, an acknowledgement from CSA of their mistake, and information regarding the current status of her claim.

18/11/93 The Member wrote to the Chief Executive of CSA asking for comment and advice on Ms M's letter.

22/11/93 An officer from the field office visited Ms M who completed a second MAF. She said that there was no court order in existence. The MAF was forwarded to Plymouth CSAC.

09/12/93 The CSAC wrote to Ms M asking for further information about her income from self-employment.

13/12/93 The Member wrote to the Chief Executive enclosing a letter from Ms M saying that in less than three weeks she would suffer financial hardship. She asked the Member to ascertain the position on her claim and when she could expect to receive payment.

16/12/93 Ms M sent the CSAC information about her income from self-employment. She pointed out that their request for this had been sent to her lodgers' address rather than the current home or Post Office Box addresses she had given on her second MAF; she had received it only the previous day. She said she was experiencing financial hardship due to the delay on her claim.

17/12/93 Ms M telephoned the CSAC and was told that an IMA would be made after Christmas.

1994

21/01/94 Plymouth CSAC obtained case papers from Dudley. They wrote to Ms M apologising for the way her case had been handled.

24/01/94 The CSAC notified the AP and Ms M that they had made an IMA of £106.05 a week, effective from 17 January.

31/01/94 The CSAC received a letter from the AP. He said that he saw no need for the use of an IMA because he had already supplied Dudley CSAC with all information necessary for a full assessment. He enclosed further information about his income and expenditure. He asked the CSAC to reassess his maintenance liability.

09/03/94 The Chief Executive replied to the Member's letters of 18 November and 13 December 1993, apologising for the delay in doing so. She said that she was sorry that Ms M, having applied for maintenance in July 1993, had not been interviewed again until November to get full details of her claim. She apologised if CSA staff had not dealt efficiently and courteously with Ms M. An IMA had been imposed and enforcement action could be considered if no payments were received by 25 March. She suggested that Ms M contact the accounts control section or the customer services manager at the CSAC for news. She promised to consider financial compensation for Ms M.

10/03/94 Ms M telephoned the CSAC asking for news of her case.

23/03/94 The Member wrote to the Chief Executive enclosing a letter in which Ms M detailed ways in which she felt that the Chief Executive's reply was incomplete, misleading and did not do justice to the delays and errors which had occurred on her claim. She asked when CSA had first contacted the AP about information for the maintenance assessment. She said they had promised to send her copies of all letters they sent to him but had not done so. She asked why the IMA had been made effective from 17 January when she had claimed in July 1993, and when she could expect to receive payment. She pointed out that she had been in continual contact with the CSAC accounts control section and customer services manager and was waiting for a letter and return telephone call from them before putting in a claim for compensation. She asked why it had taken four months to receive a reply from the Chief Executive. She asked the Member to forward her letter to the Chief Executive and to refer the matter to the Commissioner.

30/03/94 The CSAC received £120 maintenance from the AP for April. He explained in a covering letter that that was all he could afford to pay.

02/04/94 The CSAC wrote to the AP asking for immediate payment of maintenance arrears of £1,030.20.

15/04/94 Ms M telephoned the CSAC about her maintenance payments.

19/04/94 The CSAC received a letter from the AP saying he was unable to afford the full payments.

21/04/94 The CSAC received a letter from solicitors acting for Ms M. They said they understood that the CSAC had advised her to contact them about applying to the County Court for a maintenance top up. They asked the CSAC to confirm that they had no powers to force the AP to produce further information (which Ms M believed would result in a higher maintenance assessment). They also asked the amount of any arrears owing and the action proposed for their recovery.

25/04/94 The CSAC wrote asking the AP to contact them to arrange payment by instalments.

26/04/94 Ms M telephoned the CSAC twice about her maintenance payments.

27/04/94 Ms M telephoned the CSAC to express her concern about the lack of action to obtain payment of her maintenance. She asked for urgent enforcement action. The CSAC referred the case for enforcement action. She also wrote to the Member saying, among other things, that when she had telephoned the CSAC on 15 April, they had told her that the AP had made payments of £106.05 and £120.00 on 30/31 March.

28/04/94 Ms M telephoned the CSAC asking for a letter confirming that a payment of maintenance had been received from the AP. The Member wrote to the CSA Parliamentary Business Unit enclosing a letter in which Ms M said that when she had telephoned CSA on 28 March they had told her that they had received no maintenance payments. She had been promised copies of the letters they had sent to the AP. When she had telephoned again on 15 April they had told her that they had received two payments, one of £106.05 and one of £120. She had received only the payment of £106.05 on 18 April. When she had telephoned CSA on 26 April they had told her to wait a couple of

weeks for enforcement action because the law was being changed; she had subsequently telephoned the Information Line who had told her that they knew of no relevant change in the law. She said that it appeared that the AP was not being chased for maintenance; CSA had failed to trace the second payment that he had made to them; and they had failed to respond to her various requests for letters, including the one relating to her claim for compensation. She added that CSA had advised her to go to her solicitors to obtain a top-up of the IMA, but had not replied to her solicitors' letter. She was in debt and might now have to rent out her home to pay the mortgage. She asked the Member to refer the matter to the Commissioner.

29/04/94 The CSAC wrote to Ms M. They confirmed that they had received only one maintenance payment from the AP, £120 on 30 March; they had paid that to her in two instalments, £13.95 on 13 April and £106.05 on 18 April. They said her case had been passed to the enforcement section who would seek a liability order. They faxed her solicitors' letter to the DSS Solicitor's Office for reply. Ms M wrote to the Member saying, among other things, that on 15 April the CSAC had told her that payments of £106.05, £92.10 and £13.96 had been received from the AP. She complained that the CSAC were giving her misleading information.

03/05/94 DSS Solicitor's Office wrote to Ms M's solicitors confirming that they had no power to force the AP to produce information. They said that there were arrears and enforcement proceedings were being looked into.

04/05/94 The CSAC received two letters from the AP saying that he could not afford to pay any more maintenance than the £120 a month he was already paying.

05/05/94 The Member wrote to the CSA Parliamentary Business Unit enclosing a letter from Ms M dated 29 April in which she said that the latest advice she had had from CSA about maintenance payments received, contradicted information she had been given on 15 April to the effect that payments of £106.05, £92.10 and £13.96 had been received and there was no reason to believe payments would stop. She said that as a result of that misinformation she had relinquished the opportunity of replacing a tenant whom she had evicted on 22 April, choosing instead to extend another tenant's facilities. That had cost her £50 a week, which she wished to add to her claim for compensation from CSA.

06/05/94 The CSAC wrote to the AP's employers asking for details to enable them to consider making a DEO. The Chief Executive replied to the Member's letters of 23 March and 28 April. She apologised for the delay in doing so and explained that recent press interest had resulted in her target for replying to Members' letters not being met. She apologised for the length of time taken to process Ms M's case. She apologised that Ms M's original MAF had been mislaid and for any confusion caused by misleading sections in her letter of 9 March. She said that when a full maintenance assessment had been completed liability for maintenance would start from the date the original MEF had been issued. She explained that letters to one party were not automatically copied to the other; she was sorry if Ms M had been misled on that point. The case had now been passed to the enforcement section and the full range of powers available would be considered. Regarding the claim for compensation, she invited Ms M to tell her the financial loss she had suffered.

10/05/94 Ms M telephoned the CSAC asking for written confirmation of the amount of maintenance paid by the AP. The CSAC noted that another payment had been received since they had last written to Ms M about payments.

12/05/94 The CSAC wrote to Ms M about the latest payment received.

16/05/94 The CSAC telephoned the AP's employers who said they had not received the letter of 6 May. The CSAC reissued it by recorded delivery.

17/05/94 The CSAC received a letter from the AP saying that he had supplied all the information required for the maintenance assessment. He asked them to look into why he was still subject to an IMA.

19/05/94 A friend of the AP telephoned the CSAC to ask them to cancel action on the IMA and issue a new MEF so that a full assessment could be done. The CSAC agreed to do so and to take no action for a fortnight to allow time for completion of the MEF.

24/05/94 The Member wrote to the CSA Parliamentary Business Unit enclosing a letter from Ms M dated 18 May. She said that the Chief Executive's letter of 6 May had not answered all her outstanding points. She summarised her claim for compensation and promised to forward full details.

29/05/94 The AP wrote to the CSAC saying that he was completing the MEF. He assumed that he was no longer liable for sums due under the IMA. He enclosed £120 maintenance for June.

01/06/94 Ms M telephoned the CSAC to ask why in view of the advanced stage the claim had reached they had sent a MEF to the AP. She said she had to move out of her home in two weeks' time and needed to know what the CSAC were going to do about the arrears owed by the AP.

03/06/94 The CSAC received the AP's MEF.

06/06/94 They decided to continue with enforcement action because the MEF was incomplete. They told Ms M of that decision. The CSA Parliamentary Business Unit received a letter from the Member enclosing one from Ms M dated 31 May submitting details of her claim for compensation. The CSAC received a letter from Ms M enclosing a refusal of legal aid to her on the grounds that CSA had jurisdiction to deal with the maintenance aspects of her case and the prospects of obtaining an order for matters outside their jurisdiction were not strong enough to justify legal aid. She asked for confirmation that CSA did not have jurisdiction to obtain an order for IMA top up claims. She also asked them how much the AP owed in maintenance since July 1993 and how long it would take to obtain payment, as she needed to approach her bank to increase her overdraft.

08/06/94 The CSAC wrote to Ms M. They said that before top up maintenance could be awarded the courts needed confirmation that the AP was paying the maximum maintenance under the maintenance formula. Because an IMA was not the maximum under the formula, CSA did not currently have jurisdiction in those cases.

09/06/94 The Member referred Ms M's complaint to the Commissioner.

10/06/94 The CSAC received a copy of a letter dated 9 June from Ms M to the Member in which she said that she had that day been told by the CSAC that they were unable to proceed with an enforcement order because they had not sent the AP a MEF until 19 May 1994, nor had they sent him a warning letter about imposition of the IMA. She enclosed an additional claim for compensation.

14/06/94 The CSAC wrote to the AP saying that they had received his MEF, which was incomplete, and would process it promptly. They asked whether he had completed a MEF before. They said that his letter of 29 May had been accepted as a request to cancel the IMA and they would suspend action on collection of arrears. They wrote to Ms M saying that they would forward her claim for compensation to the CSA Treasurer and write to her as soon as they had a decision.

17/06/94 The CSAC sent Ms M's compensation claim to the Treasurer with a summary of the events leading to it.

20/06/94 The Member wrote to the CSA Parliamentary Business Unit enclosing Ms M's letter of 9 June.

23/06/94 The CSAC notified the AP and Ms M that they would make a new IMA unless they received the information asked for on the MEF within 14 days.

28/06/94 The CSAC received a letter from the AP saying that he had completed a MEF in Spring 1993. He asked for confirmation that the current IMA had been cancelled. The CSAC found no evidence of the earlier issue of a MEF to the AP.

29/06/94 The CSAC telephoned Ms M in response to earlier telephone calls. She said that she had not received the notification of impending IMA action. The CSAC agreed to send her another. They agreed to telephone her on 14 July to confirm that the IMA had been imposed.

03/07/94 The AP sent £120 maintenance to the CSAC.

04/07/94 The CSAC wrote to the AP to clarify whether he had received a MEF in 1993. They confirmed that the current IMA had been cancelled, but warned that another would be imposed if he did not respond to the notification of 23 June.

16/07/94 The CSAC notified the AP and Ms M of a new IMA of £76.20 a week effective from 14 July.

