House of Commons
Work and Pensions Committee


First Special Report of Session 2017–19

Ordered by the House of Commons to be printed 13 September 2017
Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Office of the Department for Work and Pensions and its associated public bodies.

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Committee reports are published on the publications page of the Committee’s website and in print by Order of the House.

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Committee staff

The current staff of the Committee are Adam Mellows-Facer (Clerk), Libby McEnhill (Committee Specialist), Rod McInnes (Committee Specialist), Tom Tyson (Committee Specialist), Jessica Bridges-Palmer (Senior Media and Policy Officer), Alison Pickard (Senior Committee Assistant) and Michelle Garratty (Committee Assistant).

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First Special Report


In the Government response, the Committee’s recommendations appear in italicized text and the Government’s responses appear in plain text.

Appendix: Government Response

Introduction

The Government is committed to increasing the number of children benefiting from effective financial support and recognises the importance of the Select Committee’s inquiry into the Child Maintenance system. We have carefully considered each of the Committee’s recommendations and our responses are set out below.

Case closure

**Committee Recommendation:**

*We recommend that case histories of prolonged under-payment of child maintenance be transferred automatically from CSA to CMS. In instances where the CSA case includes ongoing investigatory or enforcement action, we recommend parents with care be permitted to opt to be placed immediately in the Collect and Pay scheme on joining the CMS.* (Paragraph 17)

**Government Response:**

In view of the history of their case, the Government agrees that parents with care who have a Child Support Agency (CSA) case where enforcement action is ongoing should be treated differently. That is why we already place these cases immediately in Collect and Pay upon entering the Child Maintenance Service (CMS), provided they apply within the required timeframe. In order to move to Direct Pay, non-resident parents must pay an agreed proportion (usually 50 per cent) of their maintenance liability on time and in full by a non-enforced method of payment for 6 months. The remaining proportion of the liability will continue to be collected by an enforced method of payment to minimise disruption for parents with care. Neither parent will have to pay the collection or enforcement charges during this period, which is known as the ‘compliance opportunity’.

Any missed payments will end the compliance opportunity, the option of voluntary payment will be removed and the case will revert completely to the Collect and Pay service, including collection and enforcement charges. No charges are applied to actions to collect unpaid maintenance that accrued on the CSA prior to joining the CMS. The compliance opportunity will not apply if both parents opt for Direct Pay upon entering the CMS.
We also recognise that historic case information can be very helpful for caseworkers, which is why they have access to the data held on the CSA IT systems, such as parents’ contact details. In addition, we have a specialist team that has access to all CSA IT systems and investigates cases where the client has evidence that indicates that the CSA arrears balance may be incorrect. We do not however have any plans to automatically transfer case histories from the CSA to the CMS. The automatic transfer of cases from one system to another caused well-documented problems for the CSA in the past.

A key principle of the new scheme is to give parents the chance of a fresh start on the CMS, so for cases where there is no ongoing enforcement action, both parents are able to indicate a preference for whether they would like to use Direct Pay or Collect and Pay. If the non-resident parent would like to use Direct Pay and the parent with care would like to use Collect and Pay, then we assess whether the non-resident parent is unlikely to pay. If the non-resident parent is deemed unlikely to pay, the case will be placed immediately in Collect and Pay. If not, the non-resident parent has the opportunity to demonstrate compliance on Direct Pay, thereby avoiding the charges for using Collect and Pay.

**Arrears**

**Committee Recommendation:**

We recommend the Department clearly set out in response to this report the criteria it uses for prioritising the collection of arrears, including any time or value thresholds, and how it intends to approach and resource tackling each category of arrears, appreciating that even small payments can be of huge value to vulnerable families. (Paragraph 61)

**Government Response:**

The Child Maintenance Arrears and Compliance Strategy, published in 2013 and in place until the end of 2017, set out how arrears collection will be prioritised. The strategy makes clear that collection of ongoing maintenance in cases where there are still children who stand to benefit is the highest priority. Historic arrears where the children concerned are now adults is a lower priority, and collection of arrears on these cases will be attempted as resources allow.

