

# A COMPARATIVE STUDY OF CHILD MAINTENANCE REGIMES

## Questionnaire for national informants

### **Focus of questionnaire**

The questionnaire concerns your child maintenance (child support) regime. By this we mean the overall system in your country under which parents meet their financial obligations in respect of children with whom they do not live. These financial obligations arise when parents live apart following a divorce or separation, or when parents have never lived together.

### **Scope**

The questionnaire is primarily concerned with regular payments for financial support, which we call here child maintenance. There are other forms of financial transactions between parents who do not live with each other including spouse maintenance (or alimony), lump sum payments, transfers of property, assets and pension rights. We are interested in these other forms of support only in so far as they affect child maintenance. We do not define a child. Please use those age related definitions of a child or children that are relevant in your country, throughout the questionnaire, with appropriate explanations when necessary.

The child maintenance regime includes arrangements for determination, enforcement and revision of payments. In most countries, the child maintenance regime will be some combination of private voluntary arrangements, formal arrangements made by courts, and formal arrangements made by other organisations or agencies. We seek information about all these.

The questionnaire is primarily concerned with entitlements to and liabilities for transfers of private resources. There are a few additional questions about the interaction of child maintenance with public resource transfers (for example maintenance guaranteed by the state and social benefits).

This questionnaire is not concerned with children for whom the state has assumed responsibility, and/or who live in foster homes, children's homes or other institutions. We seek information about child maintenance in respect of children living at home with one parent.

We are interested in three different groups of parents:

- separated married parents (whether formally divorced or not)
- separated cohabiters
- parents who have never lived together.

### **Core terms**

We call the parent who has the main day-to-day responsibility for the child(ren) concerned, the parent with care. We call the parent who is not currently living with the child(ren) and their other parent, the non-resident parent. The amount of money the non-resident parent is required to pay (or agrees to pay) the parent with care is called the obligation. (In some literature or countries this may be called the award or the obligation.) Definitions of other terms are provided below.

### **Organisation of questionnaire**

The questionnaire is organised in the following way.

- Part One seeks information about the history and general objectives of your child maintenance regime.
- Part Two asks how families enter the child maintenance system, including the general framework for divorce, separation, and the establishment of paternity for nonmarital children.
- Part Three covers detailed information about the determination of maintenance due. We ask how obligations are set, looking at rules, guidelines and discretionary components.
- The procedural aspects of collection and enforcement, and the implications of non-compliance are covered in Part Four.
- Part Five asks about the interactions of receipts and payments with other policies.

- *Administrative costs and quantitative data on outcomes are covered in Part Six.*
- *Part Seven asks you to draw on existing research in a brief evaluation of the child maintenance regime in your country; it also asks for the main topics of research and debate in your country.*
- *Part Eight presents two vignettes, or cases, in which we describe the circumstances of parents and children, and ask you to describe how they might be dealt with under your child maintenance regime.*

*There are further instructions on how to fill in the questionnaire at the beginning of each part (with instructions presented in shaded text). We suggest that you read through the whole questionnaire thoroughly before you begin. We assume you will find it more convenient to complete the questionnaire directly onto the file. If you would prefer a paper copy, with space allowed after each question, please let us know.*

*We ask that you provide us with a list of the sources you consulted most frequently when answering this questionnaire.*

*When we ask for current information, this relates to the situation at 1 July 2006.*

<b>TERMS AND DEFINITIONS</b>	
<i>Advance maintenance</i>	<i>Program in which child maintenance money is provided in advance of any payment made by the non-resident parent. In effect this guarantees an amount of child maintenance.</i>
<i>Child</i>	<i>We do not define a child. Please use those age related definitions of a child or children that are relevant in your country throughout the questionnaire.</i>
<i>Child maintenance</i>	<i>This refers to the money due to children from their liable parent (following the breakdown in the parental relationship). It may be paid to the parent with care or the child(ren); this varies by country.</i>
<i>Child maintenance regime</i>	<i>We include here all arrangements under which non-resident parents provide financial support for their children. We include voluntary arrangements, arrangements through the legal system, and arrangements through governmental agencies. We include both explicit and implicit governmental policies.</i>
<i>Cohabitees</i>	<i>We use this to refer to unmarried parents who live together</i>
<i>Guaranteed maintenance</i>	<i>Same as 'Advanced Maintenance' (see above)</i>
<i>New child or children</i>	<i>Where parents move on after separation or divorce and produce another child/children with a new partner.</i>
<i>New family</i>	<i>Where parents move on after separation or divorce and develop family relationships with a new partner. This may or may not also include children.</i>
<i>New partner</i>	<i>Where parents move on after separation or divorce and develop an intimate relationship with a new adult.</i>
<i>Non-resident parent</i>	<i>Refers to the parent with whom the children do not live a majority of the time. In many countries this is commonly the father.</i>
<i>Nonmarital child or children</i>	<i>Refers to a child or children from a relationship in which the parents are not married.</i>
<i>Obligation or 'child maintenance obligation'</i>	<i>This refers to any award of money made for child maintenance only. We use it as a general term to refer to all official and unofficial arrangements.</i>
<i>Prior child or children</i>	<i>Some parents have children from more than one relationship. We use "prior children" to refer to children from a previous relationship.</i>
<i>Parent with Care</i>	<i>This is the parent who has the main day-to-day responsibility for the children and the child(ren) live with this parent the majority of the time. In many countries this is commonly the mother.</i>
<i>Social assistance</i>	<i>By this we mean programs that provide income to low-income individuals or families. These programs have an income test, and often also have asset limits. This is one type of social benefit.</i>
<i>Social benefit</i>	<i>We intend this to be a very broad term. It includes all programs that provide income to individuals and families. This includes social assistance programs and programs that do not have an income test.</i>
<i>Step child</i>	<i>Where a parent has responsibility for a child living in their household who is not related to them biologically.</i>
<i>Tax benefit</i>	<i>We use this term broadly to refer to special features of the tax system that allow individuals in certain circumstances to pay less taxes. We also include programs that provide income through the tax system.</i>

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## PART ONE: DEVELOPMENT OF CHILD MAINTENANCE REGIME

*This part of the questionnaire seeks a broad overview of your current system.*

*Please remember that we are interested in three groups of parents:*

- *separated married parents (whether formally divorced or not)*
- *separated cohabiters*
- *parents who have never lived together.*

### **1.1 Consider the overall arrangements in your country for determining, enforcing and revising child maintenance payments. What are the broad policy objectives of these arrangements? We are interested in both explicit and implicit objectives.**

The primary child maintenance system in the UK is the Child Support Agency (CSA). The CSA is an agency of the larger Department of Work and Pensions which is responsible for all social assistance matters in the UK. The Agency therefore shares their wider values/aims which are:

- To end child poverty by 2020
- Promote work as the best route out of poverty
- Ensure customers receive a high quality service and high levels of accuracy

The Agency has a single dedicated function to deal with child maintenance matters. Its primary explicit objective is to ensure that where an application has been made for child maintenance, then parents who live apart contribute financially for their children. Implicitly its aim is to ensure that NRPs (mainly fathers) accept they have a responsibility to continually financially support their children until they reach adulthood. Thereby, it implicitly aims to redraw the boundaries between the financial responsibilities of the state and families for the care of children where the parents do not live together – it is expected that more NRPs take on more financial responsibility than in the past.

The CSA makes no distinction between cases on the basis of marital status or whether the parents cohabited or not. It does however distinguish between public cases where the PWC or NRP is in receipt of means tested social assistance, and private cases where the PWC is not in receipt of social assistance. In private cases either the PWC or the NRP can approach the Agency for an assessment and collection service, but in public cases the CSA automatically becomes involved.

Parents can make private voluntary agreements outside the auspices of the agency, as long as they are not dependent on social assistance benefits and remain so. These private agreements can be made with advice from lawyers as part of separation or divorce agreements, and in these circumstances the CSA formula will be used as a guideline for calculating the amount due. As soon as the PWC claims social assistance any private agreements are overturned.

The courts retain a residual role mainly to do with special cases or circumstances.

### **1.2 Please explain briefly the history and development of the current regime.**

The CSA was first introduced in 1993 to replace an ineffective dual system based in the Courts and in the social benefits system. The courts were responsible for setting the obligation amount and for enforcement and dealing with change of circumstances; the social benefits system dealt primarily with low income families on social assistance and tried to recover some spousal and child maintenance from NRPs. The CSA was to be a new designated agency whose only responsibility was to deal with child maintenance; designed to manage all aspects of setting the obligation, enforcement and reviewing changes in circumstances. Its aim was to ensure compliance among all NRPs and to increase and standardise the amounts of the obligation based on NRP's incomes in order to reduce public expenditure costs of supporting PWC on social assistance. A new standard formula was introduced to work out the amounts of maintenance based on the parents' incomes.

The system was not well received by NRPs when it was implemented in 1993 and a nationwide

vociferous campaign group of mainly middle class fathers developed in opposition to the policy and the agency. They used numerous strategies to disrupt the work of the Agency and to bring about policy change that would reduce the amounts of child maintenance they were expected to pay. Their campaign was partly successful and numerous incremental policy changes were put in place up until 1997 to take account of various circumstances and expenses incurred by NRP (see below).

