PARLIAMENTARY DEBATES

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GENERAL COMMITTEES

Public Bill Committee

WELFARE REFORM BILL

Twenty-fifth Sitting

Tuesday 24 May 2011

(Morning)

CONTENTS

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Saturday 28 May 2011

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: †Mr James Gray, Mr Mike Weir

† Baldwin, Harriett *(West Worcestershire)* (Con)
† Bebb, Guto *(Aberconwy)* (Con)
† Buck, Ms Karen *(Westminster North)* (Lab)
Curran, Margaret *(Glasgow East)* (Lab)
† Elliott, Julie *(Sunderland Central)* (Lab)
† Ellison, Jane *(Battersea)* (Con)
† Elphicke, Charlie *(Dover)* (Con)
Fovargue, Yvonne *(Makerfield)* (Lab)
† Gilmore, Sheila *(Edinburgh East)* (Lab)
† Glen, John *(Salisbury)* (Con)
† Grayling, Chris *(Minister of State, Department for Work and Pensions)*
† Green, Kate *(Stretford and Urmston)* (Lab)
† Greenwood, Lilian *(Nottingham South)* (Lab)
† Hollingbery, George *(Meon Valley)* (Con)
† McVey, Esther *(Wirral West)* (Con)
† Miller, Maria *(Parliamentary Under-Secretary of State for Work and Pensions)*
Newton, Sarah *(Truro and Falmouth)* (Con)
Paisley, Ian *(North Antrim)* (DUP)
† Patel, Priti *(Witham)* (Con)
† Pearce, Teresa *(Erith and Thamesmead)* (Lab)
† Sarwar, Anas *(Glasgow Central)* (Lab)
† Smith, Miss Chloe *(Norwich North)* (Con)
† Swales, Ian *(Redcar)* (LD)
† Timms, Stephen *(East Ham)* (Lab)
† Uppal, Paul *(Wolverhampton South West)* (Con)
† Willott, Jenny *(Cardiff Central)* (LD)

James Rhys, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 24 May 2011

(Morning)

[Mr James Gray *in the Chair*]

Welfare Reform Bill

Written evidence to be reported to the House

WR 70 Runnymede Borough Council

WR 71 Mrs Jane Young

WR 72 Convention of Scottish Local Authorities

WR 73 Association of Directors of Adult Social Services

9.30 am

Clause 128

Supporting maintenance agreements

Stephen Timms (East Ham) (Lab): I beg to move amendment 272, in clause 128, page 97, line 16, at end insert—

'(3) In section 6 of the Child Maintenance and Other Payments Act 2008, after subsection 2 insert—

(2A) The Secretary of State shall not levy any fees on a parent with care, except in prescribed circumstances.".'.

The Chair: With this it will be convenient to discuss the following: amendment 273, in clause 128, page 97, line 16, at end insert—

'(3) In section 6 of the Child Maintenance and Other Payments Act 2008, after subsection 2 insert—

(2A) The Secretary of State shall not levy any fees until the Commission has achieved prescribed performance targets and standards set by the Secretary of State.".'.

Amendment 274, in clause 128, page 97, line 16, at end insert—

'(3) In section 6 of the Child Maintenance and Other Payments Act 2008, after subsection 2 insert—

(2A) Except in prescribed circumstances, the Secretary of State shall not levy any fees on a parent whose income is below a prescribed level.".'.

Amendment 275, in clause 128, page 97, line 16, at end insert—

'(3) In section 6, subsection 2(g) of the Child Maintenance and Other Payments Act 2008, after "fees", insert "including, in particular, waiver of any fee where the applicant has experienced domestic violence from the non-resident parent, which may include physical, sexual, emotional and financial abuse.".'.

Amendment 289, in clause 128, page 97, line 16, at end add—

'(3) In section 6 of the Child Maintenance and Other Payments Act 2008, after subsection (2) insert—

(2A) The Secretary of State shall not levy on a parent with care any fee in respect of submitting an application, except in prescribed circumstances.".'.

Stephen Timms: I bid you a warm welcome back to the Chair of our Committee, Mr Gray, for what I fear will be our final day of deliberation.

The Chair: You're the only who does fear that.

Stephen Timms: I am rather saddened by the thought.

We now come to a group of amendments dealing specifically with the proposed charging regime for the statutory system. They propose adding safeguards so that exempt people in certain circumstances do not have to pay to use the services of the commission.

Page 21 of the Green Paper on the Child Maintenance and Enforcement Commission states that the proposed charging regime is intended to

"ensure all applicants have considered at the gateway whether they are able to make a collaborative family-based arrangement instead."

In other words, the Government see the charging regime as a way to deter parents from using the statutory scheme. It is right that we use the opportunity of our debate on the gateway set out in clause 128 to consider what happens to parents who need statutory support, despite going through the mandatory gateway.

Each of the amendments reflects the principles set out by the then Ministers when the House debated the Child Maintenance and Other Payments Act 2008, which put the charging provisions in place. The White Paper produced at the time set out three clear principles for charging: first, that the charging structure should incentivise non-resident parents to pay; secondly, that the clear burden of charging should fall on the non-resident parent; and, thirdly, that the payment of existing debts to a parent with care should always have priority over fees owed to the commission.

In debate in the other place in 2008, my noble Friend Lord McKenzie of Luton stated:

"By way of reassurance, the details of any charging regime will be subject to the commission's overarching objective, which is to maximise the number of effective maintenance arrangements in place."

Charlie Elphicke (Dover) (Con): I have been looking at the 2008 Act. Fees charging is dealt with in section 8, but beyond a general regulation-making power, there does not appear to be any statement of the principles that the right hon. Gentleman set out. Have I confused myself, or is that indeed the case?

Stephen Timms: I certainly hope that the hon. Gentleman has not confused himself. Those principles were set out in the White Paper. He might be helped by what my noble Friend said in the debate in the other place. To conclude my quotation, he said:

"Any decision the commission makes about fees must be made within the context of that objective, and it"—

the commission—

"will be as concerned as we are not to dissuade vulnerable parents applying to the statutory maintenance scheme."—[*Official Report, House of Lords,* 31 January 2008; Vol. 698, c. GC428.]

That was the basis on which the provisions were enacted.

Charlie Elphicke: I apologise for pressing the right hon. Gentleman, but my concern is that when he put the Bill through the House—I believe he was the responsible

Minister or part of the team involved—it did not include the detail he describes. Now, however, the Opposition suddenly want to put that level of detail in the Bill through a series of amendments. Why was it wrong to do that then, but right now?

Stephen Timms: Unfortunately, I am not able to claim credit for that outstanding Act, although I strongly support it. To answer the hon. Gentleman's perfectly fair question directly, we are concerned about several comments made by Ministers and placed in documents such as the Green Paper on how the Government envisage the arrangements operating in the future. Whereas my noble Friend Lord McKenzie and others clearly set down the constraints on how the powers were to be used, the current Government have not yet signed up to similar constraints. One benefit of this morning's debate will be to give Ministers the opportunity to provide reassurances about how they envisage the powers being used. Of course, if they do not do so, the Committee can express its will in a vote, but I hope that Ministers will take the opportunity to provide firm reassurances.

Given the vision set out in the consultation on CMEC and the mandatory gateway proposed in the Bill, it makes sense that we discuss fees and ensure that appropriate safeguards are put in place. The amendments provide an opportunity for the Minister to explain the direction and purpose of the charging system and how the Government envisage its use.

Amendment 272 relates to an exemption from fees for parents with care in prescribed circumstances. During debates on the 2008 Act, my right hon. and hon. Friends emphasised our view that the burden of any charging should rest on the non-resident parent and not on the parent with care. That was a cornerstone of the previous Government's view of how the arrangements were to operate. Amendment 272 would put that principle into the Bill. Perfectly fairly, the hon. Member for Dover has asked why that was not done in 2008. As I have explained, Ministers gave firm assurances at that time, and I hope that their successors will give comparable reassurances this morning.

Under the amendment, charging would fall on the non-resident parent, but the parent with care would to be subject to fees only in prescribed circumstances. We envisage that a parent with care might be required to pay a small charge for use of the statutory service where the non-resident parent has a track record of consistent payments through the statutory service—for example, paying in full and on time, perhaps without intervention by the commission, for at least a year. The regulations might prescribe that no charge should be applied to parents whose income is such that they are entitled to the family element of child tax credit.