The Government agrees that it needs to review this issue and is developing a new Arrears and Compliance Strategy. We will consult later this year on our proposed approach to the collection of arrears, including the criteria for prioritising cases. We will also explore additional collection powers to prevent new debt accruing.

**Committee Recommendation:**

We recommend the CMS clarify its stance on this and inform parents with care if their arrears-only case will not be pursued. (Paragraph 62)
The planned consultation on the new Arrears and Compliance Strategy will include proposals for the handling of unpaid maintenance cases where there is no ongoing liability (arrears-only cases). The Government intends to seek the views of the public and stakeholders to inform the content of the new strategy, which will provide further clarity on our plans for handling historic debt.

As part of the CSA case closure process, parents are informed of their arrears balance. There are two types of cases that are termed arrears-only. The first group constitutes the bulk of the debt and comprises cases with historic arrears that accrued many years ago and where the child is now an adult. The second group arises from cases that had an ongoing liability under the CSA, but neither parent chose to apply to the CMS when their CSA case closed. Parents with care are given the option to write off their arrears, and are informed that if they do not opt for write-off then their debt will be moved to the CMS system where it will be held, and collection of the arrears attempted as resources allow in accordance with the arrears strategy. The Government agrees that parents should be informed about whether there are plans in place to collect the arrears owed on their case, and this will be addressed in the proposals for the forthcoming Arrears and Compliance Strategy.

Enforcement

**Committee Recommendation:**

We recommend the CMS adopt a presumption in favour of enforcement action when a payment has been missed, and proceed unless there is either evidence of a valid reason why or a credible reparative payment plan is in place. (Paragraph 70)

**Government Response:**

The Government is committed to taking strong and effective action when parents fail to meet their responsibilities to pay maintenance for their children. Our first step, if a non-resident parent fails to pay on time or in full, is to contact them to try to re-establish payments as soon as possible. If this is unsuccessful, we will then seek to take appropriate enforcement action.

Where the non-resident parent is employed, we will first attempt to deduct from their earnings with a deduction from earnings order. We can also deduct directly from solely held bank accounts as a lump sum or regular amount. If these attempts fail, we have a range of strong legal enforcement powers, including using Enforcement Agents (bailiffs) to seize assets, forcing the sale of property, disqualification from driving and commitment to prison. In order to provide a cost-effective service, we will attempt to take legal enforcement action if it represents good value for money and we are likely to achieve a successful outcome.

Where a decision is made not to take legal enforcement action, we will continue to monitor the case. Should the situation change and more information become available, the possibility of taking enforcement action will be reconsidered.
In June 2014 we introduced charges for taking enforcement action, in order to encourage parents to be compliant at an earlier stage. Enforcement charges range from £50 to £300 depending on the action taken, on top of the maintenance owed by a non-resident parent. Enforcement charges do not cover the full cost of the action, but are intended to provide an incentive to be compliant.

It is not always appropriate to take enforcement action in every case, for example there may be some cases where the non-resident parent does not have income or assets against which to enforce, or we do not have the required information, such as the non-resident parent's contact information or details of their employer. These cases are reviewed periodically to check whether any new information is available and updated when new details are supplied from clients or other sources such as HMRC or credit reference agencies.

Reflecting our efforts to strengthen enforcement action, we have consulted on extending our power to deduct from bank accounts to include jointly held accounts. We intend to publish the response to this consultation shortly. We will also consult later this year on further increasing our collection and enforcement powers as part of the new Arrears and Compliance Strategy. This will increase our ability to seize money owed to parents with care, create a greater deterrent effect to encourage early compliance and reduce the build-up of arrears in the future.