**1.3 If there has been a major transfer of administrative responsibilities or any major change in approach since 1997, please describe the policy context and the process of creating and implementing the initiative. Were the changes controversial? (an example here might be the establishment of a new agency)**

When the Labour Government was elected in 1997 they inherited a very unpopular and complex CSA system partly because of the incremental changes and partly because of the sensitivity of the formulae to take account of individual circumstances. In 2000 they introduced new legislation that aimed to simplify the formula for calculating child maintenance and thereby making it more transparent to parents and easier to administer. However, implementation of the new system was delayed by two years due to computer problems and did not begin operating until 2003 for all new cases of child maintenance. The plan was to move pre-existing cases over from the old formula under the original legislation in 1993 to the new system once the new scheme was working well. But, this has not happened because of a number of problems – mainly IT related with the new scheme. This has resulted in two CSA systems running side by side, unofficially known as ‘CSA 1’ and ‘CSA 2’. There are almost a million cases still in the old scheme under the original formula and the agency has a complex caseload to manage which has resulted in delays. Consequently an independent review is being undertaken (February 2006 – July 2006) to evaluate the whole system and come up with new plans for an effective and efficient child maintenance regime.

**1.4 Which of the following were explicit objectives of the change?**

- Limiting public expenditures
- Enforcing obligations to biological children
- Reducing child poverty
- Influencing relationship formation and dissolution behaviour
- Influencing employment of lone parents
- Increasing voluntary arrangements for maintenance
- Other (please describe briefly)

To impose tougher sanctions on non- payers

To introduce a simpler formulae

To improve the service delivery to parents

## PART TWO: ENTERING THE CHILD MAINTENANCE SYSTEM

*In this part of the questionnaire we are interested in entrance into the child maintenance system, considering arrangements for couples who have been married, those who have cohabited, and those who have not lived together.*

### 2.1 CHILD MAINTENANCE ARRANGEMENTS FOR COUPLES WHO HAVE BEEN MARRIED

#### 2.1.1 In your country, who has primary responsibility for divorce proceedings?

Courts

Other (please list and describe)

#### 2.1.2 Please explain briefly the legislative, administrative and procedural framework for divorce in your country.

Divorce can be applied for (through Court system) after one year and one day of marriage. 'Irretrievable breakdown' of the marriage is grounds for divorce and should be supported by one of the following:

- Unreasonable behaviour by one party
- Adultery
- That the couple have lived apart for 2 years and consent to the dissolution of the marriage
- That the couple have lived apart for 5 years (no consent necessary)
- That there has been a period of 2 years desertion

Procedure:

- Petitioner (that is the person applying for a divorce – the other partner is referred to as the 'respondent') issues a petition for divorce. (A petition is a document that contains details of the marriage partners, children and the particulars of the case – i.e. why there are grounds for a divorce)
- If there are children a 'statement of arrangement' for them detailing who they will live with; arrangements for contact and financial arrangements must also be filed to the court.
- The respondent is then sent papers by the court and must confirm that they have received them – (if they do not then petitioner's lawyers need to arrange for them to be physically handed over to respondent).
- The applicant (petitioner) signs a legal document that confirms the contents of the petition.
- The judge considers all papers and decides both whether the relationship has irretrievably broken down and whether the arrangements made in respect of any children are satisfactory.
- If satisfied a legal decree is granted – it is at this stage that assets are divided – but marriage is not dissolved until application for, and granting of, a decree absolute.

#### 2.1.3 Explain how decision-making about child maintenance fits around the divorce process. Who has the main responsibility for deciding whether and how much child maintenance should be paid when a couple divorce?

Parents may choose to enter the CSA system as private clients when they first separate. Divorce procedure as in 2.1.2. (If there are children a 'statement of arrangement' for them must be filed; the judge decides whether the arrangements made in respect of any children are satisfactory. If they are not the couple can not proceed with the divorce.)

Couples who are not obliged to use the CSA (i.e. who are not receiving certain benefits) face the same divorce procedure as in 2.1.2. Within the divorce procedure, they are likely to require legal representation. While they can come to a voluntary agreement on the level of obligation for the NRP, the CSA formula would typically be used as a guide. Couples can make a written maintenance agreement, asking the court during the divorce proceedings to include this amount as

part of a consent order dealing with other financial issues. This would make the amount legally binding; it could be enforced if the NRP did not pay. This does not invalidate any later claim to the CSA (clsdirect.org).

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## **2.2 CHILD MAINTENANCE ARRANGEMENTS FOR COUPLES WHO HAVE LIVED TOGETHER WITHOUT BEING MARRIED**

### **2.2.1 Please explain briefly the legislative, administrative and procedural framework (if there is one) in which unmarried parents who had lived together separate.**

Couples who have not been married may, but are not obliged to, enter into a separation agreement – a written agreement drawn up to set out how they want to resolve issues concerning money, property and children.

### **2.2.2 Explain how decision-making about child maintenance fits into this framework. Who has the main responsibility for deciding whether and how much child maintenance should be paid when an unmarried couple separate?**

Parents may choose to enter the CSA system as private clients when they first separate as long as the PWC is not receiving Social Assistance benefit. They may make a voluntary agreement for child maintenance outside any legal or administrative framework; this would not be legally enforceable. They may instead file a formal separation agreement that might include an amount of child maintenance. (This would not invalidate any later claim to the CSA.). Parents who can agree amongst themselves on appropriate amounts of child maintenance may use the court system. They can request that their legal team draw up a 'consent order', a contract which sets out what both parties have agreed. The court examines this agreement and may make an order in the terms agreed. Courts have the power to enforce the non-payment of maintenance. However, if the parties cannot agree amongst themselves, they must go to the CSA in the first instance.

In cases where the PWC is in receipt of social assistance benefits, the CSA will decide on the amount to be paid by the non-resident parent.

### **2.2.3 Please explain briefly what happens if paternity is disputed in couples who have lived together.**

Under family law, an (alleged) non-resident parent or a parent or person with care can apply direct to a Court and request that they determine the parentage of a child.

Because of delay associated with processing CSA applications where paternity was disputed, the law has recently been changed in this area in the UK and the CSA is now entitled to presume that a person is the father of the child in the following circumstances:

- Where his name is on the birth certificate
- Where he was married to the mother at the time of conception or birth
- Where he refuses to take a DNA test

In effect, in a dispute about paternity it is up to the alleged non resident parent to prove that he is not the child's biological father. Where a dispute concerning paternity arises **before** the CSA have calculated child maintenance obligations they can sometimes presume that the alleged non-resident parent is one of the child's parents and calculate child maintenance accordingly. Alleged non-resident parents, whilst in the process of proving they are not the child's parent, still have to pay child maintenance obligation meanwhile. Payments are refunded should it be found that they are not the child's father. Where the CSA can not presume the person is the child's father they may advise both parties to take a DNA test.

In such circumstances, the parent with care needs to agree for the child to be tested also. If the person disputing parentage refuses to take the DNA test, the Child Support Agency can treat them as the child's parent; if they get Income Support or income-based Jobseeker's Allowance, their benefit may be reduced.<sup>1</sup>

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## **2.3 CHILD MAINTENANCE ARRANGEMENTS FOR THOSE WHO HAVE NEVER LIVED TOGETHER**

**2.3.1 In couples who have not lived together, explain how decision-making about child maintenance is made. Who has the main responsibility for deciding whether and how much child maintenance should be paid?**

Same as 2.2.1

**2.3.2 Please explain briefly the process for establishing legal paternity in couples who have not lived together when paternity is not in dispute. (For example, legal paternity is presumed if the father's name is on the birth certificate.)**

If paternity was not in dispute, then there would be no need to establish it.

**2.3.3 Please explain briefly what happens if paternity is disputed in couples who have not lived together.**

Same as 2.2.3

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<sup>1</sup> CSA document relating to Child support: disputed parentage and DNA testing; Resolution web site

## PART THREE: THE DETERMINATION OF CHILD MAINTENANCE DUE

*Part Three of the questionnaire is concerned with determination of the child maintenance obligation and entitlement - the decision-making process by which child maintenance is agreed between parents, or decided by Courts or Agencies. This part of the questionnaire does not ask about arrangements for collection or enforcement of maintenance, which is dealt with in Part Four.*

*After an initial overview (Questions 3.1.1-3.1.5), we ask for detailed information about the determination of child maintenance due in three sections which address separately:*

- *voluntary agreements between parents (Questions 3.2.1-3.2.3)*
- *obligations determined by Courts (Questions 3.3.1-3.4.4)*
- *obligations determined by other agencies/organisations (Questions 3.5.1-3.6.5)*

*One of these three sections may not be relevant in your country (for example, if Courts are not involved in determination of maintenance obligations). Please complete the sections which are relevant to your country, and if you leave out a section please explain why.*

*Please remember that we are interested in three groups of parents:*

- *separated married parents (whether formally divorced or not)*
- *separated cohabittees*
- *parents who have never lived together.*

### 3.1 OVERVIEW

**3.1.1 Are parents who were married allowed to make a voluntary agreement as to the amount of maintenance? Are separated cohabittees? Are parents who have never lived together? For each group, please briefly discuss the circumstances in which they are allowed to make a voluntary agreement.**

All parents, regardless of marital status would be allowed to make voluntary agreements as to the amount of child maintenance **unless** they were in receipt of certain social security income replacement benefits – in which cases the CSA would ask the parent with care to provide details on the non resident parent. CSA would then decide the amount of child maintenance due.