Many groups have real concerns about the charging proposals and how the Government now intend to use them. In its briefing, Gingerbread points out:

"There are strong reasons for the Government to think again about proposals to charge parents with care who turn to the statutory maintenance system in order to obtain child maintenance. The new gateway procedures will ensure that parents with care who make a formal application to the statutory scheme will already have been required to justify their reasons for doing so, having been made to consider private arrangements instead. Thus the overwhelming majority of those applying to the future scheme will be those who do not have choice, because the other parent is failing to fulfil his parental financial responsibilities."

Rather oddly, one might think, we are still waiting for the Government to respond to the CMEC consultation, yet we have the Bill before us this morning. It would be helpful if the Minister set out for us the proposed levels of fees at the collection stage. For example, the consultation suggests a collection charge of between 15% and 20% on non-resident parents, and between 7% and 12% on parents with care. Such levels are a good deal higher than those referred to in the report submitted to the previous Government by Sir David Henshaw. He drew on the USA for potential models of charging. His report stated:

"Other countries charge parents for the use of child support services using a variety of different models. In the United States, non-benefit parents with care can be charged an annual fee of $25. Some states have also charged a percentage of maintenance, typically between 3 and 6 per cent."

Indications so far suggest that the Government envisage a much higher level of charging than Sir David envisaged. Can the Minister tell us what fees she proposes—following consultation—to levy on the parent with care? Will they be as high as the consultation paper suggests? She will know of the very considerable concern that those proposals have caused. Is there not a real danger of deterring parents with care for whom voluntary arrangements cannot be reached from applying to use the statutory scheme? Has the Minister drawn on evidence from other countries, such as the US, in designing the charging regime in the UK? Does she envisage charging as a means of raising money, or is it intended to deter parents from using the statutory scheme and so reduce costs? It would help if she set out for us the Government's rationale for the charges they are considering.

Amendment 274 would exempt parents on low incomes from fees. The consultation document refers to a reduction in fees for people on benefits. The amendment goes a step further and would exempt people on low incomes from fees altogether, except in prescribed circumstances—for example, if they are found to be abusing the system. According to a parliamentary answer given on 24 March, the parent with care or their partner is on income support or income-based jobseeker's allowance in roughly one third of "live and assessed" cases. In 30% of cases with a positive child maintenance liability, the parent with care or their partner is on income support or income-based jobseeker's allowance. Those are big proportions of the cohort of people affected by the proposals.

In its submission, Barnardo's made this point:

"Families living in poverty only have £13 per person per day to live on; charges will mean that the poorest children will lose out, as parents will not be able to afford to use the statutory system."

Gingerbread quotes one mother:

"We are struggling so much that a few pounds a week would make a difference. Obviously I can't afford these fees so I won't be bothering"

That is a real danger if the Government use the charging system in an unfair way. According to Gingerbread, amendment 274 would:

"meet the concerns of both Sir David Henshaw and Lord Mackenzie that vulnerable families should be protected. In the context of child maintenance, 'vulnerable' has to include low income families vulnerable to poverty."

The Government have said that they want to protect the position of vulnerable families. It would be helpful to know what they mean by "vulnerable".

9.45 am

Jenny Willott (Cardiff Central) (LD): The right hon. Gentleman talks particularly about the impact on those who are on benefits. Does he share my concern that a cliff edge is built into the current system, which the amendment would not resolve? At present, if people are on benefit, they get a significantly reduced fee, which they can pay in instalments. If they are on a low income, however, even if they are bringing in approximately the same amount as they would if they were on benefit, they face a significantly increased fee, which they must pay in one go. The right hon. Gentleman's amendment would not resolve that situation; it would simply increase the threshold at which that cliff edge kicked in.

Stephen Timms: The hon. Lady makes a fair point. The intention of the amendment is to protect the position of those who are on benefit at present. She is perfectly right, however, to raise concern about those who are just above the benefit level of income. There is an issue about how such people should be protected, too.

Given that income support and jobseeker's allowance are about to be abolished, can the Minister tell us about future interaction with universal credit? It would be helpful to know how the system might work after the introduction of universal credit. There might be a way through the issue that was raised by the hon. Lady, because many people on low incomes will be entitled to some universal credit, although they would not currently be entitled to income support or jobseeker's allowance.

Amendment 275 would ensure that those who had suffered abuse were exempt from paying fees. The Green Paper indicated that victims of abuse will be exempt from the mandatory gateway and will be able to enter the statutory system. The amendment addresses what would happen to them in the statutory system. In its briefing to the Committee, Barnardo's stated:

"The statutory service needs to be designed so that it is open and as sensitive as possible to the most vulnerable families, and that parents must have a right to be believed when they report that they have been victims of domestic violence."

Again, the amendment is in line with the recommendations in the Henshaw report, which states:

"However charges are introduced, the needs of vulnerable parents with care must be taken into account. I do not want to create a disincentive to use the service for those parents who have no other option for agreeing maintenance."

If fees are intended to discourage parents from applying to the statutory system, I hope that the Minister will agree that the measure ought not to include deterring those who have been victims of abuse.

Amendment 289 would bar the levying of application fees on a parent with care, except in prescribed circumstances. The Green Paper referred to a £100 up-front application fee, which will be a significant barrier to many parents with care from applying to the system at all. I am unclear how such a large up-front fee is justified. Much anecdotal evidence demonstrates that parents with care would find unaffordable a £100 up-front fee—or the £50 that was proposed for people in receipt of means-tested benefit. If parents must forgo between 7% and 12% of every maintenance payment in fees, it would simply make the system unaffordable for them. I have quoted one of those who contacted Gingerbread about that matter. There seems to be a groundswell of concern about fees being at a level would make the system unaffordable, which would have damaging consequences.

Finally, amendment 273 would provide that fees were not levied until the commission had met performance standards set out by the Secretary of State. It is certainly true that there has been a great deal of improvement in how the child support service has worked in recent years. Complaints have more than halved in the four years from 2005-06 to 2009-10, and I happily acknowledge that significant improvement. However, some performance issues remain. We face an upheaval when CMEC is converted from its current status as a non-departmental public body to an executive agency in the Department. Who knows exactly what that will do to the organisation? The amendment reflects the need for the transition to be settled and for the current level of performance to be at least maintained and, hopefully, improved on, before the implementation of charging. If fees are to be charged for the service, the level of service provided should be commensurate with the significant fees that will be levelled in the future.

At the time of the preliminary discussions on charging, the current Chief Secretary to the Treasury said that

"if the level of competence and administrative efficiency in CMEC and the legacy organisations has not improved, introducing charges would add insult to injury to users…levying charges would be hopelessly wrong if the new organisation is unable to meet the higher standards set by the Minister."—[*Official Report, Child Maintenance and Other Payments Public Bill Committee,* 24 July 2007; c. 163-164.]

The right hon. Gentleman had a point in setting out that concern. I would hope that the Government recognise the value of requiring some performance standards to be achieved before the provisions for charging are brought into effect.

These have been designed as probing amendments. As I said earlier, the intention is to give the Minister the opportunity to put on the record some important reassurances, which those who are following these matters are anxious to hear. We want to understand the Government's thinking on charging, to establish whether they have recognised the problems that could arise, particularly if fees are set inappropriately. The Government need to proceed with caution here, particularly over charging parents with care.

Of course, Government Members opposed the original powers for charging when they were introduced by the previous Government. Lord Skelmersdale, speaking for the Conservatives in the other place, said that

"it is naïve and over-optimistic to think that voluntary agreements are always possible. Why seek to deter a parent from using what is clearly going to be…a very valuable service indeed?"—[*Official Report, House of Lords,* 31 January 2008; Vol. 698, c. GC427.]

There is a grave risk of parents with care being deterred from accessing the statutory scheme and as a result finding themselves unable to persuade the non-resident parent to make regular payments in respect of their children. That was the problem that the previous Conservative Government wanted to address in setting up the child support system. There have been a lot of difficulties, but also a lot of progress and a lot of improvements since then. It is important that we do not go backwards to a position where many children are left

without the maintenance that they need. There are already many non-resident parents who do not fulfil their financial obligations to their children. Clearly none of us would want to make things worse. I commend these amendments to the Committee.

Kate Green (Stretford and Urmston) (Lab): Good morning, Mr Gray. It is a pleasure to enter this last day of the Committee with you in the Chair. I am sure we will miss our encounters once they conclude.