Committee Recommendation:

We recommend that a small HMRC investigation team be embedded in the Financial Investigations Unit to work in tandem with the CMS. (Paragraph 84)

Government Response:

The Government agrees that it is crucial for the CMS and HMRC to work together closely and has recently implemented significant improvements to achieve this.

The CMS uses information on parents’ taxable income provided directly from HMRC, which is a huge step forward from previous schemes, removing historic problems of establishing income information on which to base the maintenance assessment. We are also committed to sharing information with HMRC to ensure that income declared for tax purposes is correct.

When the Financial Investigations Unit (FIU) was set up in 2014 its remit was primarily CSA cases, and this has been expanded to include CMS cases. Since March 2017 we have recruited 15 new investigators, bringing the FIU to a total of 52 investigators. We continue to monitor work allocated to the FIU to ensure resources are matched to the caseload. There are plans underway for all investigators to work from the main CMS service centres to provide support and guidance to all CMS caseworkers.

The FIU already works closely with HMRC and has established a liaison group with three regional HMRC criminal investigation teams. Since this liaison group was formed, Child Maintenance Group and HMRC have conducted four successful joint investigations, two of which resulted in custodial sentences of four and seven years respectively. The FIU has expanded the information it receives from HMRC to identify assets to aid debt
recovery. The FIU is also strongly focused on dealing with complex earners, including instances of parents who divert income to another person or purpose in order to reduce their maintenance liability.

We continue to work closely with HMRC and develop new ways to pass information and evidence between DWP and HMRC to help uncover tax evasion or avoidance. This includes joint working between the Department’s Fraud and Error Service, the FIU, and HMRC’s national criminal teams. Across both departments we aim to ensure that parents are honest about their income for both tax and child maintenance purposes. We have no plans to place any HMRC staff within the FIU team, given that FIU staff are specifically trained to deal with these complex cases.

Calculations

Committee Recommendation:

Children from previous relationships and children from new relationships should be of equal importance to parents. We recommend the DWP set out, in its response to this report, how it intends to ensure that all children are given fair and equitable treatment in cases where CMS intervention is necessary. (Paragraph 63)

Government Response:

The Government agrees that all children should be of equal importance to parents, and should be treated as equitably as possible in the new child maintenance system.

The CMS has a legal responsibility to consider the welfare of all children connected to a maintenance case. The calculation of a parent’s child maintenance liability will take into account children living in the non-resident parent’s household, as well as other children for whom child maintenance is payable. Unlike previous schemes, a key feature of the 2012 scheme is that the allocation can include family based arrangements between a non-resident parent and former partner, as well as arrangements made using the statutory scheme.

Previous schemes allocated a greater share of the non-resident parent’s income to children living in their household. We improved upon this in 2012 by introducing a lower set of percentages for these children, in order to give more equal allocation of income to all children concerned. The 2012 scheme calculation is intended to provide the best overall outcomes for all clients, rather than account for the individual circumstances of every case. We accept that where money is owed for children under the CSA, the assessment does not treat all children concerned as equitably as in the new scheme, which is one reason why we are closing CSA cases and giving parents the opportunity to make a new application to the CMS or agree a family based arrangement.

The collection of arrears is prioritised in cases where money is owed for children who will benefit from maintenance payments today, irrespective of whether they are from new or previous relationships. If the child from a previous relationship is now an adult, the collection of arrears will be treated as lower priority.
**Committee Recommendation:**

*We recommend that the Department reinstate provisions for parents to challenge child maintenance awards on the grounds of assets and lifestyle inconsistent with income.*  
(Paragraph 82)

**Government Response:**

The Government recognises that some parents have complex income arrangements and that it is vital that the CMS has the right powers to ensure that a fair assessment of child maintenance liability can be made in these cases.

Under the 2012 child maintenance scheme, the gross weekly income used to calculate child maintenance is usually based on a person’s taxable earnings, in the most recent tax year for which HMRC hold a complete record. This information is provided directly from HMRC to the CMS. Having access to income information reported by HMRC allows the CMS to capture a much wider range of income types received by non-resident parents than under previous schemes.