**3.1.2 If parents can make a voluntary agreement, does it have to be approved by someone else? By whom? What criteria are used? How often is the agreement approved, and what happens if it is not? (Again please answer each part of this question for separated married parents, separated cohabittees, and those who have never lived together.)**

A voluntary agreement does not have to be approved by any one else. One exception is that where parents are going through the process of divorce, they should file to the court a 'statement of arrangement' for their children detailing who the children will live with; arrangements for contact and financial arrangements which will be taken into account in granting the divorce.

**3.1.3 Do courts play a role in determining maintenance amounts? If so, is it a primary role, or residual? Please briefly explain the circumstances and the types of cases in which the court is involved.**

The courts play a residual role in **determining** child maintenance obligations. The following are potential situations in which a Court would decide (these are essentially cases where the CSA does not have jurisdiction):

- Where the non-resident parent is abroad
- Determining the maintenance obligations of a step-parent

NRP's can also get an order from the court:

- for school fees;
- for the particular needs of a disabled child;
- for a 'top-up' order if the maintenance that the CSA can order reaches a ceiling;
- To vary an existing order

(Community legal services direct ([www.cls.org.uk](http://www.cls.org.uk)))

**3.1.4 Do agencies other than the court play a role in determining maintenance? If so, which agency/agencies? Please describe its functions, both in terms of functions related to child maintenance and functions related to other areas of responsibility. Please explain the circumstances and the types of cases in which the agency is involved.**

The Child Support Agency in the UK (described in part 1.1), an agency dedicated to child maintenance, can be involved in the determination of child maintenance (but needn't be in all circumstances – see 3.1.1). Its functions include the calculation, forwarding and enforcement of child support from the non-resident parent. The agency would be involved where requested by parent(s) – for example where parents can not come to a voluntary agreement or where a voluntary agreement (ratified by the Court or not) has broken down; and in cases where the PWC received certain income maintenance benefits.

**3.1.5 For children of formerly married parents, is the child maintenance obligation in the child's name or in the name of the parent with care? Is this different for separated cohabiters or for children of parents who have never lived together? Does it differ depending on whether it is a voluntary agreement versus being determined by the court or an agency?**

- In cases where the CSA collects and transfers money then the award is made in the name of the parent with care.
- In voluntary agreements it would not be prescribed and
- Courts could use their discretion, but usually awards are made in the PWC's name.

*We now ask more detailed questions about the three types of arrangements, voluntary, court-determined, and agency-determined.*

## **3.2 VOLUNTARY AGREEMENTS ABOUT CHILD MAINTENANCE**

**3.2.1 Please provide information on voluntary agreements: are lawyers, agencies or other organisations involved in mediating or helping to negotiate voluntary child maintenance agreements? If so, please explain the processes. Are there any formal guidelines on deciding the amount?**

Parents are free to arrange amounts of maintenance voluntarily. In cases of divorcing parents, lawyers may be involved in that a statement of arrangement for children must be filed with the Court. Couples who decide to live apart (but have never been married) may also enlist the services of lawyers and mediators in drawing up a separation agreement (including arrangements for child maintenance) if they so wish. In voluntary agreements there are no formal guidelines for deciding the amount of child maintenance (although the Court is said to use CSA formulae as guidelines).

### 3.2.2 What happens if parents attempt to reach a voluntary agreement but are unable to do so?

If parents can not reach a voluntary agreement, then they may wish to seek the services of a mediator (perhaps with solicitors) to help them reach one. Alternatively, they can apply to the Child Support Agency who would then decide the amount of child maintenance due.

## 3.3 COURT DETERMINATION OF CHILD MAINTENANCE

*This section seeks detailed information about child maintenance determined by Courts. If Courts are not involved in determination of maintenance in your country, please go on to the section on agency determination (after question 3.4.4). If courts are involved, please provide copies of formulae, standards, schedules, tables or guidelines as appropriate in addition to answering the questions below. If the Court uses discretion to address any of the questions below, please discuss the criteria that are typically taken into account. As you answer questions in this section, please remember that we are interested in three groups of parents (separated married parents, separated cohabitees, and parents who have never lived together).*

### 3.3.1 Please explain how lawyers, agencies or organisations are involved in mediating, supporting or helping parents involved in Court decisions about regular child maintenance. Does this differ for separated married parents, separated cohabitees, and parents who have never lived together?

This mostly concerns divorcing couples and those who are applying for a revision of the CSA formula in extenuating circumstances – for example relatively wealthy non resident parents. The parent with care could also ask for review where the child is disabled or attends private fee paying school. Also, Parents who can agree amongst themselves on appropriate amounts of child maintenance and intend to use the court system to ratify it, may request that their legal team draw up a ‘consent order’ - a contract which sets out what both parties have agreed.

### 3.3.2 How would you describe the main method of Court determination of the amount of maintenance on the following continuum:

- Full discretion
- Mostly discretion, but with informal guidelines
- Formal guidelines
- Rules/rigid formulae

Whilst they are not obliged to, lawyers and the Court are expected to use as a guide the CSA formulae – which are rules/rigid formulae. Therefore, the rest of this section is intentionally left blank; responses begin again in 3.5.1

**If more than one method is used, please describe the circumstances that could lead to different methods.**

**Please report any differences between separated married parents, separated cohabitees, and parents who have not lived together.**

### 3.3.3 Is there a minimum amount of maintenance required?

- No
- Yes. How much? What are the circumstances in which it is used?

If there is a maximum, please also provide information on its level and the circumstances in which it is used.

**3.3.4** These questions deal with how the Court takes account of the non-resident parent's resources in determining whether there is a child maintenance obligation and its amount.

**A.** How much of the non-resident parent's earnings are considered?

- All
- Some (explain)
- None (go to 3.3.4 C)

**B.** If some or all of the non-resident parents earnings are considered, is this based on gross or net earnings?

- Gross
- Net (What is deducted?)

**C.** Are other sources of income (for example, benefit income, asset income, etc.) of the non-resident parent considered?

- All ignored
- All considered
- Some ignored, some considered. Which ones?

**D.** Are the non-resident parent's basic living expenses taken into account?

- No
- Only in certain circumstances. Please describe the circumstances in which this would occur and the way in which it affects the obligation.
- Yes. Please describe the way in which it affects the obligation.

**E.** Are the non-resident parent's other personal expenses considered? (For example, work expenses, sickness/health expenses). In what type of circumstances? Are debts considered?

How?

**F.** Are any allowances made for expenses involved in maintaining a relationship with

the child? (For example, consider transportation, housing, etc.) How are these expenses considered?

**3.3.5** The following questions deal with how the Court takes account of the non-resident parent's family relationships in determining whether there is an obligation and its amount.

- A. Is the obligation affected by whether the non-resident parent has a new partner with whom he lives? How does it affect the obligation? Do a new partner's resources (income) matter? How? Does a new partner's own child (the non-resident parent's stepchild) matter to the obligation? How?
  
- B. Is the obligation affected by whether the non-resident parent had prior children? In what way?
  
- C. Is the obligation to the children affected by whether the non-resident parent has a new child that he lives with? In what way?
  
- D. Is the obligation to the children affected by whether the non-resident parent has a new child that he does not live with? In what way?

**3.3.6** These questions deal with how the Court takes account of the parent with care's resources in determining whether there is an obligation and its amount.

- A. How much of the parent with care's earnings are considered?
  - All
  - Some (explain)
  - None (go to 3.3.6 C)
  
- B. If some or all of the parent with care's earnings are considered, is this based on gross or net earnings?
  - Gross
  - Net (What is deducted?)
  
- C. Are other sources of income (for example, benefit income, asset income, etc.) of the parent with care considered?
  - All ignored
  - All considered
  - Some ignored, some considered. Which ones?

- D. Are the parent with care's basic living expenses taken into account?
- No
  - Only in certain circumstances. Please describe the circumstances in which this would occur and the way in which it affects the obligation.
  - Yes. Please describe the way in which it affects the obligation.
- E. Are the parent with care's other personal expenses considered? (For example, work expenses, sickness/health expenses). In what type of circumstances? Are debts considered? How?

**3.3.7** These questions deal with how the Court takes account of the parent with care's family relationships in determining whether there is an obligation and its amount.

- A. Is the obligation affected by whether the parent with care has a new partner? How is the obligation affected? Do a new partner's resources (income) matter? How? Does a new partner's own child (the parent with care's stepchild) matter to the obligation? How?
- B. Is the obligation affected by whether the parent with care had children prior to this relationship? In what way?
- C. Is the obligation affected by whether the parent with care has a new child that she lives with? In what way?

**3.3.8** These questions deal with how the Court takes into account the amount of time the non-resident parent spends with the child in determining whether there is an obligation and its amount.