I want to speak in support of the amendments. As has been noted, the provisions for charging are already understood from the 2008 Act. That set of provisions on levying charges, however, has never been put into practice. That is because we are still uncertain, to put it at its mildest, what the impact of charging would be on the behaviour of both non-resident parents and parents with care and what that would mean for the flow of child maintenance to parents with care, to help them support their children. It is important that we take those uncertainties seriously and examine where there might be some risk factors in pressing ahead with the introduction of charges without clearly understanding how we will monitor the impact of doing that and the circumstances in which charging will be applied.

My right hon. Friend mentioned that there are other countries and regimes where child support systems levy charges, and I have been interested to look at the evidence to see how effective those systems are. However, it is extremely difficult to extrapolate from one country to another how a child maintenance charging system might work. The design of the overall system varies widely from country to country: in terms of the level of compulsion for parents to be part of a statutory scheme; whether maintenance is passed through, in whole or in part, to parents with care for spending on children; and the broader socio-economic position of lone parents bringing up children in different countries when compared with that in the UK.

For example, on a recent visit by the Work and Pensions Committee to Wisconsin—although in fact my hon. colleague the Member for West Worcestershire was not with us on that occasion—we were able to examine the system there in some detail. It is one of the very early and much-wanted systems of child support. While I would not encourage hon. Members to copy many aspects of Wisconsin's welfare reforms, in relation to child support they have been very effective in producing a flow of maintenance to lone parents. They apply charging, and I was very keen to ask them how they combined that with sustaining high levels of maintenance flow.

The answer was twofold. First, the system is entirely compulsory. It is not possible for a parent from Wisconsin in receipt of financial support from state or federal funds not to be in the statutory scheme. That will not be the case here, as Ministers introduce a scheme in which parents will be asked to try to make voluntary arrangements, so that going into the statutory scheme and paying the charges to do so will be for a residual group. That is in stark contrast to Wisconsin, where everybody on benefits is required to go through the statutory scheme. When I asked officials in Wisconsin what they thought about applying charges in a non-compulsory scheme, they were horrified and said that they could not see how it could work.

The second part of the answer is related to the way in which maintenance is collected in Wisconsin. While the Child Support Agency here has increasingly made use of automatic deduction from earnings and benefits to get maintenance from non-resident parents where they are otherwise unlikely to make payments, that is standard in Wisconsin. Non-resident parents face that automatic deduction, whether they are recalcitrant, willing or enthusiastic payers. That is not the situation that predominantly pertains here.

Therefore, there is a very different context in the UK for a charging regime to work. We are in a different situation with respect to other countries that apply charges, and also to where we were in 2008. Back then we were not looking to a system where the running assumption was predominantly to go to voluntary arrangements. Of course, all Governments have been keen in recent years to facilitate good quality voluntary arrangements when they could be made to work. However, the presumption now is that those will be the preferred model for almost all parents. We are looking at an essentially voluntary scheme in the future. In that context, it is difficult to see the Ministers' charging proposals working well.

As I mentioned last week, the Work and Pensions Committee very recently held an evidence session with expert witnesses, in relation to the Government's child support proposals. We specifically asked witnesses for their views on the proposals and their likely impact on non-resident parents, on parents with care, and on getting maintenance flows to children. My hon. colleague was there for that session, and I think she will agree with me that it was extremely interesting. I have urged Members to watch the video, free to view for parliamentarians and very riveting, on the Work and Pensions Committee website. We asked witnesses in that Committee session for their views on the likely impact of charging.

Caroline Bryson, a social researcher who has done work with the DWP on such subjects, said that the impact of charging is not known because there has been no properly constructed study. There was some related investigation of what the impact might be at the time of the Henshaw review, when Caroline Bryson told us about a useful piece of survey evidence. Parents were asked whether they would be likely to use a calculation service if it were free, or if charges were made of, I think, £50 or £100. There was quite a lot of enthusiasm for a free service, although less from non-resident parents than from parents with care. There was much less enthusiasm for—in fact, I think it is fair to say that people would most likely not use—a service for which they had to pay £50 or £100. I recognise that these are not the fees that Ministers are now proposing, but none the less, I think there is an issue about the likelihood of any fee deterring use. My right hon. Friend the Member for East Ham has already highlighted our concerns about that.

10 am

We do not want to set up a charging system that prevents those for whom maintenance needs to flow from going to the system at all. We know that financial pressures on lone parents are already increasing because of the rising cost of living—fuel, energy and food prices and so on—and because, in some circumstances, some

financial benefits will be reduced over time. Housing benefit changes, changes to payments for those in larger families, and so on will undoubtedly have an adverse effect on the material circumstances of some lone parents too. All the witnesses to the Select Committee last week were very concerned that the level of fees being proposed by Ministers, modest though they may seem to all of us, were likely to be a very substantial proportion of the income of lone parents trying to make ends meet. They all saw the chunk of a lone parent's weekly outgoings that the system's charges would impose as a substantial deterrent. Witnesses said that we have to be realistic about this. These are not sums that particularly low-income parents are likely to be able to meet.

So we have evidence from our witnesses saying that we do not really know what the impact of charging is, but there are some concerns that, for those on low incomes, those charges are likely to be a deterrent and, as such, a disincentive to use the service on the part of some parents that we want to see accessing it. I also want to look at the amendment in relation to domestic violence and abuse, also highlighted by my right hon. Friend the Member for East Ham, and our particular concerns about the impact of charging on those parents affected—again, predominantly women, as was said in earlier debates.

Women fleeing domestic violence often flee with nothing at all. They leave their home, their belongings, their access to joint bank accounts—all their resources often abandoned in the urgency of fleeing an abusive situation, or at the moment when they reach the tipping point at which they can no longer go on. At that point, to get maintenance flowing from a non-resident parent will be immensely complicated and difficult, because the relationship, by definition, will be extremely poor. It will not be, I would venture to suggest, a negotiation in which a voluntary arrangement is likely to be possible for almost any of those parents with care. Further to disadvantage such parents materially, financially, by imposing a charge to get maintenance flowing for their children seems to me to be morally unjustifiable and will put their children at risk of very great hardship.

The final issue I want to raise on the impact of charging was, again, raised in the Select Committee evidence session last week, this time by the immediate past chief executive of the Child Support Agency, Stephen Geraghty. He expressed some concerns about how to design a charging structure that would, by definition, mean that fewer and fewer people would go into the statutory system, thereby driving up the unit cost for those who remain in it. He felt that that was a very difficult pricing trick to pull off effectively, whereby the agency remains financially sustainable, but low-income parents can continue to access it. I do not know—nor, it seems, did Mr Geraghty—Ministers' thinking to try to get that pricing balance right: what proportion of parents they expect to go through a charging process and remain in the statutory system; and what proportion of parents may go through the calculation service, but not then go into the statutory system. As my right hon. Friend said, we do not know whether Ministers will seek to use charging as a mechanism to cover agency costs. If that is not the objective, is there a spending risk here? Could it become more costly per unit cost to run an agency for a small, residual number of parents? What models have Ministers considered in relation to that? I am sure that that will be an issue of real concern to hon. Members who have been anxious throughout our debates about the spending implications of amendments.

I hope that the Minister can address those concerns in her response. I would like more detail from her about the implementation plan for these proposals. I would like to know what the time scale is. I would also like to know specifically what piloting and monitoring, if any, she proposes to put in place because it is clear from the evidence to the Select Committee last week that there is a lot of uncertainty about how this could play out in practice. We need to be confident that, if Ministers' intentions are not fulfilled, and child maintenance is not flowing to families who desperately need it, Ministers would be prepared to adjust the proposals.

Sheila Gilmore (Edinburgh East) (Lab): I want to explore further the circumstances of making two major changes in the child maintenance system at the same time, without waiting to see what impact one might have upon the other. We spent considerable time on Thursday discussing more widely the sort of child maintenance system we considered appropriate and the shift in emphasis away from people using the statutory service, unless it was a last resort. As we know, not necessarily from the Bill, but certainly from the wider discussion, the intention is not merely to apply the provisions to new applicants but to phase out a system over a relatively short time, close down cases that are currently being dealt with and require people to start again effectively at the beginning, either to turn what they were doing into a voluntary arrangement or to come back through the gateway.

So we have the setting of the gateway, which some people consider a disincentive in itself, whereby an applicant has to establish that he or she has made every effort to reach some kind of arrangement with the non-resident parent before an application will even be entertained. On top of that, there is a suggestion that the applicant parent would have to pay a fee for the use of the statutory service. Those are two major changes to the way the system is working, and it is proposed to introduce both at the same time.