21/07/94 The AP wrote to the CSAC disputing the imposition of the IMA because he had returned his MEF.

27/07/94 Ms M telephoned the CSAC to tell them that her daughter was staying at a hostel for school phobics, returning to her at weekends.

31/07/94 The AP sent £120 maintenance for August. He said that that was all he could afford.

03/08/94 The CSAC replied to the AP's letter of 21 July. They said that the MEF he had returned had been incomplete so they had sent him another on 5 June. The IMA would remain in place until they were able to make a full maintenance assessment based on his income and expenditure.

04/08/94 The CSAC notified the AP and Ms M that payments of maintenance should be £106.05 on 5 August, £31.42 a week from 12 August, £53.98 on 30 September and £76.20 a week from 7 October.

05/08/94 The AP wrote to the CSAC asking that the IMA be cancelled because he had returned his MEF. He asked why they had not sent him another if they had not received it, or returned it to him if it was incomplete. He said that he had been told that his daughter was living in a hostel, and asked the CSAC to look into this.

08/08/94 Ms M telephoned the CSAC to query the payments notified by their letter of 4 August.

10/08/94 The CSAC wrote to the AP and Ms M. They explained that the payment notification sent on 4 August had incorrectly offset payments made prior to 14 July against the liability under the IMA from that date. They said that the correct amount due was £76.20 a week from 14 July. Taking into account the payment of £120 made for August, meant that arrears of £130.37 were now due, and regular weekly payments of £76.20 from 12 August.

11/08/94 The CSAC replied to the AP's letter of 5 August. They hoped he had now received their letter of 3 August, which explained the reasons for the IMA. They said that his daughter's move to a hostel would not affect the IMA but they would require details when calculating a full maintenance assessment.

15/08/94 The CSAC wrote to the AP's employers asking for details to enable them to consider a DEO.

23/08/94 The AP's partner telephoned the CSAC asking for another MEF as he had not received the one said to have been sent on 5 June.

24/08/94 The CSAC sent the AP another MEF. They said that the IMA would remain in force pending its completion.

26/08/94 The CSAC received a letter from the AP's employers saying that they understood, after a telephone conversation with the CSAC and the AP, that the issue of another MEF meant that the information they had asked for would now be supplied by the AP. The CSAC telephoned Ms M and told her they were continuing action to secure payment of the IMA. Ms M asked for written confirmation that the AP was paying only £120 a month. The CSAC sent her a letter to that effect.

05/09/94 The CSAC received £282.77 maintenance from the AP.

06/09/94 to 12/09/94 The CSAC tried to contact the AP and his employers by telephone.

13/09/94 The CSAC spoke to the employers, who agreed to return the DEO information statement.

15/09/94 The CSAC received the AP's MEF.

16/09/94 The CSAC received the completed DEO information statement.

18/09/94 The CSAC returned the MEF to the AP for signature. They asked for more information. They said that they would be imposing a DEO to collect payment of the IMA.

19/09/94 The CSAC received £228.60 maintenance from the AP.

21/09/94 Ms M telephoned the CSA parliamentary business unit and was told the current position.

30/09/94 The CSAC received £152.40 maintenance from the AP.

02/10/94 The CSAC wrote to Ms M about her claim for compensation. They said that their policy was that compensation could be considered only where a clear and unambiguous error or unreasonable delay by CSA resulted in actual financial loss, as distinct from financial disappointment. In Ms M's case, although the incorrect imposition of

an IMA meant that any maintenance for the period 16 July 1993 to 13 July 1994 could not be recovered, maintenance for that period did not exist as an actual sum of money lost by Ms M. There had been a delay of ten months in issuing a MEF to the AP; that was regrettable but CSA's compensation policy defined unreasonable delay as more than one year. Compensation was therefore not payable.

03/10/94 The CSAC received a letter from the AP undertaking to pay maintenance of £330.20 a month from 31 October provided a DEO was not imposed.

06/10/94 The CSAC replied confirming that they had cancelled the DEO.

31/10/94 The CSAC received maintenance of £330.20 from the AP.

Case No. C.421/94—Mishandling of an application for maintenance

1. Mrs L complained through a Law Centre about the failure of the Child Support Agency (CSA) to deal efficiently with her application for child support maintenance for her grandson; that the CSA helpline gave misleading advice; and that the maintenance application form (MAF) is unsuited to the circumstances of her case. She contended that delays in their handling of her application caused her financial loss when it became clear that CSA had no jurisdiction due to an existing court order, details of which had already been given to the forerunner of CSA, the Child Support Unit. I am investigating as a separate matter a further complaint made by Mrs L after the events detailed in this report.

2. I received so many complaints about CSA that I carried out a special investigation into the problems being experienced. My report on that investigation was published in January 1995 and a copy sent to the Member. My investigation into Mrs L's complaint began in September 1994 once I had obtained the comments of the Permanent Secretary of the Department of Social Security (DSS), after the Member had referred the complaint to me. I have not put into this report every detail investigated by my officers, but I am satisfied that no matter of significance has been overlooked.

Background

3. CSA are responsible for the assessment, collection and enforcement of child support maintenance. Where a child lives with neither parent CSA obtain information about both absent parents (APs) on a MAF completed by the person with care of the child. They then send each AP a maintenance enquiry form (MEF) to obtain a financial statement so that the amount of child support maintenance can be assessed in accordance with a standard formula. Under section 6(1) of the Child Support Act 1991 a person with care who is claiming a prescribed benefit is required to authorise CSA to act on her behalf to recover child support maintenance from an AP. Where no such benefit is in payment and there is an existing maintenance order, it was planned that CSA should be authorised to deal with the case only from 1996, when there was to be a phased take-on of such cases (paragraphs 2-4 of the Schedule to the Child Support Act 1991 (Commencement No. 3 and Transitional Provisions) Order 1992). The take-on of those cases has now been deferred indefinitely after recent legislative changes. Private clients—that is, those not receiving a prescribed benefit—may ask CSA to collect child support maintenance on their behalf.

4. Under Regulation 30 of the Child Support (Maintenance Assessment Procedure) Regulations 1992 maintenance liability starts from the day the MEF is sent or given to the AP. However, if there is an existing court order, under Regulation 3(5) of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 liability starts two days after the assessment has been made; the court order then becomes invalid. That day is known as the "effective date" and there is often a lapse between it and the commencement of regular payments; during that period (the initial payment period) arrears will accrue. On completion of an assessment CSA calculate a separate figure for the initial payment which they notify to the AP. If there is a court order CSA arrange for it to be cancelled from the effective date.

5. Maintenance assessments (MAs) are made by child support officers (CSOs). Under section 12 of the Act a CSO may make an interim maintenance assessment (IMA) where the AP fails to supply sufficient information for a MA to be made. An IMA does not take account of personal and family circumstances and will usually be higher than a full MA. Under section 12(4) written notice of the intention to impose an IMA must be given to the person with care and the AP where it is reasonably practical to do so. The IMA cannot then be made until the end of a period of 14 days commencing with the date the notice was given or sent. An IMA cannot be reviewed in the way in which a full MA can but under Regulation 8(6) of the Child Support (Maintenance Assessment Procedure) Regulations 1992 it can be cancelled if the CSO is satisfied that there was unavoidable delay in providing the information or evidence needed to make an assessment. When an IMA is replaced by a full MA the higher amount remains due for the period for which the IMA was in place (Regulation 8(4) of the Child Support (Maintenance Assessment Procedure) Regulations 1992).

6. When there is no court order in force the IMA may start on any day of the week after the 14 day period of notice has ended (paragraph 5). The day chosen must be the same day of the week as the effective date of a full MA would have been. (Regulation 8(3) of the Child Support (Maintenance Assessment Procedure) Regulations 1992).

7. Under section 31 of the Act a CSO, acting on behalf of the Secretary of State, may make a deduction from earnings order (DEO) against the AP to secure payment of any amount due under a MA. A DEO is an instruction to an employer to make deductions direct from an AP's earnings. Copies of the order are sent to both the employer and the AP. DEO action is normally taken only when it is clear to the CSO that other methods of collection have failed or are likely to fail. If DEO action is deemed to be inappropriate (for example where an AP is self-employed) the CSO, acting on behalf of the Secretary of State, can apply to a magistrate's court for a liability order (section 33 of the Act). Such an order allows CSA to pursue a number of other enforcement measures (section 35 of the Act).

8. Appendix A to this report sets out a chronology of the main events in the case.

The DSS response to the complaint

9. In his comments to me, the Permanent Secretary said that a number of errors and delays had occurred in the handling of Mrs L's case. He apologised for the length of time taken to resolve matters, for mistakes made by the Belfast CSA Centre (CSAC) in the calculation of the IMA, and for the failure on occasions to respond promptly to letters and telephone calls from Mrs L, her representatives, and the Member. The manager of the CSAC had reminded staff of the importance of dealing promptly with telephone calls and correspondence; organisational changes had been made to deal with incoming mail and telephone calls. Those measures should help prevent a repetition of the problems experienced in Mrs L's case. The Permanent Secretary said that efforts to obtain maintenance had been thwarted by the existence of a court order which came to light only when the AP (the father) completed a MEF. Although it was true to say that information was already held in the Department about the existence of a court order, that information was held in the name of Mrs L's daughter and would not have been connected with Mrs L's application. He said that, now that the court order had been revoked, CSA would process, as quickly as possible, Mrs L's further application for maintenance.

Findings

10. The key issue in this case was the existence of a court order which provided for maintenance to be paid by the absent father to Mrs L's daughter for the benefit of their son. Payment under it had not been made for a number of years and no enforcement action taken. Details of the order had been obtained by DSS in January 1993 but in the name of Mrs L's daughter. Consequently CSA did not connect it with the maintenance application from Mrs L and its existence came to light only during an interview with the absent father in March 1994, some eleven months after receipt of the application. Confirmation of the existence of the court order meant that CSA did not have jurisdiction to continue with the case

and it was not until August 1994 that Mrs L was able to take the necessary steps to obtain maintenance through her daughter's application for revocation of the order. It was unfortunate that Mrs L's application was only at that late stage found to be outside CSA's jurisdiction but I do not consider that they could reasonably have been expected to associate the application with information held in her daughter's name.

11. The Permanent Secretary said that the MAF is designed for completion by either a parent, or a person, with care. I found, however, that the MAF asks the person with care whether *he or she* has a court order for the payment of maintenance by the AP. While that question will be appropriate in most cases, it does not cover circumstances such as those of Mrs L where the person with care is not the recipient of the court order and has no knowledge of it. Mrs L completed the MAF accurately and answered all questions. Her daughter completed all questions on the MEF but the section relevant to maintenance was appropriate only for payments due to be made, not those due to be received, by the signatory. Neither form revealed the existence of the court order relating to the child. It seemed to me that it might be possible to cover most eventualities if the question about court orders was amended to read something like "Is there a court order in existence for the payment of maintenance by any person in respect of the child?". A question framed in that way might not have guaranteed that the court order would have come to light at the start of Mrs L's case but could have resulted in her making further enquiries of her daughter. In the light of that I asked the Permanent Secretary for consideration to be given to reviewing the wording of that part of the MAF and whether anything should be added to the MEF. The Permanent Secretary replied that the change to the wording of the maintenance forms that I had suggested is to be considered as soon as possible but in principle she saw no reason why it should not be used in its entirety. I welcome that development.