- A. If a child will spend approximately equal time living with each parent, how would this affect the maintenance obligation?
- B. If a child will not spend equal time living with each parent, would the amount of time spent with the non-resident parent affect whether there is an obligation and its amount? How?

**3.3.9** These questions deal with the way the obligation relates to characteristics of the child/children and special expenses for them in determining whether there is an obligation and its amount.

- A. Does the child's age affect the amount of the obligation? If yes, what are the age groups? Do obligations increase or decrease with age?

- B. Does the number of children affect the amount of the obligation? How?
- C. Is there a minimum desirable amount set per child?
- D. What other characteristics of the child/children can affect the amount? (An example may be a child with a disability).
- E. What expenses for children can affect the amount of the obligation? (For example, child care expenses, school expenses, special health expenses, etc.)

**3.3.10** These questions deal with the way the obligation is related to other financial circumstances of the parents. (Please note that we are only interested in these issues as they relate to child maintenance.)

- A. Please explain how the Court treats owner-occupied housing owned by parents, and other assets, such as land and vehicles, in making decisions about regular child maintenance.
- B. Please explain how the Court treats other financial transactions and settlements that may be made in making decisions about regular child maintenance. We include here:
  - lump sum payments
  - previous voluntary child maintenance payments
  - spouse maintenance (alimony) or other financial transfers to ex-partners
  - transfer of pension rights

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#### **3.4 PROBLEMS AND REVISIONS FOR COURT DETERMINATIONS**

**3.4.1** Please discuss any problems that arise in gathering information necessary for the Court to determine maintenance, and how such problems are dealt with.

**3.4.2** Approximately how long does it usually take for the Court to make the financial decisions about child maintenance?

**3.4.3** When does obligation for and entitlement to Court-determined child maintenance end for divorced and separated parents and their children?

Please explain with reference to:

- child's age/education level
- marriage/cohabitation of child

- any other characteristics of child
- cohabitation/remarriage of parent with care
- cohabitation/remarriage of non-resident parent
- any other characteristics of either parent.

#### 3.4.4 These questions deal with revisions to the amount due.

- A. Does the Court do an automatic adjustment of existing obligations? If so, what adjustment mechanism is used? (An example would be updating annually to take account of inflation.)
- B. If there is not an automatic adjustment, is there a regular review? How often? What criteria are used to determine if the obligation should be changed?
- C. Can all parents (parents with care and non-resident parents) request an adjustment? If not, are there any types of parents who can? What factors are considered in whether an adjustment is made?

### 3.5 AGENCY DETERMINATION OF CHILD MAINTENANCE

*This section seeks detailed information about child maintenance determined by agencies or organisations other than the Court. In some countries there are no such agencies involved in the determination of child maintenance liabilities and entitlements, because such matters are handled solely by the Court. If this applies to your country, please go straight on to Question 3.7.1. If agencies are involved, please provide copies of formulae, standards, schedules, tables or guidelines as appropriate in addition to answering the questions below. If the agency uses discretion to address any of the questions below, please discuss the criteria that are typically taken into account. As you answer questions in this section, please remember that we are interested in three groups of parents (separated married parents, separated cohabitants, and parents who have never lived together).*

#### 3.5.1 Please explain how lawyers, agencies or organisations are involved in mediating, supporting or helping parents involved in Agency decisions about regular child maintenance. Does this differ for separated married parents, separated cohabitants, and parents who have never lived together?

The CSA would make decisions concerning child maintenance according to rigid rules/formulae – without scope for direct involvement of lawyers etc. Voluntary organisations may provide advice on how the Agency works but they cannot mediate child maintenance amounts on behalf of parents.

#### 3.5.2 How would you describe the main method of Agency determination of the amount of maintenance on the following continuum:

- Full discretion
- Mostly discretion, but with informal guidelines
- Formal guidelines
- Rules/rigid formulae

**If more than one method is used, please describe the circumstances that could lead to different methods.**

Not applicable

**Please report any differences between separated married parents, separated cohabitants, and parents who have not lived together.**

No differences for Agency decisions

**3.5.3 Is there a minimum amount of maintenance required?**

**No**

**Yes. How much? What are the circumstances in which it is used?**

There is no minimum amount of money assigned per se, as the formulae works on percentages of the non resident parent's income. Moreover there is also a 'nil' rate which can be applied by the Agency – for students, children and prisoners, for example. However, for those earning £100 or less (or who are on benefit) there is a flat rate of £5.00

**If there is a maximum, please also provide information on its level and the circumstances in which it is used.**

There is a maximum award limit. Legislation limits the amount of net weekly income (£2000) that can now be taken into account when working out child maintenance. So, for example a non-resident parent with one qualifying child will, via the CSA, pay no more than 15% of £2000, (£300), child maintenance. In cases where the non-resident parent's net weekly income is more than £2000, the person with care can apply to the courts for top-up maintenance. If granted, the Child Support Agency can collect this top-up maintenance with child support.

**3.5.4 These questions deal with how the Agency takes account of the non-resident parent's resources in determining whether there is a child maintenance obligation and its amount.**

**A. How much of the non-resident parent's earnings are considered?**

**All**

**Some (explain)**

**None (go to 3.3.4 C)**

Generally all earnings are included; however net income over £2000/week is ignored

**B. If some or all of the non-resident parents earnings are considered, is this based on gross or net earnings?**

**Gross**

**Net (What is deducted?)**

Tax and National Insurance are deducted as well as (recognised) pension contributions (maximum of £104,000 pa).

**C. Are other sources of income (for example, benefit income, asset income, etc.) of the non-resident parent considered?**

**All ignored**

**All considered**

**Some ignored, some considered. Which ones?**

Benefits are considered; income from savings is not included. Small amounts of share dividends are not included, but larger amounts (over £100) are included.

**D. Are the non-resident parent's basic living expenses taken into account?**

**No**

**Only in certain circumstances. Please describe the circumstances in which this would occur and the way in which it affects the obligation.**

**Yes. Please describe the way in which it affects the obligation.**

**E. Are the non-resident parent's other personal expenses considered? (For example, work expenses, sickness/health expenses). In what type of circumstances? Are debts considered?**

Generally none, but see below.

**How?**

A variation from the formula can occur if the non-resident parent is paying for boarding school fees for the eligible child/children.

**F. Are any allowances made for expenses involved in maintaining a relationship with the child? (For example, consider transportation, housing, etc.) How are these expenses considered?**

Maintenance due may differ from standard calculations if there are high costs related to seeing the child or children for whom maintenance is due (for example, travel costs)

**3.5.5 The following questions deal with how the Agency takes account of the non-resident parent's family relationships in determining whether there is an obligation and its amount.**

**A. Is the obligation affected by whether the non-resident parent has a new partner with whom he lives? How does it affect the obligation? Do a new partner's resources (income) matter? How? Does a new partner's own child (the non-resident parent's stepchild) matter to the obligation? How?**

Not affected in any way.

**B. Is the obligation affected by whether the non-resident parent had prior children? In what way?**

Yes, if they are recognised as a 'qualifying child' by the CSA. In this case, the formula of 15% for one child, 20% for 2 children and 25% for three or more children is applied to his total obligation.

This is then divided equally among the children. Thus, a non-resident parent who has two non-resident children, living with two different parents with care, would owe a total of 20% of his net income, and this would be divided between the two children.

**C. Is the obligation to the children affected by whether the non-resident parent has a new child that he lives with? In what way?**

As above - , if they are recognised as a 'qualifying child' by the CSA. Formulae above would then apply.

**D. Is the obligation to the children affected by whether the non-resident parent has a new child that he does not live with? In what way?**

As above, if they are recognised as a 'qualifying child' by the CSA. Formulae in 3.5.5A above would then apply.

**3.5.6 These questions deal with how the Agency takes account of the parent with care's resources in determining whether there is an obligation and its amount.**

- A. How much of the parent with care's earnings are considered?
- All
- Some (explain)
- None (go to 3.5.6 C)
- B. If some or all of the parent with care's earnings are considered, is this based on gross or net earnings?
- Gross
- Net (What is deducted?)
- C. Are other sources of income (for example, benefit income, asset income, etc.) of the parent with care considered?
- All ignored
- All considered
- Some ignored, some considered. Which ones?
- D. Are the parent with care's basic living expenses taken into account?
- No
- Only in certain circumstances. Please describe the circumstances in which this would occur and the way in which it affects the obligation.
- Yes. Please describe the way in which it affects the obligation.
- E. Are the parent with care's other personal expenses considered? (For example, work expenses, sickness/health expenses). In what type of circumstances? Are debts considered? How?

No

**3.5.7 These questions deal with how the Agency takes account of the parent with care's family relationships in determining whether there is an obligation and its amount.**

- A. Is the obligation affected by whether the parent with care has a new partner? How is the obligation affected? Do a new partner's resources (income) matter? How? Does a new partner's own child (the parent with care's stepchild) matter to the obligation? How?
- No
- B. Is the obligation affected by whether the parent with care had children prior to this relationship? In what way?
- No
- C. Is the obligation affected by whether the parent with care has a new child that she lives with? In what way?
- No

**3.5.8** These questions deal with how the Agency takes into account the amount of time the non-resident parent spends with the child in determining whether there is an obligation and its amount.