Not until we see the impact of one change and the move to it, if the Government are still minded to move to the gateway scheme for everyone, will we know whether it acts as a deterrent without creating any further deterrents. It may be that the gateway scheme works well, that the kind of services that the Minister spoke about previously would be put in place and that there will be sufficient support for people all over the country to negotiate the kind of agreements that we would ideally like.

As I have said before, as a family lawyer, I spend most of my time trying to reach agreements, preferably legally binding agreements, on issues such as maintenance to ensure that people do not have to go through court or a statutory process if they do want to. I think that is what people would like, but it is a question of whether the provisions will work and whether the supports will be there. The Minister made much of £30 million being put in by the Department of Education, presumably for England and Wales. I am not sure what the position will be in Scotland. However, £30 million over four years is not a huge amount, even though it may sound relatively high. Rather than introducing both changes simultaneously,

it might be better to look at the proposal to charge applicants fees only once we can see how the new system is working.

On amendment 275, I want to say a word about domestic violence. There is concern among those who have worked in the field for a long time that we must be clear about what the clause includes. The last thing we want is to go back to a situation where the only domestic violence that the authorities understand is that which is highly visible, with people needing some sort of physical injury to show that they had suffered domestic violence. We have come a long way in the past 20 or 30 years; we have moved away from that concept, and we understand that abusive behaviour can take place in several different ways, not all of which are highly visible.

It is important to have a provision that makes that clear. Even if the Minister is not minded to include the definition in the amendment in the Bill, I urge her to include it in regulations. In that way, those who make decisions about waiving fees in this context—there are other, similar contexts—will be clearly guided from the outset by a broad definition of domestic violence and abuse, and people's applications will be given the best possible consideration.

The Parliamentary Under-Secretary of State for Work and Pensions (Maria Miller): Opposition Members have raised several important questions in support of their amendments. I hope that my comments can provide the reassurance they are looking for, because it is vital that we get the issue right. As my hon. Friend the Member for Dover pointed out, amendments 272 to 275 and 289 are, as it were, Opposition amendments to legislation that the Opposition introduced when they were in government. That legislation was put in place three years ago as part of a broader reform of child maintenance, which legislated for wide-ranging powers to charge parents for maintenance services. The then Government were clear that charging would form part and parcel of CMEC's approach, and that is why it is at the heart of the proposals that we set out in our Green Paper.

It is important to clarify for the Committee why charging was important for the previous Government and why it is important for the coalition Government, as well as the strategic role that it has in our strategy to maximise the number of effective financial arrangements in place to support children in separated families. First and foremost, we want a system that supports parents to take responsibility. Lord McKenzie, who was the Minister responsible for this policy area, talked about charging as "incentivising" parents to make private arrangements. I actually want them to take a balanced and rational approach to financial maintenance that is in the best interests of their child. I want them to consider what options they have open to them, knowing that financial arrangements agreed outside the statutory system are far more likely to be enduring and able to take account of the very individual needs of each and every family.

As we discussed in a previous debate, most parents in the statutory system would prefer to have made family-based arrangements. They simply know that the support they need to do that is not available to them at the moment.

Kate Green: It is important that the Minister clarifies whether this majority of parents who would prefer to be in the voluntary system is a majority of non-resident parents and parents with care. My understanding is that it is certainly a majority of non-resident parents, but it is not a majority of parents with care.

Maria Miller: I thank the hon. Lady for giving me the opportunity to clarify that. She is absolutely right: we are talking about 75% of non-resident parents and just over 50% of parents with care—in both cases, the majority of parents involved. That is important, because if parents were given the right support, they would not feel it necessary to be in the statutory system. This proposal will give parents the opportunity to reappraise and change their behaviour right at the start of their thoughts about child support. If we are to be successful in enabling parents to reappraise the options open to them, that re-appraisal must start at the beginning of the application process. As Sir David Henshaw and the previous Government recognised, both sides need an incentive to reconsider what has become the default option in the statutory system.

10.15 am

Sheila Gilmore: Will the Minister consider the fact that there is a difference between asking someone whether they have a preference for a particular way of dealing with things—for example, to reach a voluntary arrangement—and whether they thought that that was practical in their circumstances? An advantage of a statutory system is that it is there in the background. People might feel that, without enforcement, it will be much harder to reach a voluntary arrangement.

Maria Miller: The hon. Lady advocates a statutory system for people who are unable to make their own arrangements and more support for those who would be able to do so. It is important that we put support in place, so that individuals can make that choice. The hon. Lady is right; it is down to individual family circumstances. My concern is that there is only one default option—the statutory system—for a great number of parents in this country.

Amendments 272 and 289 would fundamentally undermine the process of reconsideration that I have outlined. The amendments say that only non-resident parents would be subject to a fee for using the statutory service. Where is the incentive for the parent with care? Some 95% of applications at the moment come from the parent with care. Where is the incentive for those individuals to reconsider other non-statutory ways of putting in place financial support?

Surely, the Opposition amendments are a recipe for the status quo—not something advocated by the Opposition when they legislated for the system that the coalition Government have inherited. Family-based arrangements may not be for everyone—the hon. Member for Edinburgh East is right—and that is why we will provide an improved statutory scheme to replace the CSA, to sit alongside the additional help with regard to the gateway process.

Stephen Timms: The Minister will know what my noble Friend Lord McKenzie said before the election about the expectation of not imposing charges on parents with care. Will she acknowledge the widespread concern about the high charges referred to in the consultation document? A £100 up-front charge and 7% to 12% of maintenance fees seem very large charges, which are a big worry for many parents with care.

Maria Miller: I thank the right hon. Gentleman. We included the charges in our consultation to get people's response to them, both through the consultation but also through the many meetings with the organisations that represent fathers, mums and families. We will listen carefully to those comments. The right hon. Gentleman used the word "deter", but what we are proposing will not deter people from using the statutory system. The mirror image of that word should be used: this is about encouraging parents to take responsibility. That lies at the heart of our proposals. Not only have we included the charges in our consultation—I look forward to considering those responses in detail—but further work that we are undertaking will be included in our impact assessment of the charges that we decide to introduce. Obviously, that will be subject to further consultation in regulations and to further debate in the House.

Up-front fees are important because they will encourage the sort of collaboration that we know makes such a difference to the lives of many thousands of children, not only through the financial arrangements that are put in place, but through the more positive attitude between parents—the co-parenting approach—that can be so beneficial to children living in separated families.

Amendment 274 focuses on affordability for parents on low income. The hon. Member for Stretford and Urmston mentioned her visit to Wisconsin. We fundamentally disagree with forcing all parents, as happens there, to use the CSA, which does not listen to parents' views and has been proved not to work for benefits in this country. That is why Labour abolished the CSA when in government. I am sure that we can learn much from international evidence, but as the hon. Lady rightly asserted at the beginning of her comments, it is difficult to extrapolate findings from other countries to the UK.

Kate Green: I would be grateful to the Minister if she clarified whether she understands my point, which is to suggest not that we should have compulsory participation in the child maintenance system, but that the effectiveness of charging in Wisconsin is said to be predicated on its being a compulsory system.

Maria Miller: That may well be the experience there. We strongly believe that if we look at the situation in the UK as we find it—many people who would prefer to be outside the statutory system see no other option at the moment, and there is no opportunity for parents to reconsider what has become a default option—charging has an important role to play.

On affordability, which three hon. Members talked about, it is important that the Committee is clear about the Government's intentions. We absolutely understand that separated families might find themselves under real financial pressure. Child maintenance will continue to be fully disregarded for the purpose of benefit entitlement, which in plain English means that parents with care can keep all their child maintenance and 100% of their benefits as well. Child maintenance is not taxable, which supports low-income parents on benefits as they move into work.

To ensure that society plays its part in giving more support to separated families, we will also continue heavily to subsidise the statutory service. No inference should be drawn from our proposals that we are trying to recoup costs through the measure. The system currently costs the taxpayer 40p for every pound that is moved between parents. Charging has a far more important role to play in changing behaviour than in recouping costs for the taxpayer, although that is not an insignificant issue.

It is reasonable for parents to reprioritise their spending in the short term to meet some of the costs of an application. An unemployed lone parent with two children is entitled to a net income of £204 a week, after housing costs and council tax benefit costs. Meeting the cost of the application is a sensible option for parents, given the significant ongoing financial benefit of child maintenance and the strong enforcement powers that are available in the statutory system if collaborative working is not possible. If parents are not nil assessed on the current CSA scheme, the average maintenance assessment would be £30 a week, which is an important contribution to the household. We recognise the additional pressures on parents on benefits by heavily discounting the up-front fee to just 10% of the actual cost to the taxpayer. I hope that all those provisions reassure Opposition Members that we take the financial pressures on families seriously.