12. I found a number of failings in CSA's efforts to obtain maintenance for Mrs L. Between 20 May and 23 August 1993 they issued the absent father with three separate MEFs but he failed to co-operate and a completed form was not received in the CSAC until 25 March 1994 when the existence of a court order became known. More strenuous efforts should have been made to get the MEF completed when a field officer interviewed the AP on 9 September 1993. The CSAC made repeated errors in calculating the amount and effective date for an IMA. No fewer than four attempts were made—none was successful. The correct effective date was 9 September 1993 but that was not established. I criticise CSA for their poor performance which obviously caused considerable frustration for Mrs L. The Permanent Secretary said that the attention of staff dealing with IMAs had been drawn to the relevant guidance on the subject.

13. The CSAC failed to respond promptly to letters and telephone calls from Mrs L. Matters did not improve even when the Chief Executive became involved—three months for the Member to get a reply was much too long. The Member also telephoned the CSAC on 24 March and 8 April 1994 to ask for an update on the case but on neither occasion was the information provided. That was very poor service. The Permanent Secretary said that the CSAC manager had reminded staff of the importance of dealing promptly with telephone calls and correspondence, and organisational changes had been made to deal with incoming mail and telephone enquiries which should help prevent a repetition of the problems encountered by Mrs L and the Member.

14. A local one-parent family group, assisted Mrs L with her case. According to their contemporary records they were told on two separate occasions—by the CSA helpline on 31 March and by a CSAC on 15 April 1994—that, to prevent CSA having jurisdiction, any court order must be in the name of the person applying for maintenance. That was incorrect. Any court order in relation to the qualifying child puts an application outside CSA's jurisdiction. Although CSA have no record of calls from the one-parent group I do not doubt that they took place as recorded and I criticise CSA accordingly. In the light of that I asked the Permanent Secretary if she would ensure that all parts of CSA are reminded of

the correct limits of their jurisdiction. In reply she said that an Agency wide operations bulletin would be issued urgently to all staff reminding them of the limits of CSA's jurisdiction.

15. During the course of the investigation my officers asked DSS to give consideration to Mrs L's request for compensation which did not appear to have been addressed. They did so but rejected the claim because CSA could not reasonably have been expected to connect details of the court order already held to a maintenance application by a different person (paragraph 10). They also stressed that CSA were unable to guarantee that child support maintenance would be arranged in every case or to a particular timescale because the behaviour of the AP would always be a major factor in the time taken to resolve matters. Where the AP is unco-operative—as had been the case with Mrs L's application—there would inevitably be considerable delay; but, in normal circumstances, the person with care would ultimately be protected by the operation of the effective date (paragraph 4). Although I recognise that that was of no comfort to Mrs L I did not consider the CSA stance on that aspect of the case to be unreasonable.

Conclusion

16. The standard of service which Mrs L received was far from satisfactory and I have criticised CSA on a number of fronts. I pass on to Mrs L the apologies which the Permanent Secretary has offered which, together with the assurance about steps being taken to improve CSA future performance, the Permanent Secretary's agreement to review the wording of the MAF and the MEF, and to remind all staff of the limits of CSA's jurisdiction, I regard as a suitable response to a partly justified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

07/04/93	The CSAC received a completed MAF from Mrs L applying as a private client for child support maintenance for her grandson. She named her grandson's parents, one of whom was her daughter, and said that she did not have a court order for the payment of maintenance nor any other financial arrangement with either AP.
20/05/93	The CSAC sent a MEF to each AP.
03/06/93	The CSAC sent a reminder to each AP for the return of the MEF.
08/06/93	The CSAC received a MEF from the absent mother which showed she was receiving income support (IS).
Undated	The CSAC referred the case to the field office because the absent father had not returned the MEF.
06/07/93	A field officer telephoned the absent father at a new address provided by his mother. He said that he had not received any forms from CSA. He agreed to complete a MEF if one was sent to him at his present address.
07/07/93	The CSAC sent a MEF to the absent father at his new address.
20/07/93	The CSAC sent a reminder to the absent father for the return of the MEF.
17/08/93	The CSAC sent a second reminder warning of their intention to impose an IMA.
Undated	The CSAC referred the case to the field office to follow up the non-return of the MEF.
23/08/93	A field officer telephoned the absent father who, according to the record of the call, said he had received the original MEF sent to his mother's address but had not completed it because he did not see why he should pay for his son because he bought him clothes and the child

sometimes stayed with his paternal grandmother. The field officer told him to provide such information on the MEF. The absent father agreed to complete a MEF if a further copy was sent to him. The field officer sent him a further MEF, explained the IMA procedure and told him to return the form to the field office. The field officer told the CSAC of the action taken.

31/08/93 The field officer telephoned the absent father but he was not available. He left a message for him to contact the office.

02/09/93 The field officer telephoned the absent father but there was no reply. The officer wrote telling the absent father that a field officer would visit him on 9 September.

05/09/93 A CSO imposed an IMA of £34.40 a week, effective from 19 May 1993. (That date was incorrect.) The CSAC sent a fee invoice to the absent father.

09/09/93 A field officer visited the absent father who declined the offer of help in completing the MEF and asked that the form be left with him, saying that he would complete and return it to the field office by 17 September.

10/09/93 The CSAC amended the effective date of the IMA to 31 August 1993. (The date remained incorrect.)

22/09/93 The CSAC sent a reminder for the fees to the absent father. A field officer telephoned the absent father but he was unavailable. He referred the case back to the CSAC.

07/10/93 The CSAC sent an arrears notice to the absent father.

08/10/93 The accounts control section queried the IMA figure as it was lower than would normally be expected.

11/10/93 The CSAC re-assessed the IMA as £47.82 from 11 October 1993. (The effective date remained incorrect.)

18/10/93 The CSAC told the absent father that arrears of £81.97 were due for the period 11 to 22 October and that regular payments of £47.82 were due from 29 October.

19/10/93 The CSAC received a letter from Mrs L saying that she wanted to claim maintenance only from the absent father because her daughter was receiving IS and could not afford to pay.

29/10/93 A CSO told the accounts control section to backdate the IMA to 1 September 1993. (That date was incorrect.)

01/11/93 The accounts control section told the absent father of the new date and that arrears of £450.87 were due for the revised initial period of 1 September to 5 November.

04/11/93 The law centre, acting on behalf of Mrs L, telephoned the CSAC complaining that she had not received any maintenance and had been given incorrect information on the amount due. They asked that her queries be looked into and a reply issued by 12 November.

09/11/93 The CSAC customer service manager (CSM) acknowledged the complaint.

12/11/93 The CSAC's debt management section asked that the case be referred to the field office to obtain a completed MEF before any enforcement action was contemplated.

13/11/93 Accounts control told the CSM that no payment had been received and that the effective date for the IMA was 19 May 1993.

17/11/93 The Member wrote to CSA's Chief Executive enclosing a letter dated 11 November in which Mrs L complained that, despite her numerous efforts, seven months had elapsed and still no concrete steps had materialised to obtain maintenance for her. He asked for urgent action to be taken.

04/12/93 The CSM wrote to Mrs L apologising for the poor service she had received and for the incorrect information about IMA dates. He told her that enforcement action would follow if the absent father did not pay.

07/12/93 Mrs L telephoned the CSAC to express her dissatisfaction with the letter from the CSM and to ask why the IMA had not been enforced. A CSO promised to investigate and telephone her the next day.

08/12/93 The CSO telephoned Mrs L to tell her that the case would be dealt with by the CSAC's enforcement team. Mrs L said she was still unhappy that no money had been paid and said that she hoped the debt management or enforcement sections would contact her to discuss action to be taken.

14/12/93 The debt management section sent a letter warning the absent father that maintenance payments were in arrears and that, if he did not contact them, enforcement action would be taken.

15/12/93 The Member wrote to the Chief Executive complaining of the delays in the case and a lack of a full reply to his letter of 17 November.

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04/01/94 The enforcement section telephoned Mrs L who agreed that she wished enforcement action to proceed. She said she had been waiting for maintenance since April 1993 and asked how much she would receive. The officer promised to check and call her back but there is no record that that was done. The CSAC sent the absent father a notice of intention to apply for a liability order for recovery of arrears of child support maintenance.

10/01/94 Mrs L telephoned the CSAC and asked for the present position on her case. They said that the absent father had not responded and the case was being prepared for court action.

13/01/94 The CSAC asked the presenting officer (PO) at the field office to apply for a liability order from the court (paragraph 7).

19/01/94 The PO queried with the CSAC a number of points on the case.

07/02/94 The Member wrote to CSA asking for details of the position on the case and for replies to his earlier letters to the Chief Executive.

10/02/94 The CSAC sent an arrears notice to the absent father. The Chief Executive replied to the Member's letters of 17 November and 15 December 1993 and 7 February 1994. She apologised for the delay in replying and for the difficulties which Mrs L had encountered. She reported the latest position and the enforcement options available. Compensation would be considered if Mrs L could demonstrate that she had suffered actual financial loss.

14/02/94 The CSAC tried to contact the PO to tell her that after legislative changes it was now possible to enforce payment of an IMA through a DEO.

21/02/94 A CSO discussed the case with the PO. They decided that, although a DEO could now be imposed, the court hearing arranged for 8 March should go ahead.

07/03/94 The field office telephoned the absent father and arranged a meeting for 12 March.

08/03/94 The court hearing was adjourned *sine die* pending the interview with the absent father.

10/03/94 Mrs L wrote to the Chief Executive asking for compensation for financial loss caused by CSA's inability to obtain maintenance from the absent father and their failure to meet promises made in their customers charter.

12/03/94 A field officer interviewed the absent father. The officer established that he and his partner were employed as public house managers but neither was able to produce wage slips. They said that they were happy for CSA to write to their employer for confirmation of their wages. The absent father told the officer that there was a court order for £30 a week for his son but he had not paid it for several years. The officer told the absent father that the court hearing had been adjourned pending the interview, but that a new court date could be set. The absent father signed the completed MEF.

14/03/94 The field office told the CSAC that the absent father had signed the MEF and that they would forward it when wage details had been confirmed. They asked the employer for wage details for both the absent father and his partner.

15/03/94 The debt management section tried to contact the absent father to discuss the arrears of maintenance but he was unavailable. The field office told the CSAC that they had been unable to trace the court order to which the absent father had referred. The field officer told the absent father that the CSAC would be contacting him about arrears. He said he would try to find a copy of the court order.

18/03/94 The absent father telephoned the CSAC and said that his parents looked after his son at the weekend and Mrs L did so for the rest of the week. He said that he had paid £30 a week maintenance until the absent mother's new partner (now husband) told him that he did not want the money. He said that he would contact Mrs L to see if he could pay her direct; he would tell the CSAC of the outcome the next week. The CSM acknowledged Mrs L's letter of 10 March.

23/03/94 A representative of the one-parent group (paragraph 14) telephoned the field office to say that they were assisting Mrs L and were writing to the CSAC to clarify the question of shared care of the child.

24/03/94 The CSAC received a facsimile from the absent father's employer confirming details of his wages. The field office told the CSAC that the MEF and a letter explaining shared care between Mrs L and the absent father's parents would be sent that day. The Member telephoned the CSAC asking for an update on the case. The CSAC telephoned Mrs L and told her that the MEF had been received at the field office and would be sent to the CSAC so that a MA could be made. They said that the CSM would be contacting the Member the next day. (I have seen no record of any such contact with the Member.)

25/03/94 The CSAC received the completed MEF. Mrs L wrote to the CSAC saying that the only contact the absent father had with his son was when the child stayed with his paternal grandparents. She said she felt the issue of shared care had been raised to slow down the assessment process. She asked that her letter be acknowledged so that she could tell the Member of progress on her case. (I have seen no record of an acknowledgement having been issued.)