At any time, either parent can request that the CMS takes into account additional income received by the paying parent. This can include ‘unearned income’, such as income derived from property, savings and investments (including dividends). Rather than the capital value of any assets, the CMS takes into account the actual income they generate. The CMS can also vary the calculation if a receiving parent reports that the paying parent earns other income in addition to receiving benefits, or if they suspect that the paying parent is controlling the amount of income they get by diverting it to another person or purpose. We will refer cases that require further investigation to the FIU.

If either parent is unhappy with the calculation they can first ask us to look at it again and we will swiftly amend any incorrect calculations or investigate further if appropriate. If parents remain dissatisfied after the decision has been reviewed, they can appeal to Her Majesty’s Courts and Tribunals Service.

This replaces the approach in earlier schemes which allowed parents to challenge an assessment on the grounds of lifestyle inconsistent with income. We have no plans to reintroduce this provision, which was difficult for parents to use and uncertain in effect. The onus to prove that grounds for a variation existed lay with the applicant, typically the parent with care, and it was often difficult to obtain such details. As a result, very few applications for ‘lifestyle’ variations resulted in changes to the existing liability. The decisions on these grounds also involved a degree of subjectivity and a large proportion of such decisions were challenged or appealed, delaying the receipt of a steady maintenance amount.

As part of the consultation on the new Arrears and Compliance Strategy, we will consider how we can strengthen our ability ensure all sources of income are included in the calculation.
Committee Recommendation:

We recommend that, when an application for an assets or lifestyle variation has been made and a tribunal or court ordered higher maintenance payments than would arise from a standard CMS calculation, the higher payments should apply until the variation is dismissed. (Paragraph 83)

Government Response:

The Government agrees that when a variation is put in place by the CMS on the grounds of unearned income, it should remain in place until information is provided that demonstrates the variation should no longer apply.

Once parents have received a calculation from the CMS, they can request a variation on the basis of unearned income. If accepted, the point from which a variation is applied depends on the circumstances of the case, for example when the client reported the variation and whether it related to a past decision or a newly reported change of circumstances.

Parents with court orders made after 3 March 2003 may apply to the CMS at any point but that application can only be accepted if the court order involving child maintenance has been in place for a year or more. This ‘twelve month rule’ provides a period of stability and predictability for both parents following the court order.

Once an application to the CMS is accepted, the CMS will assume jurisdiction for child maintenance. The option to apply to the CMS after twelve months prevents parents from being bound to the terms of a previous court order that may no longer reflect their actual circumstances. Either parent can approach the CMS, and we receive applications from both non-resident parents and parents with care.

The Committee noted that there may be significant differences between the court-ordered child maintenance payment, and a subsequent CMS calculation. The amounts ordered by the courts are discretionary, cover different types of maintenance, such as spousal maintenance, and are dependent on the specific circumstances of those involved. It is entirely possible that this will differ from a CMS child maintenance calculation, which is based on information from HMRC and is intended to provide consistency of decision making across a wide range of parents’ circumstances.

For these reasons, the Government has no plans to apply court-ordered child maintenance payments once parents have opened a case with the CMS.
Charging and domestic abuse

**Committee Recommendation:**

_We recommend that CMS applicants on means tested benefits be exempt from the £20 application fee._ (Paragraph 33)

**Government Response:**

The Government completed the statutory 30 Month Review of the impact of charging in December 2016, in line with its responsibilities under Section 141 of the Welfare Reform Act 2012. The response to the findings from the Review was published on 3 August 2017. Evidence from the Review about the impact of the application fee showed that some found the fee difficult to afford, particularly those on low incomes, but we do not have any evidence that indicates it is preventing parents from making an application.