On amendment 273, I can reiterate our intention to introduce charging only after at least six months of live running of the new scheme. That is precisely so we can be sure that the system works for clients before we start to charge parents. Under the new scheme, we will calculate maintenance using Her Majesty's Revenue and Customs tax systems, which will allow us to start the flow of maintenance sooner in many cases. The changes will also help to prevent non-resident parents hiding their income. Members of the Committee will have had such constituency cases themselves. For the first time, cases will be reviewed annually to ensure that they are kept up to date, and the statutory system will offer really significant improvements in the service.

On amendment 275, I am again grateful to be able to reiterate our full commitment to offering an exemption from the proposed application charges for victims of domestic violence. That is quite contentious. Differing views have been expressed in the consultation and to me. In March, officials and I had a productive meeting with specialist groups to gather extensive feedback. I intend to consider the arguments put by members of the Committee and outside groups before introducing detailed proposals in draft regulations, which will be consulted on and subject to parliamentary scrutiny.

Stephen Timms: I am pleased that the Minister has listened to our concerns, but may I take her back to charges? She said she had listened carefully to the concerns raised about the proposed level of charges. However, she has not indicated—at least not yet—any change in the proposals as a result of the listening that she has been doing. Is she now proposing a lower level of charges than was originally set out in the Government's proposals?

Maria Miller: As the right hon. Gentleman knows, we have yet to respond to the formal consultation. We will consider that very carefully and issue a response. We will then introduce draft regulations for consultation. Encouraging parents to take responsibility is at the heart of our proposals. There is an important balance to be struck in terms of the initial fee and the ongoing

charging, and we need to ensure that that balance is the right one for parents in this country. I am sure that that will be subject to further debate when the regulations are introduced.

In conclusion, I can confirm that we intend to publish detailed proposals and draft regulations on charging. Those will then be subject to a further period of consultation to ensure that we get it absolutely right. Subsequently, affirmative regulations will be subject to debate in the House. I hope that that package of replies and reassurance that the debate will continue will give Opposition Members the confidence to withdraw their amendment.

Stephen Timms: I welcome the Minister's recognition of how much hangs on this and the importance of getting the judgment right. She objected to my use of the term "deter" and the idea that charges will deter parents with care from going into the statutory system, but there is no doubt that that is precisely what a high level of charge will do. She preferred to talk about "encouraging" parents with care to do something different, but we need to be frank about the reality of the impact of the proposals if they are taken forward. She has made it clear that she wants to deter parents with care from using the statutory system. I was not entirely convinced by her argument that an arrangement outside the statutory system would inevitably be better for children and for relationships between separated parents; one might hope that would be the case, but it does not automatically follow.

10.30 am

I am pleased that the Minister has told us that she has been listening to what many people have said about the impact of the proposals. I was struck by the collection of quotes that Gingerbread sent us all in its briefing on these clauses. Many people made the point that they had no choice but to use the statutory system. One of the numerous quotations that Gingerbread sent us said:

"The reason I have had to use CSA service is that I have no idea where my ex is. I have tried to make arrangements for payment without involving the CSA then after 3 years with no joy he now has the money taken directly from his wages. This is not something I could do without their help. The charges would mean that he would leave his job and claim benefits because he does not want to pay anyway".

That is a real issue. The charges the Government have said might be applied could force people such as that non-resident parent to give up their jobs and go on to benefits instead.

Another series of people argue that they cannot afford an application fee or the loss of up to 12% of their weekly maintenance. One parent with care said:

"Being charged to use the service would not make it worthwhile! He pays £30 a week and only when threatened with court. I could not obtain this money without the CSA. But taking a cut of the money—which you may realise does not go very far—my son and I would be in much greater financial difficulty, every penny counts."

Another parent with care said:

"I am on a low income and having money taken away from the maintenance would be a harsh blow, let alone having to pay a fee for the service...If I did not have the CSA to help me I would never have gotten anything...Having the maintenance means I can buy my son what he needs...so we don't have to struggle to buy food and other essentials."

A lot hangs on this issue. I hope the Minister will accept the force of the argument presented to her that the charges the Government have proposed are too high. She told us that she has been listening, and I certainly hope that that listening will be translated into changes when the Government respond to the consultation. I must say that we find ourselves in a very unsatisfactory position, given that we are debating the Bill, but the Government have not yet responded to the consultation that was supposed to inform it.

Maria Miller: The right hon. Gentleman will be mindful of the fact that there is no provision in the Bill for charging. There is no such provision in the Bill, and the amendments relate to previous legislation.

Stephen Timms: Indeed, but the Minister has confirmed that she will introduce regulations, and the Committee is our opportunity to be told what those regulations will do. However, she has frankly told us that she is not yet in a position to tell us, because the Government have not made up their mind. The one crumb of comfort she has given us is that the regulations will be affirmative, so Members will have an opportunity to debate them. I am glad that is the case.

I very much hope the Minister will take on board the forceful and compelling argument that has been put to her and the Committee that the charges the Government initially proposed are too high. I am pleased she has given us the reassurance that the new arrangements will be in place for six months before charges are imposed and that there will be a full exemption for victims of abuse.

As I said, I do not intend to press the amendments to a vote. We have had some useful clarification from the Minister, but a great deal is at stake in the decisions still to be made. We await those decisions with a lot of interest and a lot of concern about what might still go wrong if the Minister makes the wrong choices. However, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: I apologise to the Committee, but before we move on I shall raise one small matter. The Committee has been very well behaved and mannerly throughout our proceedings. At a glance a moment ago, however, some two thirds of it were busily engaged on their BlackBerrys, including both Whips, the Parliamentary Private Secretary, one shadow Minister and, I think, six or eight Back Benchers, one of whom appeared to be handling two simultaneously.

I remind the Committee that the rule of the House is that BlackBerrys should be used to a minimal purpose: to receive and send urgent messages only. That rule was reconfirmed at a meeting of the Panel of Chairs last week. If hon. Members wish to use their BlackBerrys, it might be sensible if they do so more discreetly than they have done up to now. I apologise for pulling the Committee up in that way—you have been very well behaved up to now.

Stephen Timms: I beg to move amendment 277, in clause 128, page 97, line 16, at end insert—

'(3) After section 1 of the Child Support Act 1991 insert—

(1A) The main objective of the Secretary of State, in applying the provisions of this Act either directly or via the Commission shall be to maximise the number of those children who live apart from one or both parents for whom effective maintenance arrangements are in place.".'.

The Chair: With this it will be convenient to discuss the following: amendment 278, in clause 128, page 97, line 16, at end insert—

'(3) Nothing in sections 129 to 131 of this Act shall cause the Commission to undermine the objectives outline in section 2 of the Child Maintenance and Other Payments Act 2008.'.

Amendment 279, in clause 128, page 97, line 16, at end insert—

'(3) In section 9 subsection (3) of the Child Maintenance and Other Payments Act 2008, at end insert—

"(e) the extent to which it is fulfilling its objectives as set out in section 2 of this Act.".'.

Stephen Timms: On behalf of the Committee, I thank you, Mr Gray, for the generous accolade you have just bestowed on us regarding our good manners.

Amendments 277 to 279 would underline in primary legislation the importance of the commission's objectives when shaping child support policy. Amendments 277 and 278 would ensure that while the Child Maintenance and Enforcement Commission continues in its present form as a non-departmental public body, it continues to aim to maximise the number of effective maintenance arrangements that are in place for children who live apart from one or both of their parents. Amendment 279 relates to the situation after CMEC ceases to be a non-departmental public body and becomes an executive agency in the Department for Work and Pensions. The amendment reflects our view that it is very important that the child maintenance body, whatever its corporate status, continue to focus on its purpose to maximise the number of effective child maintenance arrangements.

The commission's original and highly regarded objectives are set out in section 2 of the Child Maintenance and Other Payments Act 2008, to which we have already referred several times in our debate. Under section 2, the commission's main objective is to

"maximise the number of those children who live apart from one or both of their parents for whom effective maintenance arrangements are in place."

That main objective is supported by subsidiary objectives to

"encourage and support the making and keeping by parents of appropriate voluntary maintenance arrangements for their children"

and to

"support the making of applications for child support maintenance under the Child Support Act 1991 (c. 48) and to secure compliance when appropriate with parental obligations under that Act."