31/03/94 The CSAC noted that the MEF mentioned the existence of a court order although a copy had not been enclosed. The field office had been asked to contact the absent father about that. According to the one-parent group the CSA helpline told them that any court order must be in the name of the person applying for maintenance if it was to prevent CSA having jurisdiction.

07/04/94 The CSAC received from the one-parent group a copy of a court order made on 8 November 1989 under which the absent father was required to pay £30 a week to the child's mother for the maintenance of their son. The case was withdrawn as CSA did not have jurisdiction.

08/04/94 The Member telephoned the CSAC and asked to speak to the CSM about the case as he was seeing Mrs L the next morning. Attempts to contact the CSM were unsuccessful. The CSAC telephoned Mrs L and told her that the application could not be considered. (I have seen no indication that the Member's call was returned.)

11/04/94 The law centre telephoned the CSAC about the decision to stop the case. The CSO was unable to provide any information and arranged to call back. Later that day the law centre were told the case had been withdrawn.

12/04/94 The CSM spoke to the Member's secretary and explained why the case had been withdrawn.

13/04/94 The CSM wrote to Mrs L explaining why her application for child support maintenance had been withdrawn.

15/04/94 The one-parent group telephoned the advice line at another CSAC. According to their contemporary record the CSAC said that a grandmother caring for a child could apply for child support maintenance if an existing court order was between the parents of the child. (That was the same information as the CSA helpline had given them on 31 March.)

18/04/94 The CSAC wrote to Mrs L telling her that the IMA had been cancelled because her application was not within jurisdiction.

22/04/94 The closure of the case was recorded on the CSA computer system. The Chief Executive replied to Mrs L's letter of 10 March. She apologised for the delay in dealing with the claim and for any distress and inconvenience caused, and repeated CSA's position on jurisdiction.

06/05/94 The Chief Executive replied to the Member's letter of 10 March explaining why the application could not be accepted. She apologised for the delay in telling Mrs L.

17/05/94 CSA formally suspended action on the case.

15/08/94 A representative of the one-parent group telephoned the Chief Executive's office to say that Mrs L's daughter had had the court order revoked and that Mrs L had completed a further MAF.

Case No. C.481/94—Confidentiality and the disclosure of information

1. Mr G complained that the Child Support Agency (CSA) and the Benefits Agency (BA) failed to treat information he gave them with sufficient confidentiality and that their unwarranted disclosure of that information damaged his relationship with his estranged wife and his son. He further complained that as a result of their error BA decided to cease their investigations into his wife's circumstances.

2. I received so many complaints about CSA's performance that I made a special investigation of the problems which had been experienced. My report on that investigation was published in January. My investigation into Mr G's complaint began in September 1994 once I had received comments from the Permanent Secretary of the Department of Social Security (DSS) after the members referral of the complaint to me. I have not put into this report every detail investigated by my officers; but I am satisfied that no matter of significance has been overlooked.

3. CSA is an executive agency of DSS responsible for the assessment, collection and enforcement of child support maintenance. Under section 6 of the Child Support Act 1991 where benefit is claimed by, or on behalf of, a parent with care, that parent will, if she is required to do so, authorise the Secretary of State to recover child maintenance from the absent parent.

4. Income support is an income-related benefit payable to those who are not in full-time work and whose resources are insufficient to meet their requirements as calculated under the rules of the scheme. When income needs are assessed, a couple (whether married or unmarried) who live together as husband and wife are assessed jointly. Claims are administered by BA's network of local offices.

5. Mrs G's claim for income support is governed by strict rules of confidentiality. Although those rules have not in any way restricted my investigation into the correctness or otherwise of the responses of DSS to Mr G's representations, I cannot report in detail the nature of those responses.

6. **1993** On 16 August 1993 the CSA field office sent a maintenance application form to Mr G's estranged wife, who was receiving income support for herself and their son (paragraph 4). The field office received the completed form back on 27 August and on 2 September they sent Mr G a maintenance enquiry form (MEF) to obtain a financial statement to enable the amount of child support maintenance payable to be assessed. Mr G subsequently told the field office that he had not received the MEF and a duplicate was issued to him. Mr G did not return the duplicate MEF and on 6 December an interim maintenance assessment of £95.40 a week was imposed from 2 December, pending his providing sufficient information for a full maintenance assessment to be made.

7. **1994** On 6 January 1994 Mr G returned the completed MEF saying that he had been paying his wife £25 a week as had been previously agreed between them. He said that he did not understand why he should have to pay more or why Mrs G should be claiming income support as she was living with another man, who was working and who was also the father of her recent child. The MEF was forwarded for assessment to the Hastings CSA Centre (CSAC), who wrote to Mr G on 26 January asking for confirmation of his rent and council tax. Mr G telephoned the CSAC on 31 January repeating that he believed that Mrs G was claiming benefit fraudulently, and that he did not believe that he should have to pay child support maintenance. On 2 February Mr G wrote to the CSAC setting out in detail his allegations about his wife's circumstances and saying that he had been legally advised not to have any further dealings with CSA until the matter had been investigated. In the meantime, he said, he would continue with the earlier payment arrangements agreed with his wife. On 28 March the CSAC wrote to Mr G saying that legal action might be taken to recover the maintenance arrears due. Mr G telephoned the CSAC the next day again contending that he should not be held responsible for child support maintenance given his wife's circumstances. On 31 March Mr G telephoned the CSAC to tell them that he did not intend paying because the assessment was based on a fraudulent claim for income support. The CSAC pointed out to him that, although his allegations would be investigated, he would still remain legally liable for child maintenance meanwhile. On 5 April the CSAC referred Mr G's allegations to the fraud section of the BA district office. (It subsequently came to light that, for reasons which I have been unable to establish, they apparently did not receive that reference.) On 8 April the CSAC sent Mr G a final maintenance reminder which said that legal action would be taken if no payment was made. Mr G telephoned the CSAC on 11 April saying that he now accepted that he remained liable for child maintenance pending the outcome of the fraud investigations and that he would send them the information requested so that a full maintenance assessment could be made.

8. On 12 April Mr G's Member of Parliament wrote to the BA district manager and to the customer services manager at the CSAC enclosing copies of a letter from Mr G in which he referred to his earlier allegations about his wife's circumstances and complained of delay in resolving the matter. The Member asked both BA and CSA to reply direct to Mr G and send copies of their replies to him. On 28 April the acting manager of the CSAC accordingly wrote to Mr G telling him that his allegations had been noted and that enquiries were being made. He said that if, as a result of the investigations, the amount of maintenance was affected, Mr G's assessment would be reviewed. He pointed out that, whether or not Mrs G was living with a partner, only her personal income, if any, would be taken into account when deciding the amount of child maintenance

payable. On 5 May the BA district manager also wrote to Mr G copying the letter to the Member. She thanked Mr G for the information he had provided, but explained that she was unable to let him have any further details about the matter because all information held by BA was confidential and could not be disclosed to a third party without permission. She assured him that all fraud allegations were taken seriously and fully investigated. In the meantime, on 22 April, a copy of the members letter and enclosure had been referred to a BA fraud officer, whom I shall call officer A, to look into Mr G's allegations. On 10 May officer A interviewed Mrs G. According to officer A's contemporary note of the interview Mrs G asked her if the information about her circumstances had been provided by Mr G; officer A recorded that she had 'nodded agreement'. Later the same day Mr G telephoned the BA fraud sector manager complaining that Mrs G had contacted him and told him that she had been interviewed by a fraud officer who had identified him as the source of the allegations against her. The manager recorded that she had confirmed that that was so, apologised for officer A's actions and told Mr G that she would send him a written apology. Mr G had then asked about the fraud investigation, but had been told that no further information could be given. The manager also recorded that Mr G had called again later that day to ask her to write telling Mrs G that he was not the source of the allegations, but that she had told him that she could not do so. On 11 May the fraud sector manager wrote to Mr G apologising for any distress caused by the actions of officer A.

9. On 25 May the Member referred the matter to me. Mr G contended that the unwarranted disclosure by officer A had severely damaged his relationship with his wife and that it appeared that, because of that error, all further enquiries into his wife's circumstances had ceased. On 30 November the CSAC wrote to Mr G telling him that an officer acting on behalf of the Secretary of State had decided that child maintenance should no longer be pursued.

10. In his comments to me on the case the Permanent Secretary of DSS said that the instructions to staff current at the time made it clear that information about the source of fraud allegations should not be disclosed. He apologised to Mr G for what had occurred and for any problems which had resulted. He said that disciplinary action against officer A was being considered, and that a circular had been issued to remind all fraud staff of the confidential nature of information received.

Findings

11. The strict rules regarding the confidentiality of all information provided to DSS perform an important function. A breach of those rules could have far-reaching consequences. BA have admitted from the outset that officer A, in contravention of the rules, had confirmed to Mr G's estranged wife that he was the source of the allegations of fraud made against her. That disclosure was a serious error by officer A and I criticise her accordingly. The Department's response to that error, in the form of the consideration of disciplinary action against officer A and the issue of a reminder to all fraud staff of the importance of the rules of confidentiality, is in my view an appropriate one. I note with approval that the fraud sector manager quickly recognised the serious nature of officer A's mistake and gave Mr G an immediate oral apology, followed by a written apology.

12. Mr G contended that, as a consequence of the unwarranted disclosure to his estranged wife, DSS had wrongly ceased their enquiries into her circumstances. The confidentiality rules which governed the information which Mr G had given DSS also inhibited them from giving him any details of their investigations into his allegations (paragraph 8). Those same rules similarly prevent me from disclosing in any detail the nature of DSS's reactions to Mr G's allegations beyond confirming what Mr G already knows, namely that BA fraud officers have carried out investigations into Mrs G's circumstances. I cannot disclose the nature or results of those enquiries, but I can assure Mr G that the evidence in the papers I have seen shows that DSS did not, as he contended, cease their enquiries because of the disclosure made by officer A. It follows that I do not uphold that aspect of the complaint.

13. I am, however, critical of CSA's initial handling of Mr G's allegations. Mr G made it quite clear in his comments on the MEF returned on 6 January (paragraph 7) that he did not accept that he was required to comply with the maintenance assessment because he believed that it was based on a fraudulent claim to benefit by his estranged wife. CSA simply continued their processing of the maintenance assessment. It was not until three months later, after a further letter and three telephone calls from Mr G, and a threat on CSA's part of legal action to recover the maintenance arrears due, that the CSAC explained to him his legal position regarding the maintenance assessment and took appropriate action to have his allegations investigated (paragraph 7). Further it was not until the Member took up the matter with DSS that Mr G received an appropriate written reply to his representations (paragraph 8). That was not good enough. In the light of DSS's initial lack of response, I do not find it surprising that Mr G should have formed the impression that they were not inclined to treat his allegations seriously.

Conclusion

14. There was an unwarranted breach of confidentiality by officer A, which could have caused Mr G considerable personal difficulties. CSA were also slow to react appropriately to Mr G's allegations. The Permanent Secretary has added his apologies to those already given to Mr G for officer A's actions and for any problems which resulted. The Chief Executive of CSA has also asked me to pass on her apologies for the failure to take action on receiving Mr G's allegations and the subsequent failure to let him know of the requirement to pay child support maintenance pending the outcome of any BA investigation. I readily now do so regarding them, together with the steps taken by BA in respect of officer A and those taken to prevent a recurrence, as a suitable response to the complaint.

Case No. C.363/95—Delay in issue of a MEF

1. Mrs F complained that delay by CSA in dealing with her application for maintenance reduced the amount she could expect to receive. I have not put into this report every detail investigated by my officers; but I am satisfied that no matter of significance has been overlooked.