The fee is designed to encourage parents to consider making a family based arrangement. Without a charge there would be no incentive for these parents to consider if they really need to use the statutory scheme. In developing the application fee, we listened to concerns raised by external groups and the original proposed amount was reduced from £100 to £20. We believe this amount is enough to encourage parents to consider their options, but not provide an unnecessary barrier to applying to the Child Maintenance Service.

The application fee was not intended to cover the cost of running the Child Maintenance Service, which remains heavily subsidised by the taxpayer. In 2015/16 fees and charges only generated 7.4% of the overall cost of running the Child Maintenance Service.

For these reasons, the Government has no plans to extend the application fee exemption to those on means tested benefits or to increase the level of the fee. We have commissioned further client surveys and will continue to monitor the impact of the application fee on those with low incomes.

**Committee Recommendation:**

_The Government should conduct a review of whether Collect and Pay charges and access criteria are achieving the intended outcome of increasing the number of more collaborative arrangements._ (Paragraph 35)

**Government Response:**

The Government has already conducted a review of the impact of charging. Research found that the ongoing charges for using Collect and Pay do factor in to some parents’ decisions to make a Direct Pay arrangement, in line with the policy intent. Around 70 per cent of CMS cases are using Direct Pay, where parents receive a maintenance calculation from the CMS and then arrange payments between themselves with no ongoing charges.

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The Department’s policy is that when parents report that their Direct Pay arrangement is not working, they are moved quickly to the Collect and Pay service, which collects and forwards payments between parents and takes enforcement action if necessary. The survey results show that some parents are staying in an ineffective Direct Pay arrangement rather than moving to Collect & Pay. We do not yet understand what is driving this, but if the ongoing charges are a factor, this is not in line with the Department’s ambition of ensuring that more children receive financial support.

We are working operationally to develop a smoother process to support those parents who cannot maintain a Direct Pay arrangement to move more quickly into Collect and Pay. We have developed improved training and guidance for caseworkers on handling Direct Pay cases, which will be rolled out from Summer 2017. We are actively looking to improve letters sent to clients, explaining more clearly what to do if their Direct Pay arrangement is not working, which we hope to introduce in 2018. In addition, the CMS is currently testing sending SMS text messages to parents after they set up a Direct Pay arrangement, prompting them to re-contact the CMS if their arrangement is not working.

Charging is intended to encourage more parents to make collaborative arrangements and achieving this change in behaviour is a long term ambition, requiring long term monitoring to measure. We have commissioned a further survey of Direct Pay clients this year, the results of which will be published in 2019.

Committee Recommendation:

All frontline CMS staff should receive training on domestic abuse, including understanding abusive behaviour and demonstrating sensitivity in dealing with its victims. Those victims are often reluctant to admit to having been abused, so CMS staff should also be trained in identifying abuse. In registered cases of domestic violence, or where CMS staff have identified it themselves, parents with care should be able to proceed directly to the Collect and Pay service and should not be charged. As part of its review of Collect and Pay charges, the Department should consider the impact of charges for the non-resident parent in cases of domestic abuse. (Paragraph 44)

Government Response:

The Government is committed to ensuring that victims of domestic abuse receive the support they need to use the CMS safely. We agree that all frontline CMS staff should receive training on domestic abuse. We have worked with stakeholders, including organisations with specialist expertise in supporting families who have experienced domestic abuse, to develop a new training package for our caseworkers. The training has been designed to help caseworkers handle calls sensitively, understand and recognise domestic abuse, and respond appropriately to clients who are victims of domestic abuse. The new training was piloted in May 2017, and the results of the evaluation will be used to refine the training as required, ahead of a national rollout from September 2017. We are also testing whether the way we have conversations with clients can help to identify those who are victims of domestic abuse.

All CMS applicants who are victims of domestic abuse are exempt from paying the application fee. The application fee exemption is broad: the perpetrator of the abuse could
be the applicant’s current or former partner, a family member of the applicant, or a family member of the applicant’s current or former partner. This means that the domestic abuse may not relate to the other parent in the applicant’s child maintenance case.