**A. If a child will spend approximately equal time living with each parent, how would this affect the maintenance obligation?**

If the time spent with each parent is roughly equal then there is a financial reduction of 50% plus £7 per week to the child maintenance obligation (Resolution website).

**B. If a child will not spend equal time living with each parent, would the amount of time spent with the non-resident parent affect whether there is an obligation and its amount? How?**

Yes, maintenance obligation is adjusted in line with overnight stays – if the child stays with the non resident parent for more than one night on average per week then obligation is reduced by 1/7<sup>th</sup>; 2/7ths for two nights; 3/7ths for three nights; and if the time spent is equal then as above: financial reduction of 50% plus £7 per week to the child maintenance obligation (Resolution website).

**3.5.9** These questions deal with the way the obligation relates to characteristics of the child/children and special expenses for them in determining whether there is an obligation and its amount.

**A. Does the child's age affect the amount of obligation? If yes, what are the age groups? Do obligations increase or decrease with age?**

Not affected.

**B. Does the number of children affect the amount of obligation? How?**

Yes, obligation worked out according to how many children support is to be paid for: 15% of income for one child; 20% for two children and 25% for three children or more.

**C. Is there a minimum desirable amount set per child?**

No – is calculated on a % basis. See above.

**D. What other characteristics of the child/children can affect the amount? (An example may be a child with a disability).**

Generally none. But a variation from the formula can occur if there are extra costs due to a child's long-term illness or disability.

**E. What expenses for children can affect the amount of the obligation? (For example, child care expenses, school expenses, special health expenses, etc.)**

If the NRP has excessive travel costs (or if they need to be accompanied to travel to see /collect) their child or if they pay private school fees or they have a child living with them who has a disability this can vary the obligation.

**3.5.10** These questions deal with the way the obligation is related to other financial circumstances of the parents. (Please note that we are only interested in these issues as they relate to child maintenance.)

**A. Please explain how the Agency treats owner-occupied housing owned by parents, and other assets, such as land and vehicles, in making decisions about regular child maintenance.**

In the standard assessment formulae it would not consider them. However, in certain circumstances either the PWC or the NRP may ask for assets to be taken into account. E.g., the parent with care would be able to apply for a variation in certain circumstances: when the non

resident parent has assets (money or property or both – but not the home or business assets) worth more than £65,000; when the NRP's lifestyle is inconsistent with their income; when the NRP is diverting money or property – or both – to someone else to reduce child maintenance (CSA website).

**B. Please explain how the Agency treats other financial transactions and settlements that may be made in making decisions about regular child maintenance. We include here:**

- lump sum payments
- previous voluntary child maintenance payments
- spouse maintenance (alimony) or other financial transfers to ex-partners
- transfer of pension rights.

These are generally ignored. However, the NRP may apply for a variation to the formulae if they pay mortgage payments or insurance policy payments in respect to the house in which the PWC and children live or if they transferred property or capital before 5<sup>th</sup> April '93 to the PWC.

### 3.6 PROBLEMS AND REVISIONS FOR AGENCY DETERMINATIONS

#### 3.6.1 Please discuss any problems that arise in gathering information necessary for the Agency to determine maintenance, and how such problems are dealt with.

There are a number of potential problems in this respect:

- a) Non compliance on the part of either the parent with care, or more likely, the non resident parent. This can lead to avoidance and delay of payment.
- b) Agency staff are also obliged to gather a great deal of information from a variety of sources which can also delay processing.

#### 3.6.2 Approximately how long does it usually take for the Agency to make the financial decisions about child maintenance?

The CSA has abandoned the target set of 6 weeks to clear an application and establish payment arrangements. The average clearance time of a case is now 6 months (25% less than 6 weeks; 22% between 6 weeks and 3 months; 22% between 3 and 6 months; 18% between 6 and 12 months; 13% more than a year).

#### 3.6.3 Please explain any circumstances in which Agency-determined child maintenance obligations are overridden by other legal requirements.

Can be overridden by courts - e.g. if the amount awarded by the CSA is the maximum payable according to the formulae, but the PWC thinks that – due to income levels for example (exceeding £2000 per week) – the non resident parent could/should pay more.

#### 3.6.4 When does liability for and entitlement to Agency-determined child maintenance end for divorced and separated parents and their children?

Please explain with reference to:

- child's age/education level

Entitlement ends when the child reaches 16 (or 19 if the child is in full-time non-advanced education (the definition of full time education is more than 12 hours a week of study on a course up to and including A level standard))

- marriage/cohabitation of child

Not applicable

- any other characteristics of child

Not applicable

- cohabitation/remarriage of parent with care

Not applicable

- **cohabitation/remarriage of non-resident parent**

Not applicable

- **any other characteristics of either parent.**

Not applicable

### 3.6.5 These questions deal with revisions to the amount due.

- A. Does the Agency do an automatic adjustment of existing obligations? If so, what adjustment mechanism is used? (An example would be updating annually to take account of inflation.)**

There is no automatic adjustment.

- B. If there is not an automatic adjustment, is there a regular review? How often? What criteria are used to determine if the obligation should be changed?**

There is a review of the child support case from time to time (e.g., every three years or so) and this will take into account all changes in the circumstances of all parties involved.

- C. Can all parents (parents with care and non-resident parents) request an adjustment? If not, are there any types of parents who can? What factors are considered in whether an adjustment is made?**

All parents can request an adjustment; relevant factors of consideration are likely to be:

- Increases in time which the child spends staying with either parent which would affect the amount of the obligation.
- For the NRP – new children for which they have a financial obligation; changes in their income levels or assets;

*This ends the sections of the questionnaire that have detailed questions on the way maintenance amounts are determined in voluntary, Court-based, and agency-based arrangements. The final section of this part asks broader questions.*

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## 3.7 REVIEW AND SUMMARY

### 3.7.1 Please review all your answers in Part Three, “The Determination of Child Maintenance Due.” Please summarize the key differences in the ways in which separated married parents, separated cohabiters, and parents who have never lived together are treated differently. What is the rationale for these differences in treatment?

A key difference in the way that parents with different marital status are treated is that divorcing parents (but not necessarily married people separating but not divorcing), as part of the divorce process, **have to** file a statement to the Court detailing what arrangements they are making for the care of children from the marriage – including financial arrangements.

The major distinction in the UK child support regime is not so much between groups of parents with different marital status, but rather between those parents who operate within different child support decision making systems (i.e. voluntary; CSA ; Court). They will be subject to different constraints (and in some cases of course, the decision is made for them). A further distinction to make is that those parents with care who are on benefit are automatically brought under the jurisdiction of the CSA to

determine child maintenance obligations and some commentators argue that the UK has a two tier system of child support in that low income families (on certain social security benefits) do not have a choice about whether to engage with the CSA system – they are compelled to and thus have less say in the arrangements (amounts, who paid to) (Ridge 2005<sup>2</sup>).

The rationale is unclear. There are three different systems (voluntary, Court and CSA) operating simultaneously, under different conditions and principles.

### **3.7.2 What are the perceived advantages associated with voluntary agreements about child maintenance, and by/for whom are these perceived? What are the perceived disadvantages and problems, and by/for whom?**

Advantages:

Voluntary agreements potentially represent a more consensual approach to negotiating child support for parents and children; relatively inexpensive; in theory there is more choice about payment arrangements (amounts, methods). As such more open to negotiating changes in circumstances.

Disadvantages:

Such agreements are relatively precarious in terms of enforcement. There is substantial variation in outcomes among parents in similar circumstances. Weaker parties may be taken advantage of.

### **3.7.3 What are the perceived advantages associated with Court-based agreements about child maintenance, and by/for whom are these perceived? What are the perceived disadvantages, and by/for whom?**

(Should bear in mind the **residual role** of the court in decision making in the UK: Since 1993, the Court's power to make new orders for maintenance for children have been limited (see above discussion on stepchildren and variations to CSA formulae in instances of NRP earning over £2000 per week).

Advantages:

The agreement has legal standing

Greater degree of discretion in that decisions can be made on a more individualised basis

Disadvantages

Greater degree of discretion in that decisions can be made on a more individualised basis, but system thus generates inconsistent outcomes.

It is also relatively expensive to engage with the Court system and such a process is by its nature adversarial.

### **3.7.4 What are the perceived advantages associated with Agency-based agreements about child maintenance, and by/for whom are these perceived? What are the perceived disadvantages, and by/for whom?**

Advantages

It is argued that a standard formulae means that decisions will be consistent across similar cases (as opposed to the older system of Court based decisions which were argued to be highly discretionary).

Disadvantages

Difficulty that such a national, centralised bureaucratic organisation has in terms of responding to parents' changes in circumstances.

Waiting times for assessment, and compliance rates are also an issue in the UK (adversely affecting PWC and children), as are enforcing arrangements (PWC complain that the CSA does not use the

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<sup>2</sup> Ridge, T. (2005) 'Supporting Children? The Impact of Child Support Policies on Children's Wellbeing in the UK and Australia' in *Journal of Social Policy*, Vol. 34, no 1, pp 121-142.

enforcement powers that it already has (Wikeley 2006<sup>3</sup>).