2. CSA are responsible for the assessment, collection and enforcement of maintenance. A parent with care of a child who applies to CSA for maintenance is asked to complete a maintenance assessment form (MAF); CSA then send the absent parent (AP) a maintenance enquiry form (MEF). The amount of maintenance is assessed under a standard formula, according to the circumstances of both parents. Before 18 April 1995, unless there was an existing court order for maintenance, maintenance liability started from the day the MEF was sent to the AP. Where the MEF has been sent to the AP on or after 18 April 1995, and the AP returns it with specified details complete within four weeks, liability in certain cases starts eight weeks from the date of MEF issue. The assessment is carried out at one of several regional Child Support Agency Centres (CSACs), which are supported by a network of field offices.

3. In her comments to me on the complaint, the Chief Executive of CSA said that there had been a delay in issuing a MEF to Mrs F's husband. That had been due to the fact that cases were being dealt with in date of receipt order. She gave the following account:—

> 'On 9 February 1995, the Dudley CSAC received a MAF from Mrs F. Mrs F applied for child maintenance as a private client, and named her husband as the father of her daughter.
>
> Mrs F said on the MAF that she did not know the AP's address, but provided an address from which mail would be redirected to him. She phoned the CSAC on 17 February and gave a further address for the AP, and phoned again on 6 March to give a further address and to ask for a progress report.
>
> On 8 March, Mrs F phoned again, asking for a further progress report. She was told that a large number of applications were held at the CSAC, and were being dealt with in chronological order. There is no record that

she was told there was a delay within CSA of about three months between the receipt of a MAF and the issue of a MEF, but I accept this is likely to have happened.

Mrs F had said on her MAF that she was in the process of buying a house, and that the purchase would be completed within a few weeks. On 11 May, a child support officer wrote to her asking for confirmation of the housing costs. At the same time, an enquiry was sent to Mrs F's employer asking for details of her salary in the relevant period. On 12 May, a MEF was issued to the AP.'

4. The Chief Executive described how in May, June and July the CSAC had corresponded with the AP to get the information needed to assess his maintenance liability. However, before all that information could be obtained, Mrs F wrote to the CSAC on 31 July saying she wanted to withdraw her application and did not want payment of any arrears due to her to be pursued. On 7 August the CSAC wrote to both parents telling them that no further action would be taken.

5. The Chief Executive added the following observations:—

'I regret that it was not possible to issue the MEF in this case until some three months had elapsed since receipt of the MAF. A large volume of applications had been received and it was decided that they should be dealt with in date of receipt order, in an attempt to be fair to all applicants.

The CSAC were in touch with the AP, as I have explained, to obtain the information required to make a maintenance assessment. However, in view of Mrs F's request, no further action will be taken, and her case has now been closed.

I can also advise that revised operational procedures have been introduced in the past few months which give managers the scope to set different priorities and to apply more flexible criteria for dealing with the intake of work.

CSA now have delegated authority to make an *ex gratia* payment in cases of delay in the issue of a MEF. Where there has been financial loss as a result of the late issue of a MEF, an *ex gratia* payment is considered if the Agency's total culpability has exceeded three months (six months in court order cases). However this does not include periods where paternity is disputed.

This case has been submitted to the Agency's special payments branch. It has been decided that an *ex gratia* payment is not appropriate as a maintenance assessment has not been completed. There is no evidence that a financial loss has been incurred and it is not possible to assume a notional amount of maintenance. Indeed, the maintenance assessment, had it been made, may have resulted in a nil assessment. This decision will now be relayed to Mrs F.'

Findings

6. My officers' scrutiny of CSA's papers has confirmed the Chief Executive's account. I therefore find Mrs F's complaint to have been fully justified. I criticise the CSAC for failing to handle her application with the urgency it required; every day of delay represented a potential financial loss to Mrs F and it was quite wrong for the issue of the MEF to be held up after she had supplied sufficient information to enable it to be sent. I am pleased to hear that revised procedures have been introduced which should enable that stage of the assessment process to be given the high priority that it demands. I shall watch developments with interest.

7. I note the Chief Executive's explanation of CSA's decision not to offer Mrs F an *ex gratia* payment. My view is that Mrs F's withdrawal of her application for maintenance makes such a payment inappropriate. In the circumstances, I consider the Chief Executive's assurance about revised procedures to be a satisfactory response to the complaint.

Case No. C.145/95—Delay in sending a MEF

1. Mr O complained that CSA had delayed sending a maintenance enquiry form (MEF) to the absent parent (AP), thus denying him maintenance for the period of the delay. My investigation began in May once I had obtained comments from the Chief Executive of CSA after the Member had referred the complaint to me. I have not put into this report every detail investigated by my officers; but I am satisfied that no matter of significance has been overlooked.

2. CSA are responsible for the assessment, collection and enforcement of maintenance. A parent with care of a child who applies to CSA for maintenance is asked to complete a maintenance assessment form (MAF); CSA then send the absent parent (AP) a maintenance enquiry form (MEF) so that the amount of maintenance is assessed under a standard formula, according to the circumstances of both parents. Assessments are made by child support officers (CSOs) based at one of several regional Child Support Agency Centres (CSACs), which are supported by a network of field offices. Before 18 April 1995, unless there was an existing court order for maintenance, child support maintenance liability started from the day the MEF was sent to the AP.

3. A person who is dissatisfied with a CSO decision may apply for a review by a different CSO. He or she may then appeal to a Child Support Appeal Tribunal and thereafter, on a point of law, to the Child Support Commissioner. It is not for me to determine a person's maintenance assessment. My investigation has been concerned solely with the administrative handling of Mr O's case by CSA.

4. **1993** On 6 July 1993 Belfast CSAC sent Mr O a MAF. They received the completed form from him on 16 July. He applied for maintenance for his daughter, naming his former wife J, for whom he supplied an address and telephone number, as the AP. He said that he had no court order or other arrangement with her about maintenance.

5. **1994** On 11 April 1994 the CSAC sent a MEF to the AP. They received the completed form on 19 April. On 22 June they wrote to Mr O's employer for information about his earnings. They received a reply on 27 June. On 6 September a CSO assessed the maintenance due to Mr O at £23.48 a week effective from 9 April 1994. The CSAC notified Mr O and the AP on 7 September. On 5 October they notified Mr O and the AP of the payments due. On 31 October they wrote to the AP saying that her payments were in arrears and asking for immediate payment. They sent a reminder on 7 November. On 9 November they agreed to an offer from the AP to pay off the arrears at £6.52 a week from 11 November 1994, together with regular maintenance payments.

6. In her comments to me on the case, the Chief Executive of CSA acknowledged that the complaint was justified and apologised for the delay that had occurred. She said that CSA had been unable to discover any reason for it other than the backlog of work on the relevant section at the time. She added that the effective date of 9 April was wrong; it should have been the date the MEF was sent. They had also discovered that the assessment had been incorrect. The corrected maintenance liability was £24.65 a week effective from 11 April 1994. (The weekly amount was later corrected again, to £24.77.)

Findings

7. Mr O's complaint was fully justified. There was a delay of almost nine months between receipt of his MAF in the CSAC on 16 July 1993 and issue of the MEF to the AP on 11 April 1994. That should have been issued immediately. I accept that the reason it was not was, at least in part, a backlog of work. My officer has also seen an internal CSA minute saying that the file had been lost in CSA for a time. Whatever the reason, the time taken to perform the simple but crucial task of sending the MEF in this case was far beyond that which I could accept as excusable on the grounds of volume of work, and merits my severe criticism.

8. While it is difficult to say for certain what the outcome would have been had the CSAC sent the MEF promptly, it does not seem unreasonable to me to speculate that they would have been in a position to pursue payment of maintenance at the assessed rate throughout the period of the delay. I therefore

asked the Chief Executive if she would consider making Mr O an *ex gratia* payment equivalent to the amount of maintenance for which the AP would have been liable had the CSAC acted promptly. She replied that after reconsidering the particular circumstances of Mr O's case a payment of £626.33 would be made to him. That represented his loss of maintenance for the period 16 October 1993 to 10 April 1994.

9. I considered whether the period of the *ex gratia* payment should start from an earlier date, but after careful consideration I have decided not to press the matter. I and my predecessors have accepted in previous cases that delay caused by a particular and exceptional volume of work—provided there is no evidence of maladministration—should not of itself attract a compensatory payment. Although I take the view that CSA should now be organised so as to eliminate unacceptable queuing of cases where their inaction can have a detrimental financial effect on the applicant I am prepared to excuse from culpability for the purposes of the compensation calculation the early part of the period of delay in Mr O's case. I regard the payment of £626.33, and the Chief Executive's apologies—which I now pass on through you—as a satisfactory outcome to a justified complaint.

Case No. C.916/94—Alleged unreasonable imposition of IMA

1. Mr F complained about the way the Child Support Agency (CSA) dealt with his child maintenance affairs. He said that they had unreasonably imposed an interim maintenance assessment (IMA) but told him not to pay it as it would be cancelled when his completed maintenance enquiry form (MEF) was received. Despite that he continued to receive payment reminders. Mr F also complained that he was told that he would pay maintenance until his younger son reached the age of 27 and that CSA refused to grant him a date to hear his appeal against his assessment.

2. The Parliamentary Commissioner received so many complaints about CSA that he carried out a special investigation into the problems being experienced. His report on that investigation was published in January 1995 and a copy sent to the Member. My investigation into Mr F's complaint began in November 1994 once the Commissioner had obtained comments from the Permanent Secretary of the Department of Social Security (DSS) after the Member's referral of the complaint to him. I have not put into this report every detail investigated by the Commissioner's officers; but I am satisfied that no matter of significance has been overlooked.

Background

3. CSA is an executive agency of DSS set up as a result of the Child Support Act 1991 to administer the assessment, collection and enforcement of child support maintenance. CSA send a MEF to the absent parent of a child to obtain a financial statement so that the amount of child support maintenance can be assessed in accordance with a standard formula. Under Regulation 30 of the Child Support (Maintenance Assessment Procedure) Regulations 1992 maintenance liability starts from the day the MEF is sent or given to the absent parent. However, if there is an existing court order, under Regulation 3(5) of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 liability starts two days after the assessment has been made and the court order then becomes invalid. That date is known as the "effective date' and there is often a lapse between it and the commencement of regular payments; during that period (the initial payment period) arrears will accrue. On completion of an assessment CSA calculate a separate figure for the initial payment which they notify to the absent parent. If there is a court order CSA arrange for it to be cancelled from the effective date. It is CSA's normal practice to inform both parties of that action.

4. Under section 6(1) of the Act a parent with care of a child (PWC) who is claiming a prescribed benefit (including income support—IS) is required to authorise CSA to act on her behalf to recover child support maintenance from the absent parent. However, under section 6(2) such authorisation is not

required, or may be withdrawn without penalty, if a child support officer (CSO) considers that there are reasonable grounds (known as 'good cause') for believing that there would be a risk of the PWC, or any child living with her, suffering harm or undue distress as a result. When a PWC withdraws her application for maintenance a field interview is normally arranged.