Under section 2(3),

"The Commission shall aim to pursue, and to have regard to, its objectives when exercising a function that is relevant to them."

I hope the Minister can confirm this Government's continuing commitment to those objectives, particularly in the light of the child maintenance system's changing obligations as outlined in the Bill and the Green Paper.

Amendment 278 is simple. It would insert into the Bill the commitment that no changes under sections 129 to 131 would undermine the original objectives of the commission, which are outlined in section 2 of the 2008 Act. It would ensure that changes to Government policy on child maintenance, such as the new mandatory gateway, do not undermine the commission's original aims.

We can assess the extent to which the objectives are being fulfilled on the basis of reporting. Section 9 of the 2008 Act requires the commission to report on its operation for each financial year. Amendment 279 proposes adding a new paragraph to section 9(3) of the 2008 Act to ensure that the commission's annual report on its activities and functions includes details of the extent to which it is fulfilling the objectives set out in section 2. Accepting the amendments would go some way toward reassuring groups and parents who are concerned about the system's reorganisation and who propose changes to the gateway.

There is no baseline data on the number of children who are or are not, at present, in receipt of maintenance via voluntary or statutory means. However, the 2010-11 business plan produced by the commission sought to address that issue, in order that the commission's future performance could be assessed. That business plan said:

"The Commission's success will be measured by its ability to increase the number of effective arrangements in Great Britain. In order to do this, it must first establish how many arrangements are in place at present, to use as a baseline against which to measure future progress. To do this, the Commission plans a large-scale survey of separated families. The survey will cover all families where children live apart from one or both their parents—those with private arrangements, those who use the CSA, those with an arrangement facilitated through the courts and those with no maintenance arrangement—and establish the numbers and types of maintenance arrangements in place. The survey will also provide a much deeper understanding of those families and their circumstances."

That is what the commission's business plan said about the survey the commission has announced. Can the Minister confirm that that "large-scale" and "baseline" survey is going ahead? If so, can she tell us when we can expect to know the results?

Amendment 277 provides the opportunity for us to debate the effects of the decision to scrap the commission's status as a non-departmental public body as set out in the Public Bodies Bill, which has been to the other place and reached our House, I think, a couple of weeks ago. Once the commission becomes an executive agency, its objectives and functions will no longer be set out in primary legislation. Amendment 277 aims to secure the commission's main objectives in the core Act of Parliament that provides the framework for the statutory child maintenance scheme: the Child Support Act 1991, which was enacted by the previous Conservative Government 20 years ago. Amendment 277 would ensure that, alongside the basic principles of the statutory child support scheme, the commission's main objectives, which I have quoted, are set out in primary legislation.

Amendment 277 is particularly important because it reflects widespread concern that the commission's core objective could be lost—probably inadvertently—if the Government proceed as they have so far indicated they will. When can we expect the reorganisation of the child maintenance system into an executive branch of the Minister's Department to be completed? Does she expect the commission's objectives to change with the alteration in its status? Indeed, does she believe it necessary for its objectives to change? I hope they will not, and that she can confirm she envisages that the new executive branch of her Department will have precisely the same objective the commission has at the moment. Also, does she agree that the change in status of the child maintenance body now requires a change to the legislation, to ensure that the objectives of the child maintenance system, as they

are widely understood and widely supported today, outlive the current status of the commission and are carried over to its new status as an executive section or branch within the Department for Work and Pensions?

My aim is to press the Minister to confirm that the central tenet of child maintenance policy is that as many children as possible who are living in separated families should receive financial support from both their parents. Child support is of course about providing emotional as well as financial support. The Minister is right to recognise and emphasise the importance of the former type of support in the mandatory gateway, but we all recognise that we need to acknowledge the latter type—financial support—as well.

I hope that the Minister sees these amendments as sensible and will be able to support them.

10.45 am

Maria Miller: I thank the right hon. Gentleman for setting out the objectives of his amendments so clearly. I hope that my response allays his fears.

I am glad to be able to restate our continued commitment to maximising the number of effective maintenance arrangements. We introduced the reforms precisely because we want to do so. The current approach, with its reliance on state involvement, is simply not working as well as we feel it should. More than 3 million children live in separated families, as we discussed in our debate on Tuesday, but only about 50% of them benefit from an effective maintenance arrangement. We need a new strategy based on promoting responsibility, helping parents to reach their own family arrangements wherever possible and providing a statutory system for those who cannot do so.

Stephen Timms: I am encouraged by what the Minister is saying, but will she confirm that that objective remains the central purpose of the child support system?

Maria Miller: Absolutely; as I have said, our central purpose is to maximise the number of effective maintenance arrangements. Child maintenance is just one issue facing separating families. We want to be able to put it into the broader context, because we believe that that will help more families come to more effective arrangements.

That is why we are working with voluntary and community sector organisations that support separating families. We want to understand what support is most effective for different people and how we can best join up the support available. As I mentioned last Tuesday, from talking to the individuals who run our Options service, we have learned that the ability to download non-financial issues can help people to better face whatever financial problems they may have following separation. At the moment, the system does not really allow for that. We believe that broadening the support services on offer will help families to secure better and more sustainable financial arrangements. The briefing note that I provided to the Committee supplies more detail on that.

Taken as a whole, the reforms mean that we will be able to support parents into arrangements that suit their circumstances. Where a family-based arrangement is not possible, we will provide a tougher, more effective statutory scheme to replace the Child Support Agency. We will provide improved support for those who choose a family-based approach rather than a statutory scheme and a more effective scheme for those within the statutory service.

On amendment 278, section 2 of the Child Maintenance and Other Payments Act 2008 sets out objectives for the Child Maintenance and Enforcement Commission. Nothing in clauses 129 to 131 removes the objectives established in the 2008 Act—indeed, the clauses support the planned strategy for meeting those objectives. The ability provided by clause 130 to access an indicative calculation will be an important additional tool for parents who want to make their own arrangements. Clause 129 establishes an additional way to make an effective arrangement without requiring either parent to pay collection charges.

Amendment 279 would amend the 2008 Act to require the Child Maintenance and Enforcement Commission to report against its statutory objectives in its annual report to the Secretary of State. We believe that the amendment is not necessary, because section 9(3)(b) already requires the report to cover

"the Commission's objectives and targets, the steps taken to meet them and the extent to which they have been met".

That requirement is met, for example, by the management commentary in the latest annual report and accounts for 2009-10, which I am sure Opposition Members have had a chance to read. If they read it in detail, they will be satisfied that the information they seek is already forthcoming.

The right hon. Gentleman talked about baselining and the number of families that currently have voluntary private arrangements. Some 1.3 million families are not part of statutory schemes, of which 550,000 have a voluntary private arrangement, with 520,000 of those likely to be receiving some maintenance payments. That is a starting point.

Last Tuesday, I referred to families that have no arrangements in place. I gave a figure to the Committee that may not have been completely accurate. For the record, some 720,000 families have no arrangements in place at the moment. That is the most accurate figure that we have.

Stephen Timms: Will the Minister give way?

Maria Miller: Will the right hon. Gentleman forgive me if I finish my response to his question? Hopefully it will resolve the issue.

We have not yet finalised the details of the management information in the future scheme. We anticipate that measurement of the number of children benefiting will continue in a similar way; that will capture children benefiting both through the statutory scheme and from family-based arrangements, following commission contact or intervention. We are looking at all these issues and assessing how we can capture that best, because the right hon. Gentleman is right: we do need to ensure that we know where we are now and how we are improving the situation, so that we can see how we are achieving our objective.

Stephen Timms: The Minister has given us some useful information. Are the figures she quoted drawn from the survey that I asked about, which was in the commission's 2010-11 business plan, and, if so, will more detail from that survey be published; or are figures

[Stephen Timms]

drawn from somewhere else, and, if so, are we still waiting for the results of that survey? It would be helpful for as full information as possible to be provided, so that we can evaluate the performance of the commission and in due course its successor executive agency. I will be grateful for any clarification the Minister is able to give.

Maria Miller: For absolute clarity, the figure of 1.3 million families that are not part of the statutory scheme is somewhat uncertain. The estimates are based on combining administrative CSA data and survey data, which requires significant assumptions. The results from available surveys do not accord well with known administrative data. The right hon. Gentleman can deduce from that that we need to do more work. Perhaps I could write to him with a little more detail, so that he has the information he wants. He is right to say that it is important that we know our starting point, and that we make as much information as possible available to those people who are carefully following these proceedings. I would be happy to write to him about that.