In cases where there is a history of domestic abuse between the two parents concerned, we do not believe this has to be a barrier to making a Direct Pay arrangement, which can be set up and maintained without contact between parents. The research conducted for the 30 Month Review found that parents who had experienced domestic abuse were as least as likely to have an effective Direct Pay arrangement as other Direct Pay clients. We will continue to monitor the effectiveness of Direct Pay arrangements for victims of domestic abuse internally, through statistics, management information and client contact, and in the next Direct Pay survey, due to be published in 2019.

Where parents do not wish to have any contact with the other parent, the CMS is able to support both parents to set up their Direct Pay arrangement by exchanging bank details on the parents’ behalf, and it will always ensure sensitive personal information is not disclosed. The CMS can also help parents to set up bank accounts with a centralised or national sort code, which does not reveal the parent’s location. We have refreshed our written communications and online content so that parents are aware of the support the CMS can offer.

For these reasons, the Government does not agree that parents with care who are victims of domestic abuse should be moved directly into Collect and Pay without being charged.

With regards to charges for non-resident parents, unless they are deemed unlikely to pay, non-resident parents cannot be compelled to use Collect and Pay and are given the opportunity to demonstrate compliance on Direct Pay. Non-resident parents who pay their child maintenance on time and in full can therefore avoid paying the Collect and Pay charges.

**Stakeholder engagement**

**Committee Recommendation:**

We recommend the Department establish a CMS stakeholder group, including parents with care, non-resident parents, charities such as Gingerbread and Families Need Fathers, and advisory organisations such as Citizen’s Advice. This group should review the effectiveness of the CMS, recommend improvements to its operation and consider its response to wider social and economic trends such as the increase in self-employment. (Paragraph 53)

**Government Response:**

The Department is committed to engaging stakeholders as a central part of the policy making process. We do this through formal consultations, as well as specific engagement events during the development of particular policies. For example, the Department held two events with stakeholders in April 2016 to review the impact that fees and charging have had as part of the 30 Month Review. We responded to many of the stakeholder recommendations and concerns in the 30 Month Review report. Stakeholders have a designated email address which they can use to contact the Child Maintenance Policy team and we regularly respond to a variety of ad hoc queries.
The Department set out an evaluation strategy in 2014 to review the effectiveness of the child maintenance reforms. We routinely monitor wider social and economic trends as part of our policy review process, in conjunction with stakeholders. We will carefully review the Matthew Taylor review of modern employment practices, including the rise in self-employment, and the implications for the Child Maintenance Service.

The Department is also in regular contact with a group of key stakeholders, including Gingerbread, The Children’s Society and Child Poverty Action Group, who work with the Department across a range of areas. Stakeholders have the opportunity to raise issues, share knowledge and influence policy development and delivery.

In 2014, the Department established a CMS stakeholder group known as Voice of the Client, which brings together clients, other stakeholders and child maintenance staff. Participants include non-resident parents and parents with care - both those new to the CMS and clients of many years - as well as a wide range of stakeholders, such as Gingerbread, Citizens Advice Bureau, local MP staff and One Parent Families Scotland. At least two events are held per year in each of seven regions across the UK. These events focus on clients’ experiences of the CMS and sometimes have an additional theme, for example enforcement or working with employers.

Feedback from stakeholders at Voice of the Client events has highlighted areas for operational improvement, including where more staff training is required and where system changes should be made, for example to facilitate greater use of email contact with clients. Voice of the Client has also increased staff awareness of how clients experience the CMS and the aspects of service which are particularly important to them.

We are working towards formalising the Voice of the Client stakeholder group. Each region has now developed local action plans for taking forward Voice of the Client improvements, which feed into wider Departmental plans. Given the ongoing work to improve stakeholder engagement, we have no plans to establish a new stakeholder group.

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