5. Maintenance assessments (MAs) are made by CSOs. Under section 12 of the Act a CSO may make an interim maintenance assessment (IMA) where the absent parent fails to supply sufficient information for a MA to be made. An IMA does not take account of personal and family circumstances and will usually be higher than a full MA. Under section 12(4) written notice of the intention to impose an IMA must be given to both parents where it is reasonably practicable to do so. When an IMA is replaced by a full MA the higher amount remains due for the period for which the IMA was in place (Regulation 8(4) of the Child Support (Maintenance Assessment Procedure) Regulations 1992). Under section 18 of the Act a parent who is dissatisfied with a CSO decision may apply for a review which is carried out by a different CSO. If a parent remains dissatisfied he or she may then appeal to a Child Support Appeal Tribunal (CSAT) and thereafter, on a point of law, to the Child Support Commissioner. Reviews are also carried out, under section 17 of the Act, after a change in either parent's circumstances.

6. Under section 31 of the Act a CSO, acting on behalf of the Secretary of State, may make a deduction from earnings order (DEO) against the absent parent to secure payment of any amount due under a maintenance assessment. A DEO is an instruction to an employer to make deductions direct from an absent parent's earnings. Copies of the order are sent both to the employer and to the absent parent. DEO action is normally taken only when it is clear to the CSO that other methods of collection have failed or are likely to fail.

7. The calculation of child maintenance usually increases the level of maintenance payable by the absent parent. In the case of an absent parent with a second family, provision was made in the legislation for assessments to be phased in during the first year so that the absent parent had time to adjust to the new maintenance arrangements. Changes to the legislation, including the phasing arrangements, were made in February 1994. Those changes generally resulted in lower maintenance assessments.

Background

8. Appendix A to this report sets out a chronology of the main events in the case.

The DSS response to the complaint

9. In his comments to the Commissioner on the case, the Permanent Secretary said that Mr F's lack of co-operation in completing and returning the MEF had caused problems at the outset and had led to the imposition of an IMA. Once the case had got off on the wrong foot it had proved difficult to get it back on course. He said that a number of errors had occurred in the handling of Mr F's case and that remedial action had not been taken as quickly as it should have been. He apologised unreservedly to Mr F and his family and to the PWC and her children for the distress and inconvenience caused by CSA's errors and for the time taken to correct them. In particular, he apologised that Mr F had not been sent a written notice warning him of the intention to make an IMA, and for any information given which had led him to believe that maintenance would continue until his younger son reached the age of 27.

Findings

10. My investigation revealed a number of shortcomings in CSA's handling of Mr F's case. The most serious was that the IMA which was calculated on 15 June 1993 and imposed from that date was invalid and unenforceable as the Child Support Agency Centre (CSAC) in Dudley failed to comply with two aspects of the child support legislation, namely section 12(4) of the Child Support Act 1991 (paragraph 5) and Regulation 3(5) of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 (paragraph 3). The CSAC also failed to tell either the court or the parents of the change in jurisdiction (paragraph 3). I criticise them for those errors.

11. I am satisfied that the circumstances of the case warranted the imposition of an IMA. The fact that the correct procedures were not followed does not render that invalid. Mr F failed to return a completed and signed MEF by the due date. When he did return the form, a week after the IMA had been imposed, it was still not possible to make a full MA as details of his mortgage and endowment policy had not been provided and the form was unsigned. The CSAC took nearly four weeks to return the form to Mr F for his signature and further confused matters by sending him a reminder on 16 August without first checking their computer which would have shown that the signed MEF had been returned a week earlier. That was poor administration for which I criticise the CSAC. The Permanent Secretary apologised for CSA's shortcomings.

12. A full MA of £40.64 per week was made on 27 August and took effect from 29 August. The amount and effective date of that assessment were both wrong. Under Regulation 8(9) of the Child Support (Maintenance Assessment Procedure) Regulations 1992 the full MA should have taken effect from the first day of the maintenance period in which information enabling the MA to be calculated was received; that was the information provided by Mr F on his mortgage and endowment insurance policy. It seems likely that those details were received in the CSAC some time between 9 and 16 August. (The CSAC failed to record the actual date.) The criteria for phasing-in the assessment (paragraph 7) were all met but the assessment took no account of that provision. Under the phasing rules the correct amount should have been £22.30 a week (£2.30 maintenance under the court order plus £20). It was not until Mr F asked for phasing under the February 1994 changes (paragraph 7) that the special team set up to implement those changes noticed that initial phasing had been missed. They notified the CSAC of the error but no action was taken. I find it a matter of some considerable concern that CSA staff failed to comply with a number of important aspects of the child support legislation and I strongly criticise CSA for those failings, for which the Permanent Secretary offered his apologies.

13. CSA were repeatedly slow to review Mr F's maintenance assessment in response to his representations. He asked for two reviews, one under section 18 and one under section 17 of the Child Support Act (paragraph 5) within weeks of each other (2 and 29 September 1993). The CSAC began work on the section 17 review on 2 November but action was postponed due to computer problems. The case was noted as ready for reassessment when the error was cleared but no further action was taken and the papers were passed to the appeals section on 24 November. No action was taken on the section 18 review for more than five months. It was not until 6 February 1994 that a CSO decided that there were no grounds for a section 18 review. Mr F was told of the decision on the same day and he appealed on 14 February. On 7 April a CSO decided that there were grounds for a section 18 review due to Mr F's housing costs and the CSAC wrote telling Mr F that his application had been successful and inviting his further comments. That served only to confuse him as he believed that his appeal was being processed. No further action was taken as the file was still with the appeal section awaiting submission to the Independent Tribunal Service (ITS). Mr F complained that CSA had refused to grant him a date for his appeal to be heard. I find that although they did not refuse to grant him a date for a hearing (such matters are for ITS) they were slow to deal with his appeal. Despite the Chief Executive having told Mr F on 12 July 1994 that she had asked for his appeal (of 14 February) to be dealt with urgently, it was not referred to ITS until 20 December 1994. The appeal was eventually 'struck out' because Mr F failed to tell ITS when he was available for a hearing. By then the IMA had been cancelled and the maintenance paid under it had been refunded to Mr F. I criticise CSA for the way in which they handled the appeal. The Permanent Secretary apologised for the delay in the submission of the appeal.

14. Part of Mr F's complaint was that staff in the CSAC gave him incorrect information, in particular that he did not have to pay the IMA as it would be cancelled when the MEF was returned. Although the CSAC failed to maintain contemporary notes of all their telephone conversations with Mr F I found no evidence of staff having been less than helpful nor anything to suggest that he was

told not to pay the IMA. As to him having been told that he would have to pay maintenance until his younger son reached the age of 27, that appears to relate to the requirement for Mr F to pay arrears of £1,737.91 at the rate of £9.97 a month. As the MA has now been cancelled that is no longer an issue.

Conclusion

15. The fact that Mr F did not co-operate fully with CSA was the cause of some of his problems. However, my investigation revealed a number of serious shortcomings in the handling of the case, for which I have criticised CSA. The case has now been closed at the request of the PWC. I pass on to Mr F the apologies offered by the Permanent Secretary which, together with the refund of £228.42 made to Mr F, I regard as a suitable response to a partly justified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

1993

15/04/93	The CSAC received a completed maintenance application form from a PWC in receipt of IS. She named Mr F as the father of her two sons, and said that he was paying maintenance of £10 a month under a court order.
27/04/93	The CSAC sent a MEF to Mr F.
Undated	A CSO recorded on the computer system that Mr F had made several telephone calls to the CSAC during which he indicated that he was not prepared to co-operate.
15/06/93	A CSO imposed an IMA of £89.67 a week effective from that date.
16/06/93	The CSAC sent details of the IMA to Mr F and to the PWC. A fees invoice was issued to Mr F.
19/06/93	The Member wrote to the CSAC saying that Mr F intended to complete and return the MEF.
22/06/93	The CSAC received the completed but unsigned MEF.
30/06/93	The CSAC Manager wrote to the Member saying that the IMA had been imposed as the MEF had not by then been returned. He said that the MEF had now been received and a full MA would be calculated shortly. The MEF would have to be signed first.
01/07/93	The CSAC issued a reminder for the fees to Mr F.
15/07/93	CSA told Mr F and the PWC of the initial payment period and the amount due.
19/07/93	Mr F telephoned the CSAC complaining about the imposition of an IMA and the way the CSO was handling his case. They returned the call and told Mr F that he had not signed the MEF and that information about his endowment policy was needed. The MEF was returned to Mr F for his signature.
30/07/93	The CSAC sent an arrears notice to Mr F, warning him that failure to pay could result in the imposition of a DEO.
09/08/93	The CSAC received the MEF, signed but without mortgage details.
Undated	An undated letter and enclosures giving details of Mr F's mortgage and endowment policy were received in the CSAC.
16/08/93	The CSAC wrote to Mr F asking him to return the MEF.
27/08/93	A full MA of £40.64 a week, effective from 29 August, was made and notified to Mr F the next day.
02/09/93	Mr F wrote to the CSAC querying various considerations in the calculation of his MA. He asked for a review. The letter was sent to another CSAC who had assumed responsibility for the case.

03/09/93 Mr F wrote to the Prime Minister complaining about the MA and the handling of his case by CSA.

28/09/93 The customer service manager (CSM) wrote to Mr F in reply to his letter of 3 September explaining the principles under which CSA operate and the standard formula used to calculate maintenance.

29/09/93 The CSAC received a letter from Mr F asking for his increased mortgage repayments to be taken into account when his assessment was reviewed.

23/10/93 The CSAC sent an arrears notice to Mr F warning that a DEO could be imposed.

01/11/93 The CSAC received a letter from Mr F dated 27 October saying that he had contacted them on a number of occasions and been told not to pay the IMA and that because the arrears notice related to the IMA he intended to ignore it and await the review.

02/11/93 The CSAC began a change of circumstances review but abandoned it due to a computer fault.

24/11/93 The case was passed to the appeals section.

1994

15/01/94 The CSAC sent a further arrears notice to Mr F.

29/01/94 Mr F wrote to the Prime Minister complaining about the handling of his case and the unprofessional way in which he had been treated.

06/02/94 A CSO decided that there were no grounds for a section 18 review of the MA (paragraph 5) and notified Mr F accordingly.

07/02/94 Mr F was notified of a revised MA of £15.27 which took into account the changes in legislation.

10/02/94 CSA sent Mr F a further notification of the revised MA and enclosed paying-in slips.

14/02/94 Mr F wrote to the CSAC about the refusal of a review. He appealed and also complained of unanswered letters and inaccurate information given by CSA staff.

25/02/94 The CSAC received a request from Mr F for phasing of his payments under the new provisions (paragraph 7). They sent it to a special team in Newcastle set up to carry out the work of implementing the arrangements for phasing assessments.

28/02/94 The CSAC received a request from CSAT Central Office for details of any review action so that they could decide whether or not they had jurisdiction over the appeal.

03/03/94 Mr F's appeal was recorded on the CSA computer system.

05/03/94 A CSO accepted that there were grounds for review due to housing costs.

06/03/94 The Newcastle team noticed that the original MA should have been phased under the original rules and returned the case to Birkenhead CSAC for that action. Mr F was notified.

07/03/94 A complaint from Mr F was recorded on the CSA computer system. (It is not clear to which of Mr F's complaints that referred.)

09/03/94 The CSM wrote to Mr F, in reply to his second letter to the Prime Minister, expressing concern about his complaint and emphasising that CSA aimed to provide a high standard of service. Mr F was told that his new liability was £15.27 a week.

07/04/94 A CSO accepted that there were grounds for a section 18 review. The CSAC told Mr F that his application had been received and invited his further comments.

09/04/94 The CSAC sent an arrears notice to Mr F.

25/04/94 The CSAC received a letter from Mr F in reply to the notification of 7 April. He said that he was confused by conflicting correspondence from various departments of CSA and pointed out that he was awaiting a date for the appeal hearing.

28/04/94 The CSAC received a letter from Mr F in reply to the arrears notice. He explained his understanding of the situation and said he could not afford to pay.