The right hon. Gentleman also talked about the changes whereby CMEC is being taken back within the Department. I can confirm that we anticipate those changes taking place late this year—subject, of course, to parliamentary process. As he mentioned, the Public Bodies Bill is yet to be debated in this place. Until that happens, it is difficult to give him a more precise answer to that question.

To conclude, I challenge the view that the only way to have an effective arrangement is to have the state manage it. That approach has been shown not to work. Our proposals will provide more choice and support to families in reaching the sorts of family-based arrangements that the evidence we have suggests are more enduring and more effective for children in the long term. I hope that, based on that assurance, the right hon. Gentleman feels it appropriate to withdraw his amendment.

Stephen Timms: I am grateful to the Minister for her helpful comments. I am particularly pleased that she has acknowledged that the central purpose of these arrangements should be to maximise the proportion of children who are, in effect, receiving maintenance—there is consensus across the Committee that that is what this is all about. I will come back in a moment to a point with which I do not agree.

I am also grateful to the Minister for her offer to write to me. I am particularly interested to know what became of that proposal in the 2010-11 business plan, produced by the commission, for a baseline survey. I was not clear whether the figures that she gave us came from that survey or something else, or whether the survey has been completed yet. If it has not been completed, when will it be and when we are likely to see the results? If she can answer those questions in her letter, I will be most grateful to her.

Having recognised and agreed across Committee the central purpose of the arrangements, it is important that it should be set out clearly in primary legislation. That is a matter not of detail, but of what the arrangements are intended to achieve. This is a question not about the books, but the bookcase. Once the commission becomes an executive agency, my concern is that its objectives and functions will no longer be set out in primary legislation. Amendment 277 would ensure that the main objectives of the system, on which we have agreed, are in the core Act of Parliament.

Charlie Elphicke: The CSA was left as a quango with totally unaccountable objectives. It was a complete and utter and unmitigated disaster that brought misery to millions of families up and down this country. In terms of its objectives, surely it is right that it has constant, democratic accountability through the Minister to Parliament, to ensure that there is a much more hands-on approach, to get it right, and to continue the slight improvements that we have seen in recent years.

Stephen Timms: The hon. Gentleman, as always, enlivens our debate. His description is accurate circa 1995. I vividly remember sitting in this room when the current Secretary of State was proposing some change to the 1991 arrangements, which he had also taken through the House. The hon. Gentleman is right; the CSA was a complete catastrophe at the time. However, it is not a catastrophe today. In our constituency surgeries, we have seen a dramatic improvement since that time—in particular the big reduction in complaints in the latter half of the past decade—so I do not agree with his description of the current situation, although it is a fair characterisation of how it used to be.

The organisation, whatever form it takes, should be answerable to Parliament through a Minister and its objectives should be set out in primary legislation. That is what the bookcase is for. The objective primary legislation should set out the purpose of all of this and that is what amendment 277 would allow.

Maria Miller: To respond to the right hon. Gentleman's comment about the present effectiveness of the agency, I have to say that although the number of complaints may well have declined, the agency now has to deal with record numbers of clerical cases because of the creaking IT system. If the system is not replaced, it will leave thousands of families without the sort of support they rightly expect.

Stephen Timms: The Minister is right. I am concerned about creaking IT systems in the context of the arrangements for universal credit, too. Certainly, more improvement is needed beyond those that have already been made.

11 am

Charlie Elphicke: The idea that everything is now fine and dandy in the garden is one that I do not recognise. My surgeries are full of people who are told that they owe amounts of money that seem to change with every letter they receive, by the day of the week. One man had his flat repossessed because the CSA imposed a charging order and he had to live in a Transit van. We see such problems and lack of humanity daily in our surgeries and it is, for me, a serious concern. Labour Members may laugh and find this amusing, but for my constituents, it is a serious concern and an issue that they raise time and again on the doorstep as well as in my surgeries.

The Chair: Order. Interventions must be brief.

Stephen Timms: I have certainly not said to the Committee that everything is now fine and dandy. That is not my view and the hon. Gentleman is right to draw attention to the continuing problems, which I readily acknowledge, notwithstanding the big improvements over the past five or six years. Amendment 277 simply seeks to make the purpose of all these arrangements clear. What is the central purpose? The Minister and I have agreed what that central purpose is—maximising the number of children who live in separated families who benefit from effective maintenance—and my argument on this group of amendments is simply that that central, agreed purpose should be in primary legislation and amendment 277 would amend the original Child Support Act 1991 to place it in primary legislation. For that reason, I would like to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 13.

Division No. 17]

AYES

Buck, Ms Karen	Greenwood, Lilian
Elliott, Julie	Pearce, Teresa
Gilmore, Sheila	Sarwar, Anas
Green, Kate	Timms, rh Stephen

NOES

Baldwin, Harriett	Miller, Maria
Ellison, Jane	Patel, Priti
Elphicke, Charlie	Smith, Miss Chloe
Glen, John	Swales, Ian
Grayling, rh Chris	Uppal, Paul
Hollingbery, George	Willott, Jenny
McVey, Esther	

Question accordingly negatived.

Clause 128 ordered to stand part of the Bill.

Clause 129

Collection of child support maintenance

Stephen Timms: I beg to move amendment 270, in clause 129, page 97, leave out lines 25 to 27 and insert—

'(b) the parent with care wishes to pursue child maintenance through the Commission and states clearly the reasons why.'.

The Chair: With this we may discuss amendment 271, in clause 129, line 27, at end insert—

'(c) the parent with care advises the Commission that the collection service is necessary to ensure either that child support maintenance is paid in accordance with the calculation or to protect her or her children from physical, sexual, emotional or financial abuse.'.

Stephen Timms: Clause 129 deals with access to the collection service. I am grateful to Gingerbread for the thought and advice it has given to changes that are needed to avoid problems that the Government's proposals might otherwise give rise to.

Let me draw to the Committee's attention how collection works at the moment. According to the CSA's latest quarterly statistics at March of this year, in just under three-quarters of cases, child maintenance is collected by the commission and passed on to the parent with care. In just over a quarter of cases, the commission does a full statutory maintenance calculation but then allows parents to choose to make their own payment arrangements directly between themselves, if they so wish. Such a maintenance direct arrangement is dependent on both parents agreeing to it. If a non-resident parent fails to pay, the commission can take the case back into the normal collection service.

The advantage of having the commission do the collection is that it monitors receipt of payment and will contact the non-resident parent if payments are missed. If a non-resident parent is unwilling to pay, the commission will pursue the arrears and if necessary intervene and insist on direct deductions from wages by an employer. If the non-resident parent is self-employed, even stronger enforcement action can be taken over arrears. Another advantage of having the commission do the collection is that it enables maintenance to flow to children in situations where, for example, parents find it difficult to communicate or do not know, for a variety of reasons, where the other parent lives. Under clause 129, maintenance will be allowed to be collected by the commission only when either the non-resident parent agrees, or the commission is satisfied that without the collection service child maintenance is unlikely to be fully paid.

The amendments would restore the choice that parents with care have under the current arrangements. Non-resident parents whose child maintenance payments are collected by the commission will be charged 20% extra for every payment. If they choose to make payments directly to the parent with care they can escape that substantial charge, and that is intended to incentivise alternative arrangements. The Government's proposal is that the parent with care will no longer have the choice whether to accept a maintenance direct arrangement. If the collection service has to be used because of the situation into which the separated parents have got themselves, the worry is that a significant barrier is introduced. The Government's proposal is that the parent with care will not have that choice. If the collection service has to be used because the commission accepts that the non-resident parent will otherwise not make full payments, the parent with care will be subject to a collection charge—a deduction from the maintenance received. So far, we have been told that the charge will be between 7% and 12% of the maintenance, but the Minister has encouraged us by saying that the Government have listened to the representations received about the high level of the charge. The charge obviously means that children will be worse off as a result of the non-resident parent's failure to make regular payments.

Once the non-resident parent has chosen to make direct payments to the parent with care, there is a danger that the new charging system will force parents with care to make do with reduced or irregular payments. The parent with care will know that if she asks to use the collection service at that stage, she will not only lose up to 12% of the maintenance due—a proportion that is large enough to make a considerable difference to someone struggling to raise children on a low income—but

[Stephen Timms]

the non-resident parent might well be antagonised by having to pay 20% on top of the maintenance that the parent with care is due. Under clause 129, access to the commission's collection service by non-resident parents, who are usually fathers, and by parents with care, who are usually mothers, is unequal.