Complicated formulae for working out obligations not transparent to parents.

Some parents with care (those on certain income maintenance benefits) have no choice but to engage with the system).

**3.7.5 Please comment on the way that voluntary agreements, Court agreements and Agency agreements interact. What happens if later a voluntary agreement breaks down? Can the parent with care seek assistance from the Court or Agency? Would they recalculate the amount of the obligation?**

All of the above are inherently unreliable in their nature in that none of them guarantee a transfer of monies to the PWC (i.e. there is no system of 'guaranteed maintenance').

If parents have made a voluntary agreement about child support and this later breaks down then they can apply to the CSA (even if parents have engaged with the legal system – this does not preclude them from later going to the CSA for a determination of child support obligation) who will assess the amount of support according to their formulae.

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<sup>3</sup> Wikeley, N. (2006) 'Child Support – Looking to the Future, in *Journal of Family Law*, May 2006, pp 360-365.

## **PART FOUR: COLLECTION, PAYMENT AND ENFORCEMENT OF CHILD MAINTENANCE**

*This part of the questionnaire is concerned with the way in which child maintenance monies are transferred from the non-resident parent to the parent with care and/or child. For some people, this may be achieved entirely by their own arrangements, including the direct transference of monies from non-resident parent to the parent with care, or arrangements through a bank. For others, transfer of monies may involve an intermediary (for example, a collecting agency), which has responsibility for receiving child maintenance from non-resident parents, and forwarding payments to parents with care/children. We seek information on collection and forwarding, non-payment, and guaranteed or advance payment schemes.*

### **4.1 DIRECT ARRANGEMENTS FOR COLLECTING MAINTENANCE**

#### **4.1.1 Under what circumstances may non-resident parents choose to pay child maintenance directly? We mean direct transfers of money from the non-resident parent to the parent with care or a private bank transaction.**

Parents who come to voluntary agreements would be free to transfer monies as they wished (provided the PWC was not in receipt of a means tested social assistance benefit).

CSA functions in this respect: Private (Maintenance Direct) payments work whereby parents initially register with the CSA who then carry out a Maintenance Calculation on their behalf. The PWC and the NRP then reach a private arrangement for maintenance payments whereby the NRP pays the amount of maintenance due directly to the PWC. There is no further involvement by the CSA unless either the PWC or NRP requests it. For example, the re-involvement of the CSA may happen if the private arrangement breaks down through NRP non-compliance or if there should be a change in circumstances that no longer allow a private arrangement to be possible. As of March 2006, 16% of all cases used this payment method.

All CSA PWCs, including benefit recipients, are free to opt for child support payments via Maintenance Direct. However, the option of MD is not generally encouraged for PWC benefit recipients.

Further:

- Non-resident parents on benefits are not eligible for MD
- Parents on MD are encouraged to set up direct payments using Standing Orders or Direct Debit arrangements (as opposed to cheques or cash).

#### **4.1.2 Are these direct payments monitored, and if so, how?**

Voluntary agreements are not monitored.

CSA: Direct payments are not monitored, although parents are free to ask the CSA to make a calculation and use the CSA collection service instead.

#### **4.1.3 If direct payments are not made, can parents with care seek enforcement of payment? How? What steps would occur?**

CSA: If payments break down, the parent with care is at liberty to contact the CSA and request an enforcement of payments. The Agency will then contact the NRP and state that s/he must comply and give details of the level of arrears and when payments are due. Unless direct payments are re-established then payments will revert back to the CSA's Collection Service. If non-compliance continues, the Child Support Agency will take the necessary action to make sure that all due child maintenance is paid, using its powers under the 1991 Child Support Act (see section 4.3 for more detail on these powers).

In addition, if for any reason the NRP is unhappy with the Maintenance Direct arrangement (for example, concerns that the PWC may falsely claim non-payment for example) then s/he is at liberty to contact the Agency and state a desire for payments to revert back to the Collection Service.

#### **4.1.4 Please discuss the perceived advantages of direct payment arrangements, and the perceived problems.**

Key advantages can be summed up as follows:

- encourages greater financial responsibility
- reduces the administrative burden upon the CSA
- overcomes potential administrative delays in getting maintenance payments through to the parent who is caring for the child.

The extent to which PWCs will be attracted to MD as a payment method really depends upon the nature of their relationship with NRPs. Parents with care are likely to be more disposed towards the use of MD if, for example, they have a satisfactory relationship with the non-resident parent and are confident in the level of NRP commitment to the children. A level of dissatisfaction with CSA involvement in their maintenance arrangements may be a further influencing factor. In general MD is a payment method that offers greater attractions for NRPs. These include the scope for flexibility in the level and timing of maintenance payments, and the potential to build a more trusting and private maintenance arrangement with the PWC.

Key barriers for PWCs towards use of MD include not wanting any involvement with NRPs, being happy with the 'certainty' that may be afforded by CSA involvement, concerns that there will be a negative effect on NRP compliance, and concerns that PWCs may feel 'abandoned' by the CSA and that arrears - in the event of the NRP stopping payments - will be harder to recover.

The key barriers for NRPs will include a perception that it will be harder to provide proof of the payments that they have made.

## **4.2 MEDIATED ARRANGEMENTS FOR COLLECTING MAINTENANCE**

### **4.2.1 Is there an organisation/agency that has primary responsibility for collecting and forwarding child maintenance? Which organisation? If this is a different organisation than the agency that assesses maintenance, please provide information on its functions.**

Yes, the Child Support Agency, an executive body of the Department for Work and Pensions, see part 1 of the questionnaire.

### **4.2.2 Please provide information about the administrative and procedural arrangements for collecting and transferring maintenance. If you have more than one scheme, please deal with these separately. Please explain any difference in arrangements for different groups of parents (separated married parents, separated cohabiters and parents who have never lived together). Please explain any differences for whether the amount was set voluntarily, through a Court, or through an Agency.**

The Child Support Agency has two parallel schemes for making and collecting child maintenance (see part 1 of the questionnaire). In either scheme, the Parent With Care (PWC) can opt for a Calculation only or a Calculation and Collection service. The latter includes both the formation of the maintenance calculation and instructing the Agency to collect the maintenance from the NRP.

There are various collection mechanisms in place to collect child maintenance. The CSA's favoured method is 'Maintenance Direct' where the money is paid directly from NRP to PWC (only 16% of clients currently use maintenance direct<sup>4</sup>), but where the PWC opts for Calculation and

<sup>4</sup> Source: In house analysis of administrative data.

Collection, the Agency will set up a Direct Debit or Standing Order. The money comes into the Agency and is paid out as soon as possible to the PWC from the Agency's finance department.

There are no differences in place for the different groups of parents that you have outlined, but there is a difference between private clients where the PWC and NRPs are not claiming social assistance benefits and public clients where either the PWC or NRP are claiming social assistance benefits.

Under the new scheme a person with care on social assistance benefits (IS/income based JSA) who is paid child maintenance will have a Child Maintenance Premium valued up to a maximum of £10 per week on top of their benefit entitlement.

**4.2.3 Please describe any types of circumstances in which payments are automatically withheld from wages (that is, prior to any problem with non-payment).**

There is a facility called a voluntary Deductions from Earnings Order (DEO), which can be put in place which will automatically withdraw the amount of maintenance from the NRP's wages. The NRP has to agree to this before it is initiated.

**4.2.4 In Section 4.4 below we ask for information on schemes that forward maintenance due in advance of collection. Other than these schemes, what is the usual timescale for delivering payments to parents with care/children?**

There is no general scheme that provides for child support to be passed on to a parent with care prior to it being collected.

There is no set timescale that the Agency adheres to for delivering the child maintenance payment to the PWC as there are varying times depending on the method of payment. Overall, the timeframe fluctuates from one to fourteen days.

**4.2.5 What are the perceived advantages of your collection and forwarding scheme(s), and what are the main problems?**

The main advantages to the collection scheme is that it is reliable, regimented and fundamentally, the money is assigned quickly.

The main disadvantage of the system is dictated by client error. Where the client(s) provide the wrong automated credit transfer details, the process can become delayed.

A disadvantage of the DEO process is that it is limited to earnings and does not cover all monies that may be received by NRPs, such as those mentioned in section 3.

### 4.3 NON-COMPLIANCE

**4.3.1 For parents with mediated arrangements for collecting and transferring maintenance, we are interested in what happens when non-resident parents do not pay the amount due. Which of the following could happen?**

- Attachment of earnings
- Deductions from bank accounts/savings/pensions
- Deductions from benefits
- Recovery through tax
- Seizing and selling assets
- Driving licenses revoked
- Passport confiscation

- Criminal prosecution**  
 **Imprisonment**  
 **Interest charged on debt**  
 **Other** (see below)

Charging Order: Forced sale of the non-resident parent's property (Qualifications to above: it is possible to pursue a criminal prosecution but only in cases where the non-resident parent fails to provide information or knowingly provides false information – failure to pay child maintenance is not a criminal offence). Legislation does allow for the charging of fees and interest but this has been suspended for several years.