29/05/94 The CSAC completed a checklist to make sure that all relevant forms had been issued to Mr F and recorded arrears of £1,818.53 including £81.62 interest for late payment.

31/05/94 A CSO telephoned Mr F but he was away for two weeks.

05/06/94 The CSAC sent a final warning to Mr F saying that a DEO would be imposed if he did not pay the arrears or contact the CSAC to arrange payment within five days.

10/06/94 Mr F wrote to the Chief Executive explaining the current position with his case and asking her to investigate his complaint.

13/06/94 A DEO was imposed.

14/06/94 The CSAC sent notification of the DEO to both Mr F and his employer.

20/06/94 The Member wrote to the Prime Minister enclosing correspondence received from Mr F. The letter was passed to DSS for a Minister to reply.

09/07/94 The CSAC sent an arrears notice to Mr F.

12/07/94 The Chief Executive replied to Mr F apologising for any lack of courtesy he might have experienced in his dealings with CSA. She said that the IMA would have to be paid and arrears of £1,737.91 were to be collected at the rate of £9.97 a month under the DEO. She had asked for his appeal to be dealt with urgently.

15/07/94 CSA received payment of £66.17 regular maintenance and £9.97 arrears through the DEO.

19/07/94 The CSAC received a letter from Mr F addressed to the Chief Executive saying that his questions had not been answered. He said that he had been told that he did not have to pay the IMA. The Chief Executive acknowledged Mr F's letter and asked the Senior Operations Director for an immediate investigation and a full report.

20/07/94 The CSAC received a letter from the PWC saying that she wished to withdraw her application for child support maintenance because of the distress being caused to herself and the children. A note was made on the letter that an interview would be needed and that the PWC should be told. (CSA have no record that such action was taken at that time.)

26/07/94 The Parliamentary Under Secretary of State for Social Security replied to the Member's letter of 20 June answering Mr F's various queries.

27/07/94 A CSO reviewed the case and noted that the IMA could not stand as the relevant forms notifying the intention to impose an IMA had not been issued to Mr F and the PWC.

01/08/94 CSAC sent a periodic review form to Mr F with a covering letter.

04/08/94 A CSO considered that 'good cause' (paragraph 4) could not be accepted because of the limited information supplied by the PWC. The CSAC asked the field office to interview the PWC to see if there was 'good cause' for CSA not pursuing Mr F for child support maintenance.

12/08/94 A CSO wrote to the PWC to arrange an interview.

16/08/94 The CSAC sent Mr F a reminder to complete the review form.

18/08/94 The CSAC received the completed review form from Mr F. Payment of £66.17 regular maintenance and £9.97 arrears was received through the DEO.

19/08/94 The Senior Operations Director reported to the Chief Executive on his investigation into Mr F's complaint. He said Mr F had taken nearly two months to complete the MEF and that the MA had been further delayed because the form had been returned unsigned. He found no evidence of staff having been unhelpful to Mr F or of them having told him not to pay the IMA.

23/08/94 The field office received a letter from the PWC saying that she was unable to attend the interview arranged for 30 August.

24/08/94 A local officer decided on behalf of the Secretary of State that on the basis of the PWC's letter there was 'good cause' for her withdrawal of consent.

28/08/94 The PWC signed a formal declaration asking the Secretary of State to stop the pursuit of maintenance.

30/08/94 The Chief Executive replied to Mr F about his complaint, setting out the result of the investigation.

07/09/94 The Chief Executive received a further letter from Mr F repeating his previous points and complaining that no one was prepared to answer his questions or discuss his case with him.

08/09/94 A facsimile was sent to Mr F's employer cancelling the DEO.

15/09/94 A payment of £66.17 regular maintenance and £9.97 arrears was received through the DEO.

12/10/94 The CSAC noted that Mr F had paid a total of £228.42 through the DEO.

13/10/94 It was confirmed that the court order had been cancelled. A CSO wrote to Mr F telling him that the IMA had been incorrectly imposed because he did not receive a warning notice but under the legislation it could be removed only on a written request from him.

14/10/94 CSA refunded £152.28 to Mr F.

18/10/94 CSA refunded the balance of £76.14 to Mr F.

21/10/94 The CSAC received a letter from Mr F asking for the IMA to be cancelled.

20/12/94 The CSAC sent the appeal submission to ITS.

1995

16/02/95 Mr F's appeal was 'struck out' as he failed to tell ITS when he was available to attend a hearing.

Case No. C.1084/94—Inappropriate warning of possible IMA

1. Mr P complained that the Child Support Agency (CSA), an executive agency of the Department of Social Security (DSS), sent him a second maintenance enquiry form (MEF) six months after he had returned the first one; and that despite being assured by CSA that the second form had been issued by mistake, he received a warning that if he did not return it an interim maintenance assessment (IMA) would be imposed.

2. The Parliamentary Commissioner received so many complaints about CSA's performance that he made a special investigation into the problems being experienced. His report on that investigation was published in January 1995 and a copy sent to the Member. The investigation into Mr P's complaint began in January 1995 once the Commissioner had obtained comments from the Permanent Secretary of DSS after the Member's referral of the complaint to him. I have not put into the report every detail investigated by the Commissioner's officers; but I am satisfied that no matter of significance has been overlooked.

Background

3. CSA are responsible for the assessment, collection and enforcement of child support maintenance. Under section 6(1) of the Child Support Act 1991 a parent with care (PWC) of a child who is receiving income support (IS) (a means tested benefit paid by the Benefits Agency of DSS) or family credit (FC) is generally required to pursue child support maintenance from the absent parent. CSA send the PWC a maintenance application form (MAF) to obtain information about the absent parent. They then send the absent parent a MEF to obtain a financial statement so that the amount of child support maintenance can be assessed. Assessments are completed at one of six CSA Centres (CSACs), who each deal with a particular geographical area. CSA also have a network of field offices who deal with enquiries, interviews, information gathering and visits. In August 1993 CSA decided that all new or repeat claims for IS where there was a potential child support interest should be referred to the appropriate field office. The field office were responsible for the issue and return of the MAF and the MEF, and for obtaining any additional information required before returning the case to the CSAC for further action.

4. Maintenance assessments (MAs) are made by child support officers (CSOs). Under section 12 of the Child Support Act if sufficient information has not been provided to enable an MA to be made a CSO has the power to make an IMA. An IMA does not take account of personal and family circumstances and will usually be higher than the final MA so creating an incentive for the absent parent to provide the necessary information. Under section 31 of the Child Support Act 1991 a deduction from earnings order (DEO) may be made against an absent parent to secure the payment of any amount under a maintenance assessment. A DEO is an instruction to a person's employer to make deductions directly from earnings. DEO action is normally taken only when it is apparent that other methods of collection have failed or are likely to fail.

Investigation

5. Appendix A to this report sets out a chronology of the main events in the case.

The DSS response to the complaint

6. The Permanent Secretary apologised for the lack of communication between the CSAC and the field office which had led to a second MEF being sent to Mr P followed by a letter warning of the possible imposition of an IMA. He also apologised for the delay in replying to the letter received from Mr P on 8 April 1994. The Permanent Secretary went on to apologise for the unacceptable length of time taken to deal with the case although he pointed out that the delay in making a MA had been to Mr P's advantage.

Findings

7. Delay at the CSAC meant that no action had been taken on the first MEF which Mr P completed and returned in September 1993 when the PWC stopped claiming IS at the beginning of December. The PWC immediately claimed FC and shortly afterwards her partner claimed IS for the family. CSA's interest in obtaining child support maintenance from Mr P therefore continued but a change in the claimant for IS automatically triggered the involvement of the field office who, correctly in view of the PWC's changed circumstances, sent her another MAF. However, the field office did not check whether the PWC had made an earlier application for child support with the result that, when the PWC returned the second MAF, they unnecessarily sent Mr P another MEF. The CSAC, prompted by a telephone call from Mr P, found out about the issue of the second MAF the day after the field office had sent it, but apparently took no action to tell Mr P of CSA's continued interest.

8. What happened after the issue of the second MEF on 1 March 1994 is not clearly discernible from CSA's records. Mr P telephoned the CSAC on 2 March and again on 3 March. Neither of the CSAC's notes of the calls refers to the second MEF. The field office have no record of receiving any telephone calls from Mr P or of the advice given to him to ignore the second MEF. What is clear is that, although CSA were aware that the second MEF had been issued in error—and Mr P had been told not to complete it—no action was taken to

prevent the issue of the reminder which warns about the imposition of an IMA. I criticise that oversight which understandably caused Mr P considerable anxiety until he was reassured by the field office—in another unrecorded telephone call—the reminder had been issued in error. To make matters worse, when the Chief Executive replied to the Member's enquiry on the matter, CSA denied any knowledge of the reminder and offered Mr P no apology for what had happened. Moreover, Mr P's own letter to CSA received no reply at all until the Commissioner's intervention brought to light the oversight. I criticise those failures.

9. Mr P's request for information about the procedure for claiming reimbursement of the cost of the telephone calls he had made was answered by the straightforward statement that there is no such system. I might have asked DSS to consider reimbursing Mr P the costs which he incurred as a direct result of CSA's maladministration. I note, however, that the telephone calls to the CSAC are charged at local rate, and the very long time which CSA took to make a MA has substantially benefited Mr P financially. I regard that as more than compensating for the extra expense to which he was put by CSA's mistakes.

Conclusion

10. CSA handled Mr P's case badly causing him unnecessary anxiety and inconvenience. I pass on to him through this report the Permanent Secretary's apologies which, together with the issue of guidance aimed at preventing similar mistakes in the future, I regard as a satisfactory response to this justified complaint.

APPENDIX A

CHRONOLOGY OF MAIN EVENTS

1993

10/06/93 DSS sent a MAF to the PWC of Mr P's two children who was receiving IS.

23/06/93 The CSAC in Falkirk received the completed MAF

02/09/93 The CSAC sent a MEF to Mr P.

20/09/93 The CSAC received the completed MEF from Mr P.

06/12/93 The PWC stopped claiming IS.

08/12/93 The PWC claimed and was awarded FC.

23/12/93 The PWC's partner claimed IS for her and her children.

1994

04/01/94 As the PWC's partner had claimed IS and there was a potential child support interest, the case was referred to the local CSA field office who sent a MAF to the PWC (paragraph 3).

05/01/94 Mr P telephoned the CSAC to say that he understood that the PWC was no longer receiving IS and CSA action was not appropriate. He asked the CSAC to return the MEF which he had completed in September 1993. The CSAC made enquiries and found that the PWC was receiving FC and also that another MAF had been sent to her.

26/01/94 The field office wrote to the PWC asking her to return the MAF.

08/02/94 The field office received the completed MAF.

01/03/94 The field office sent a MEF to Mr P.

02/03/94 Mr P telephoned the CSAC to say that he had been told by his lawyer that he was entitled to have the MEF which he had completed in September 1993 returned to him.

03/03/94 Mr P telephoned the CSAC to say that the PWC was no longer receiving IS but that a MAF had been sent to her. The CSAC made enquiries and established that the PWC's partner had claimed IS for her and decided that assessment action should continue.

21/03/94 The field office wrote to Mr P warning him that an IMA would be imposed if he did not return the MEF sent to him on 1 March by 4 April.

22/03/94 After a telephone call from Mr P, the field office telephoned the CSAC who confirmed that they held a MEF completed by Mr P. They said that no further action was required by the field office.

25/03/94 The CSAC received the papers from the field office.