Jenny Willott: Does the right hon. Gentleman not believe that the hypothetical situation he proposed in his example might persuade the non-resident parent that it was more beneficial to pay voluntarily than through the payment system? It would save them money.

Stephen Timms: I think it is certainly the Government's intention that a 20% payment on top of the maintenance that is due to be handed over could well encourage non-resident parents to become good payers outside the statutory scheme. My worry concerns what happens in the case of non-resident parents who are unwilling to be helpful—we all know that there are quite a lot of those. The particular concern arises from the risks, in a very difficult relationship, of antagonising the non-resident parent by imposing this significant cost on top, as well as the difficulty of taking a big chunk out of the maintenance due to the parent with care. There will be circumstances in which the 20% payment will indeed incentivise the non-resident parent to enter into an arrangement outside the statutory scheme, but there are some dangers that we need to be aware of.

My concern is the proposed unequal access between non-resident parents and parents with care. The latter, unlike a non-resident parent, will not be able to choose to use the commission's collection service. Amendment 270 would allow them to have access to the collection service if they think it is necessary to take that route. Clause 129, combined with the proposal to charge non-resident parents who use the collection service, means that all non-resident parents are likely to opt for direct payment in the first instance, regardless of whether they intend to make regular payments. A parent with care will not have the choice to opt for the collection service unless she can satisfy the commission that the non-resident parent is unlikely to pay reliably and in full. At the beginning of those arrangements, it is clearly going to be very difficult to demonstrate that. The Green Paper impact assessment acknowledges that, as a result, the parent with care could lose out on a period of child maintenance—the Green Paper speaks about

"a small cost…which may be around a month's worth of liability"—

if they are only able to persuade the commission, through a process of experiencing non-payment, that the non-resident parent is an unreliable payer and the collection service is necessary.

Actually, losing a month's worth of liability is not such an insignificant matter for a number of families. Although the Green Paper gives assurances that the commission would

"move swiftly to bring the case back to the collection service and take appropriate enforcement action",

the comments made in our earlier debate by the hon. Member for Dover remind us of the difficulties in moving swiftly that there have sometimes been with this institution. In reality, it is very likely that the process of satisfying the commission that child maintenance in future is unlikely to be paid will take significantly longer than one month. For example, the non-resident parent might give excuses about why a payment had not been made, which the commission might decide to accept, or that parent might contend that payments were in fact made, with the method of payment making it hard for the parent with care to prove that they were not. Even a month without expected child maintenance can create problems for single parents struggling to bring up children with a budget stretched to the limit. There is a variety of situations where the collection service can be extremely useful. Rather than the commission determining whether the non-resident is, or is likely to be, a reliable payer, the amendment allows the parent with care to decide whether it is necessary, since they are likely to be a better judge of that than the commission.

A study of parents with care using the CSA, which asked them whether they would consider a maintenance direct arrangement, found that 96% of them cited at least one barrier that would make it difficult for them to use it. Of the barriers, 68% of respondents said that they

"wouldn't feel sure I'd get paid at all",

61% said that they had a

"bad relationship/don't trust ex-partner",

52% said that they

"wouldn't feel sure I'd get paid the right amount of money",

52% felt that they

"wouldn't feel sure I'd get paid on time"

and 35%

"don't want direct contact with ex-partner".

Those proportions are cited from a DWP research paper compiled in 2006.

11.15 am

The amendment would give parents with care, as well as non-resident parents, an equal right to use the collection service, which would help to ensure that children did not lose out. Under clause 129, no provision will allow the parent with care to use the statutory collection service to protect herself and her children from violence by the non-resident parent, in cases with a history of such violence. In its present form, the clause gives undue power to the non-resident parent to withhold consent to the use of the collection service and to choose to pay directly to the parent with care, even against her wishes. In those cases, to show a very good reason requires personal information about the parent with care, possibly including her bank details and address, to be disclosed to the non-resident parent, which might put her at risk or at least breach her privacy.

A single parent wrote to Gingerbread:

"I have tried to 'negotiate' with my ex-partner, the father of my youngest to be told he wants to use his money to benefit himself… I have since started a claim with CSA because I cannot get him to pay. He is violent so I don't want him knowing my details especially bank and address details…if he gets my details I also get trouble at my door when he gets drunk…I have only just come off antidepressants".

That gives an indication of what is at stake for, unfortunately, a significant number of parents with care.

Amendment 271, like amendment 270, would allow a parent with care to make a choice about whether to use the collection service. It would expressly provide for access to the collection service for the parent with care where she considers that that is necessary to protect her or her children from the kind of abuse that, sadly, they have suffered in the past.

Sheila Gilmore: Working as a family lawyer, I sometimes used to feel a bit like a doctor who sees people only when they are ill. It is true that we gain a slightly jaundiced view of human nature, because we tend to see people who are not managing to make their own arrangements, whether those are residence, access or financial arrangements. Nevertheless, I do not have the rosy picture that the Minister appears to have of how easy it is to secure maintenance payments.

It is worth remembering that the CSA was set up in the first place because of a widespread perception that insufficient money flowed from non-resident parents to parents with care. That was a problem for the state in the form of outlays in benefits, but it was also perceived as a general problem in that, after separation, children were left to live in greater poverty than would be the case if the non-resident parent met their obligations. If they had already been meeting their obligations, there would have been no need for the CSA. It has had many problems over the years, but there have been several changes. In particular, allowing people on benefit to keep maintenance was a huge step forward. There was no incentive for many of my clients to even want to go through the hassles before that if they were simply going to lose the money that was collected.

There are difficulties in ensuring that money comes regularly and that people who say they will pay do so. There are many people who say, "Yes, I will pay" and then do not. We are perhaps putting in a further difficulty for poor applicant parents here, remembering that in the scheme that the Minister wishes to create there are already a number of barriers and obstacles. The people who will presumably be going through these statutory arrangements in the future, if the Minister is correct, will be far fewer in number but they will almost by definition be the ones who have the most difficult partners because, had they been able to reach voluntary arrangements in the first place, that would have been dealt with before they ever passed through the gateway.

On that basis, I do not think it is necessary to put in a further obstacle requiring the parent with care to prove that it will be difficult for them to get the payments before the collection service can be used. People who have good reason to use it, perhaps in the light of past experience, should be able to do so. It should not be good enough for non-resident parents to say, "Oh yes, I will pay", because my experience is that there were a number who would say that but not do it.

Even when we used enforcement mechanisms it was not easy, because it was difficult, before we had the CSA, to collect maintenance from certain people even when there were court orders or separation agreements. There are some people—those who change jobs, those who have an ability, often because they are self-employed, to evade collection and evade payment—who are always going to be difficult, and this difficulty of payment was not something that was created by the CSA.

One of my favourite experiences was with a scaffolder on the oil rigs. Every time you managed to catch up with him—this was pre-CSA—he would simply get another job because he was a very skilled person. He was in great demand, but running around catching him was extremely difficult. So it is not easy sometimes to get enforcement. The collection service does appear to be doing a better job in many cases than it used to, although I appreciate why some of the cases still come to us because they are very difficult. The main reason why this further restriction is unjustified is that if the Minister's view of how this will work in the future comes to pass, we will end up only dealing with the hard cases .

Maria Miller: I can be clear and hopefully allay some of the concerns about this area. Both parents should have more choice about how they can pay and make sure that there are successful financial arrangements in place for their children. We think it is fair to allow non-resident parents the opportunity to choose to pay by maintenance direct but we are conscious that they should not be given the chance to play the system, either intentionally or unintentionally.

To be blunt, where we believe that a non-resident parent is unlikely to pay we can deny that choice and, furthermore, the choice to use maintenance direct will only remain with the non-resident parent until they fail to live up to their responsibility. I could not be clearer to Opposition Members that this is about making sure that a choice is there for individuals to be able to use maintenance direct. That is fair and there are many non-resident parents out there who could well see this as an opportunity to not be part of a system that would lead to a charge and to put a successful arrangement in place. But if that is not the case and if there are any problems, swift action can be taken.

Again, to allay the fears of Opposition Members, if there is more than one month's missed payment then it would be the case that the commission could immediately come into play and make sure that that payment is made or indeed that arrears are collected.

Jenny Willott: Will the commission take into account a history—

The Chair: Order.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88 and Order of the House, 16 May).

Adjourned till this day at Two o'clock.