**4.3.2 Of the interventions marked in 4.3.1, which are most likely? Please comment on whether these typically occur in a particular sequence, that is, differentiate between any that are routinely used at the first instance of non-payment and those only used for persistent non-payment. Finally, please comment on the timing of collection interventions; how soon after non-payment would something happen? (If different types of cases have different steps or different timing, please explain.)**

Deduction from Earnings Orders (DEOs) and deduction from benefits are the most routinely used as they are administrative functions and therefore do not require the imposition of a liability order and subsequent application to the courts. There are around 150,000 DEOs currently in operation and around 66,000 new DEOs are implemented each year. About 66% of DEO cases are currently compliant.

Sequence is as follows: Deduction from Earnings Order or deduction from benefits – depending on whether or not the non-resident parent is in employment. This would be followed by a Liability Order (a Court imposed legal recognition of arrears owed). This would allow for the Agency to levy distress (use of bailiffs), seek to deduct money from a bank or savings account (by way of a Court imposed Third Party Debt Order). If the non-resident parent owns a property, the Agency can apply to the Magistrates Court for a Charging Order to be imposed, which would allow for the forced sale of the non-resident parent's home. As a last resort, the Agency can ask a Magistrates Court to find that the non-resident parent has shown "wilful refusal or culpable neglect to maintain" and it would then be possible for the Magistrate to impose a prison sentence or withdraw a driving licence – this would be at the discretion of the Court.

Some cases will need different steps to be applied at different times; for example, someone who is self-employed who refused to pay would require a liability order before effective enforcement action could be taken and someone that does not own a property would not be served with a Charging Order.

There are no uniform timescales for enforcement action and it would not be possible to measure these in any robust manner. Steps to recover outstanding maintenance should be taken as soon as payment breaks down.

If a Deduction from Earnings Order is appropriate, employers are legally bound to deduct the money by the 19<sup>th</sup> day of the month following its imposition. Deductions from benefit can take up to 2/3 weeks to be processed and paid.

**4.3.3 When parents with care and their children do not receive the child maintenance due to them as a result of non-compliance by non-resident parents, what steps could the parent with care take? Who would they complain to? What happens when a complaint is made? (Arrangements by which child maintenance due (or some part of it) is guaranteed by the state are covered in the next section, so do not need to be covered here.)**

The parent with care can complain to the Agency at any stage in the lifecycle of their application. The Agency currently has a 3 tier complaints process in place. A Complaint Resolution Officer will try to resolve any initial complaint, however if the client remains dissatisfied, they can escalate their complaint to the relevant Area Director. Further still, a complaint can be escalated to the Chief Executive if the client still feels it has not been resolved. The Independent Case Examiner (ICE) provides an independent complaint and resolution service for CSA clients. Additionally, clients may also choose to involve their MP or approach the Parliamentary and Health Service Ombudsman, or seek legal representation. These are avenues for all types of complaints and do not merely relate to enforcement. There is also an appeals and tribunal system for escalated complaints. Depending on their nature, some cases could be heard in the Courts or be subject to Judicial Review.

In general, if the Agency has been attempting to take enforcement action but the non-resident parent is actively taking steps to avoid payment then the parent with care will not be compensated.

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#### **4.4 GUARANTEED MAINTENANCE PROGRAMS**

**4.4.1 We are specially interested in schemes which forward maintenance due to the parent with care/child in advance of collection from the non-resident parent, thus guaranteeing that something is received. (We do not include here general social assistance programs available to all low-income parents.) Does your country have such a guaranteed maintenance program?**

Yes (continue)

No (go to Part Five)

**4.4.2 Please describe eligibility for the guaranteed maintenance program. For example, are all parents with care eligible, or only those in which non-payment has occurred? Is there an income test? Is this available only for those with certain court or agency agreements, or can those with voluntary agreements also participate?**

**4.4.3 Please describe the amount guaranteed. Is this a proportion of the amount owed or a flat amount? Is there a minimum or a maximum? Does the amount vary across parents? Is the amount ever adjusted (for inflation or for changes in individual situations)? Under what circumstances is it adjusted?**

**4.4.4 We are interested in the interaction between the guaranteed maintenance program and other parts of your social benefits system. Is the guaranteed maintenance program intended to be an alternative to other benefits or is it intended to supplement them?**

**4.4.5 Please describe the administration of the program. Who administers it? Who is responsible for recovery of the amounts forwarded?**

**4.4.6 What are the perceived advantage and disadvantages of the scheme?**

### **PART FIVE: FINANCIAL INTERACTIONS**

*This part of the questionnaire is concerned with the interactions between child maintenance amounts and other policies in your country.*

## 5.1 TREATMENT OF MAINTENANCE RECEIVED

**5.1.1 Do child maintenance payments received by the parent with care/child count as taxable income, for purposes of both central and local taxation? How? If, in your child maintenance regime, child maintenance is in the child's name (rather than the name of the parent with care), please explain how this income is dealt with for tax purposes. Does it matter if child maintenance was agreed on a voluntary basis, or determined by the Courts or Agency? How? Please also explain any differences in tax treatments which depend on the current marital status of the parent with care (whether married to a new partner or not).**

Child maintenance payments received do not count as taxable income in either Income Tax (central taxation) or Council Tax (local taxation). This applies regardless of whether the maintenance is paid to the child or to the parent with care. It also makes no difference whether the child maintenance is paid under legal or less formal arrangements, or whether or not the child's parents are or have been married.

**5.1.2 Do child maintenance payments received affect any social benefits of the parent with care and/or child? How? If maintenance counts as assessable income for purposes of social assistance, please explain any disregards that operate. Also, if some portion of child maintenance is retained by the government and not sent to the parent with care, please explain this as well.**

Many social benefits have conditions for their award which are not related to income (for example, Child Benefit, contribution-based Jobseeker's Allowance, Retirement Pension, Incapacity Benefit, Bereavement Allowance). There are different rules for the treatment of child maintenance payments in income-related benefits, where entitlement is affected by the recipient's income :

Working Tax Credit, Child Tax Credit (mainly provided to people in low paid work) and Pension Credit – child maintenance payments are wholly ignored

Housing Benefit & Council Tax Benefit (help for people in rented housing and local income taxes)– the first £15 a week of maintenance payments are ignored, and the balance taken fully into account

Income Support & income-based Jobseeker's Allowance (Social assistance benefits for working age people) - the first £10 a week of child maintenance payments received by the person with care is ignored (this disregard is described as the Child Maintenance Premium) and the balance taken fully into account.

Where a parent with care receives Income Support or income-based Jobseeker's Allowance, the Child Support Agency will often ask the non-resident parent to make maintenance payments to it rather than to the parent with care. Where this occurs, the parent with care's benefit will be worked out ignoring in full the child maintenance payments. The payments will be retained by the Child Support Agency, except for the first £10 (or less, if the NRP pays less) a week, which will be paid to the parent with care as a Child Maintenance Premium.

**5.1.3 Do child maintenance payments received affect any tax benefit for the parent with care and child? Do they affect any other formal financial liability or entitlement for the parent with care and child?**

Payments received may, in some (uncommon) circumstances, affect entitlement to help with Dental/Optical/Prescription charges for PWC.

## 5.2 TREATMENT OF MAINTENANCE PAID

**5.2.1 How does child maintenance paid interact with the tax system, in both central and local tax regimes? Can the amount paid be deducted from income, thereby lowering tax liabilities?**

**Does the amount paid affect any tax benefits for the non-resident parent? If there are different tax treatments according to whether the child maintenance is agreed on a voluntary basis, or determined by the Courts or Agency, please explain this. Explain any differences in tax treatments which depend on the non-resident parents' current marital status (whether married to a new partner or not).**

Maintenance paid does not count as taxable income.

With the one limited exception, payments of maintenance are not eligible for any tax relief. Where a payer or their former spouse was born before 6 April 1935, they can claim income tax relief for legally based child maintenance payments. For 2006/07, the relief is the lower of 10% of the maintenance payments made or 10% of the married person's allowance of £2350.

**5.2.2 Does child maintenance paid (or not paid) affect any social benefits of the non-resident parent?**

No, not in general.

**5.2.3 Does child maintenance paid (or not paid) affect any other formal financial liability or entitlement of the non-resident parent?**

Not that I am aware of.

## PART SIX: COSTS AND QUANTITATIVE DATA ON OUTCOMES

*The first section focuses on costs of the child maintenance regime, beginning with governmental costs of any targeted child maintenance agency (if any). We then also ask you to estimate, if possible, costs for court and agencies that may deal with assessment and enforcement. The final section asks for quantitative data on outcomes that are available in your country.*

### 6.1 COSTS OF THE CHILD MAINTENANCE REGIME

**6.1.1 If your country has an agency (or more than one agency) that is primarily responsible for assessing, collecting or enforcing child maintenance, what are its administrative costs? If possible, identify any categories of costs, either by function (costs of assessment versus enforcement) or for different types of cases. Please provide information about the types of costs included and not included (for example, whether these costs are net of any fees or any amounts retained by the government). Finally, if the amount of maintenance collected per unit of administrative cost is available in your country, please provide this information here.**

The Child Support Agency operating costs shown in the Administration Accounts was £465 million for 2005/6. This includes £56 million which was not directly allocated to the Agency, but has been notionally recharged (without the transfer of cash) as the Agency's share of costs incurred by the Department for Work and Pensions in 2005/06. This means that the Agency's administrative costs were £409m in 2005/06. The only part of this that can be separated is expenditure on Child Support Reform and the Operational Improvement Plan which totalled £95 million (this is included in the £409m) in 2005/6. The OIP will cost £120 million over the period 2006/09.