29/03/94 The Member wrote to the Chief Executive of CSA complaining that, after completing a MEF in September 1993, Mr P had received a second one from CSA. When he had telephoned CSA they had told him not to complete the second MEF as they held sufficient evidence. He had then received a letter from CSA warning him that child support maintenance would be deducted from his earnings because he had not provided the information. The Member asked for an assurance that such action would not be taken and also for an explanation.

08/04/94 The CSAC received from the field office a letter from Mr P complaining that, after being told by the field office that they had made a mistake in sending him a second MEF and that he should ignore it, he had then received a letter warning that an IMA would be imposed. He said that, although the field office had reassured him orally that another mistake had been made and that he should ignore the warning letter, he felt it unsafe to do so and he asked for written confirmation. He also asked for an explanation of the mistakes and how he might seek reimbursement of the cost of his telephone calls.

24/06/94 The Chief Executive replied to the Member apologising for the delay in doing so. She said that the CSAC had originally taken on the case because the PWC had been receiving IS. They had sent Mr P a MEF which he had returned on 20 September. On 1 March a second MEF had been issued because the PWC's new partner had claimed IS for her and her family. As a result of that IS claim, the CSAC's field office had sent a second MAF to the PWC. The Chief Executive said that there were no records on the child support computer system (CSCS) of Mr P being sent warnings of an IMA or a DEO. She said that the case had not yet been assessed.

18/07/94 Having received a copy of the Chief Executive's letter from the Member, Mr P wrote to him enclosing a copy of the letter from the field office dated 21 March warning of the imposition of an IMA. He said that he felt entitled to an apology from CSA.

11/08/94 The Member passed the letter to the Chief Executive asking for her response.

09/09/94 The Chief Executive replied to the Member apologising for the incorrect information in her letter. She explained that the mistake had occurred because the issue of the letter had not been recorded on the computer system. She said that staff had been reminded to check information very carefully before preparing replies to correspondence.

18/09/94 The CSAC passed the case to the field office to obtain further information about Mr P's earnings. (Mr P had enclosed pay slips with the MEF but not for the total period required.)

27/10/94 The Member referred Mr P's complaint to the Commissioner.

28/11/94 The field office wrote to Mr P's employers asking for details of his earnings before 4 September 1993.

05/12/94 Mr P wrote to the CSAC complaining about their approach to his employers which he said was an invasion of his privacy. He said that he understood employers were contacted only when a DEO was under consideration. He asked for an explanation.

06/12/94 The field office received a reply from Mr P's employers.

13/12/94 The Member wrote to the new Chief Executive asking why Mr P's employer had been approached and for confirmation that a DEO was not under consideration.

23/12/94 The CSAC customer services manager (CSM) replied to Mr P explaining that he had omitted to send his wage slip for August 1993 and the CSO had decided to contact his employers direct to expedite matters. The maintenance gave her assurance that that step was taken only after careful consideration of the circumstances of an individual case. The CSM confirmed that a DEO was not under consideration.

28/12/94 Mr P wrote to the CSM asking her to explain in more detail why the CSO had decided to contact his employers.

1995

10/01/95 The CSAC customer services section wrote to Mr P saying that a check of his papers had shown that he had not received a reply to his letter received on 8 April 1994 for which they apologised. They said that the MEF of 1 March 1994 and the letter of 21 March 1994 had both been issued in error by the field office who had been unaware that the CSAC held the original MEF. They apologised for the distress that had caused. They added that CSA did not recognise any right to charge them for the cost of telephone calls. The Chief Executive replied to the Member enclosing a copy of the CSM's letter of 23 December 1994. She apologised if Mr P had been distressed by the approach to his employers but said that CSA had the right to do so.

24/01/95 The CSM replied to Mr P's letter of 28 December 1994 saying that, in view of the delays which had already occurred in Mr P's case, the CSO had decided to contact his employers because it had been the quickest way to resolve the enquiry.

17/02/95 The CSO calculated a MA of £10.17 a week effective from 19 February 1995.

20/02/95 The CSAC sent the assessment details to Mr P and the PWC.

25/04/95 DSS issued guidance to field offices clarifying existing instructions for the identification of repeat claims to child support. The guidance made clear that field offices should always check the CSCS to see if a PWC had made a previous claim. Those field offices who did not have access to CSCS should check the departmental central index to check if it showed a CSA interest.

ABBREVIATIONS USED

AP	—	absent parent
BA	—	Benefits Agency
CAB	—	Citizens Advice Bureau
CAS	—	Central Adjudication Service
CAU	—	Central Appeals Unit
CSA	—	Child Support Agency
CSAC	—	Child Support Agency Centre
CSAT	—	Child Support Appeal Tribunal
CSCS	—	child support computer system
CSM	—	customer service manager
CSO	—	child support officer
CTB	—	council tax benefit
DEO	—	deduction from earnings order
DCI	—	departmental central index
DSS	—	Department of Social Security
FC	—	family credit
FCU	—	family credit unit
HB	—	housing benefit
IMA	—	interim maintenance assessment
IO	—	investigation officer
IS	—	income support
ITS	—	Independent Tribunal Service
LO	—	local office
MA	—	maintenance assessment
MAF	—	maintenance application form
MEF	—	maintenance enquiry for
NAO	—	National Audit Office
PCA	—	Parliamentary Commissioner for Administration
PO	—	presenting officer
PWC	—	parent with care

PRINCIPAL CHANGES INTRODUCED BY CSA SINCE JANUARY 1995

1. No AP to be assessed to pay more than 30% of net income in child maintenance, or more than 33% if he or she is also liable for arrears.

2. An allowance introduced to take account in the assessment of property and capital settlements which took place before April 1993, where that amount exceeded £5,000.

3. An allowance to be made in the assessment for high travel to work costs: defined as in excess of a straight line distance of 150 miles per week. An allowance of ten pence a mile to be given for each mile over that distance.

4. Allowance in full in the assessment for the housing costs of a partner and any step-children living in the household.

5. A reduction in the maximum maintenance payable by halving the maximum additional element in calculating maintenance.

6. The introduction of a higher rate IMA to prevent exploitation of the existing arrangements by wealthy APs.

7. The provision for arrears to be re-calculated when an AP who has had an IMA imposed supplies the details needed to complete a full assessment. The re-calculation to be based on the full assessment rate.

8. The introduction of a flat-rate IMA of £30 for a self-employed person who is unable to supply information through no fault of his or her own.

9. The introduction of a protected earnings safeguard for IMA cases.

10. The deferral of the effective date where an AP co-operates in establishing an assessment.

11. Fees for the use of CSA services to be suspended for two years.

12. When fees are re-introduced a penalty for late payment to replace interest.

13. Periodic reviews to be completed every two years rather than every year.

14. Change of circumstance reviews to be completed on the basis of the reported change only, without re-examining the whole case.

15. Failure to co-operate with a review to lead to the imposition of an IMA rate assessment in the case of an AP, or to CSA ceasing to act in the case of a PWC.

16. The introduction of increased flexibility for CSOs to determine earnings.

17. Simplification of the housing costs calculation.

18. Simplification of payment periods.

19. Take on of deferred cases where there is an existing court order or written agreement and no benefit in payment.

20. CSOs to be able to conduct a review of an assessment completed after the one in force when the review was requested.

21. CSA to be able to recover fees for DNA testing from APs.

22. CSA to be able to compensate for overpaid maintenance.

23. Compensatory payments to be permitted where FC or disability working allowance was reduced as a result of changes in CSA legislation.

24. A system of 'departures' to be introduced in 1997 to permit CSOs to consider expenses which have not been covered by the formula.

25. Only six months' arrears of maintenance to be enforced where CSA have delayed making a MA and the AP shows willing to pay the assessed maintenance. CSA to be able to compensate the PWC for maintenance lost.

26. The standardisation of procedures between CSACs.

27. The movement of certain work from CSACs to field offices to prevent double handling.

28. The centralisation of appeals processing.

REMEDIES OBTAINED

Systemic Remedies:

C.421/94 CSA agreed to consider an amendment to the section of the MAF which covered court orders to ensure appropriate details were asked for.

C.481/94 DSS issued a reminder to all BA fraud staff of the confidential nature of information received.

C.532/94 CSA issued guidance notes to remind staff that the requirement for written authorisation before dealing with a person acting on behalf of a customer does not apply where the representative is a solicitor.

C.592/94 CSA revised their arrangements for dealing with incoming post, now examined by a specialist team and passed directly to the supervisor responsible for the case for reply.

C.636/94 CSA issued a reminder to staff about the need to deal promptly and correctly with letters.

C.1084/94 CSA issued supplementary guidance notes to field offices aimed at reducing the possibility of duplicated claims—checks of cases to be made using the CSA computer system and/or the DCI.

C.1237/94 CSA withdrew a 'quick registration' system which had produced identification errors through only brief details being required.

C.95/95 CSA allocated additional staff to deal with reviews to reduce delay. Correspondence to be copied by specialist post team to all sections involved for reply.

C.99/95 BA offices were instructed to contact the relevant CSAC to ensure that maintenance is in payment before payment of benefit is stopped.

C.363/95 CSA revised their operational procedures to allow managers greater flexibility to determine priorities and to deal with the intake of work and with the aim of improving times for the despatch of MEFs.

C.376/95 CSA amended their standard letter to APs who were paying regular maintenance but not paying the arrears; they agreed to produce a new letter to notify change to a DEO following review.

C.424/95 The introduction in the CSAC of a checking procedure for MEFs before issue to reduce the risk of forms being sent to the wrong person.

C.473/95 CSA issued an Agency-wide bulletin reminding staff of the correct procedures for dealing with members of HM Forces.

Financial Remedies:

C.341/94 *Ex gratia* payment of £465.87 to compensate for maintenance overpaid due to the failure of CSA to close the case after their jurisdiction had ended.

C.602/94 *Ex gratia* payment of £172.39 to the PWC, equivalent to the amount of maintenance for which the AP would have been liable had CSA not sent the MEF to the wrong address.

C.826/94 *Ex gratia* payment of £851.12 to the PWC, equivalent to the amount of maintenance for which the AP would have been liable had CSA acted promptly on her application.

C.916/94 Refund to AP of £228.42 collected by CSA through a DEO based on an invalid IMA.

C.99/95 *Ex gratia* payment of £106 towards costs incurred during the interruption of payments of IS caused by the failure of CSA to pass on relevant information to BA.

C.110/95 *Ex gratia* payment of £203.56 towards expenses which arose from CSA's maladministration.

C.145/95 *Ex gratia* payment of £626.33 to the PWC, equivalent to the amount of maintenance for which the AP would have been liable had CSA acted promptly on her application.

C.458/95 *Ex gratia* payment of £250 for distress, based on medical evidence, caused to wife of a man in mistaken identity case. Agreement to consider re-imbursement of expenses.

C.540/95 *Ex gratia* payment of £1,460.10 to an AP to compensate for maintenance overpaid due to errors by CSA.

C.945/95 *Ex gratia* payment of £1,500 to PWC for distress, based on medical evidence, caused by financial difficulties arising from the failure of CSA to deal properly with her application. Further *ex gratia* payment of £83.91 for out of pocket expenses.

C.953/95 Agreement to consider on production of evidence a refund of expenses which arose through the haphazard way in which CSA passed on payments of maintenance.

C.1053/95 *Ex gratia* payment of £950.19 to husband of deceased PWC, equivalent to the amount of maintenance for which the AP would have been liable had CSA acted promptly on her application.

C.1091/95 *Ex gratia* payment of £1,635.19 to PWC equivalent to the amount of maintenance arrears which would have been due to her but for errors in her assessment.

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