**6.1.2 If your country has any child maintenance functions within the courts, please provide, if possible, estimates of the administrative costs associated with assessing, collecting or enforcing child maintenance. Note that we are interested only in the portion of court costs directly related to the assessment, collection and enforcement of child maintenance, not to divorce or separation in general.**

A small percentage of child support is dealt with through consent orders or court proceedings. However, court proceedings would only be for cases where the parents have initially had a CSA calculation and wish to have additional maintenance added to their CSA child support. This is only likely to occur in cases where the non-resident parent has very high earnings (over £104,000 net per annum). Parents can also go to court to obtain monies for child related expenses such as school fees or other specific items. It is difficult to isolate costs for the child support elements of legal and court proceedings. However, we can provide average costs per financial provision case. This is around £3000 per case. The total cost of the legal aid bill on financial provision in family proceedings is around £78,500,000 per annum.<sup>5</sup> The figures cited above do not include follow up costs to enforcement of the non-payment of child support.

**6.1.3 If your country has any child maintenance functions within an agency other than an agency primarily responsible for child maintenance, please provide, if possible, estimates of the administrative costs associated with these functions. Again, note that we are interested only in the portion of costs directly related to child maintenance, not to other benefits due to all children or even all low-income children.**

In the UK, 'Job Centre Plus' provides a range of services – in relation to child maintenance it:

- is mainly responsible for the "front-end" of the process - which involves completing a maintenance application form with the parent with care and referring it to the Child Support Agency via an electronic IT interface.
- is responsible for interviewing parents with care on social assistance benefits (when they claim 'good cause' (such as fear of violence) to opt out of the CSA and the subsequent

<sup>5</sup> See *Legal Services Commission Annual Report 2004/05*, London: The Stationery Office.

decision-making – this includes administering any associated reduced benefit decisions.

Older cases under 'CSA 1' may qualify for a one-off bonus payment when the benefit claim is terminated – Jobcentre Plus is responsible for administering these systems.

Finally, non-resident parents can (in certain circumstances) pay maintenance directly from benefits that they receive. Although this process is largely automatic, Jobcentre Plus are responsible for ensuring this money is paid out once the Child Support Agency have correctly requested the deduction.

The table below illustrates the per annum costs on child support related functions\*:

<u>Processes</u>	<u>Resource (FTE)</u>	<u>Monetary Value</u>
Gather CS details	138.94	£2.631 M
Good Cause Decision Making	78.19	£1.942 M
Transmitting CS information to CSA	45.32	£0.791 M
<b>TOTALS</b>	<b>262.45</b>	<b>£5.364 M</b>

\* NB: costings are based on a September 2003 model.

**6.1.4 If your country has an advanced or guaranteed maintenance programme, please provide any details of costs that are available. If possible, differentiate between administrative costs and monies paid to parents with care that are not reimbursed.**

The UK does not have an advanced or guaranteed maintenance programme.

**6.1.5 Please list any financial costs to parents that are associated with assessing, collecting, or enforcing child maintenance (for both parents with care and non-resident parents). For example, there may be legal fees associated with enforcement, fees for a mediator who assists with voluntary arrangements, fees charged to non-resident parents for forwarding child maintenance to the parent with care, or interest charged to non-resident parents who are behind in their payments. (We do not intend for you to include financial debt that parents with care incur because of non-payment.)**

The legal fees that parents are charged when settling child maintenance will vary depending on the legal representation that they choose to engage. As these fees are highly variable they cannot be costed because individual fees are between the solicitor and their client.

However, we can provide details on some of the fees that courts charge. To make a Financial Provision Application, the current fee is £175. £35 is charged for the Registration of Maintenance Orders.

On the question of interest for late payments, for CSA cases, the legislative power exists to levy penalties upon parents who make late payments. These are called late payment penalties. The amount should not exceed 25% of the due payment. Where the NRP does not comply with the payments, the Agency can employ enforcement measures to secure payment. This can include extracting the maintenance from their wages via a Deduction from Earnings Order (DEO), freezing money in the NRP's bank account, seizing property and forcing the sale of the NRP's home.

**6.1.6 Are there any programs that assist parents in meeting any of these costs? Please provide a short overview of these programs and any estimates of the costs of these programs.**

Access to justice with respect to court fee charges is practised in all civil and family courts. An applicant or respondent (whoever applies) who can prove that he/she is on benefits or receiving tax credits will be exempted from paying the court fee. Those who do not come under the exemption criteria and who do not qualify for legal aid can apply to have the fee fully or partly remitted by providing information that demonstrates financial hardship. Legal aid is a general form of financial assistance offered to those who need assistance in paying their legal fees. It is subject to both merit and means testing. The amount of legal aid will depend on the individual case.

## 6.2 QUANTITATIVE DATA ON CHILD MAINTENANCE

*In this section, please provide information on child maintenance outcomes. (Note that we will be conducting analyses of the Luxembourg Income Study, so you do not need to report these here.) We are interested in information collected by the government as part of the administrative records of courts or agencies, information that comes from household surveys that include questions on child maintenance, and information that comes from any other source. Please provide information from all sources that are available.*

**6.2.1 Please provide the percentage of parents with care who have child maintenance agreements. Of those that have agreements, what percentage of parents have voluntary agreements; what percentage have court agreements, and what percentage have agency agreements? If you can provide these answers separately for separated married parents, separated cohabiters, and parents who have never lived together, please do so.**

In the UK, around half of all parents with care (51%) have child maintenance agreements.<sup>6</sup> The breakdown for the types of child support they have is as follows:

4% have only court orders in place.

23% have only voluntary agreements in place.

1% have a combination of court and voluntary arrangements in place.

19% have only CSA calculations/assessments in place.

4% have either a court or voluntary arrangement and a CSA calculation/assessment in place.

49% have no child support arrangements in place at all.

*Separated married parents*

42% of parents are married and either separated or divorced from their former spouse. 59% have child support arrangements of some kind in place. The breakdown by type of child support is as follows:

6% have only court orders in place.

29% have only voluntary agreements in place.

1% have a combination of court and voluntary arrangements in place.

19% have only CSA calculations/assessments in place.

4% have either a court or voluntary arrangement and a CSA calculation/assessment in place.

41% have no child support arrangements in place.

<sup>6</sup> Source: FACS 2004 data, in house analysis. This is the source for all the breakdowns of child support by type of agreements. Due to rounding figures may not add up to 100%.

*Separated cohabiters*

It is difficult to get data on this group as much information is collected only on marital status, thus this group are often recorded as 'never married', placing them in the same category as those parents who have never lived together and who may have had very different types of relationship with their ex-partners. However, we can say that 43% of those eligible for child support are single never married. When we examine a breakdown of the types of child support arrangements they have we find that:

- 41% have child support orders in place.
- 1% have only court orders in place.
- 18% have only voluntary agreements in place.
- 0.1% have a combination of court and voluntary agreements.
- 17% have only CSA calculations/assessments in place.
- 4% have either a court or voluntary arrangement and a CSA calculation/assessment in place.
- 59% have no child support arrangements in place.

*Parents who have never lived together*

Around one in five CSA cases have never lived with their ex-partner.<sup>7</sup> It is difficult to break down this group by type of payment as the sample size is very small in the available data sources.<sup>8</sup> In this group only around a quarter (26%) had any kind of child support order in place at all.

### **6.2.2 What is known about the main reasons a parent with care would not have an agreement?**

There has been little investigation of this issue in surveys that involve child support since 1991. In 1991 a study by Jonathan Bradshaw and Jane Millar was published which studied Department of Social Security (now DWP) data on lone parents on Income Support eligible for child support asking why they do not have agreements in place.<sup>9</sup>

35% of the single group, 15% of the divorced group and 18% of the separated group had either refused or would refuse to give the DSS (now DWP) details of the absent parent. The main reasons given for this were that they 'want no more to do with him/her' and that they 'don't know where s/he is'.<sup>10</sup> We should note here that this study was carried out prior to the introduction of the Child Support Agency.

However, when the CSA process their cases they keep data on cases that are cleared because 'good cause' has been claimed as a reason for not seeking a child support calculation. Good cause is defined as a risk of harm or undue distress to the parent with care or any children living with them if they applied for maintenance from the non-resident parent.<sup>11</sup> This tends to apply only to benefit cases as they are mandated to use the CSA; private cases have no reason to apply to the CSA if they do not want to receive maintenance from the non-resident parent. However, in the study by Bradshaw and Millar, only 5% of those who would refuse to give details of the absent parent and only 6% of those who did refuse to give details of the absent parent report 'fear of violence' (this would be an example of good cause) as the reason why they do not want to have the non-resident parent contacted. Only around 2% of CSA cases were cleared due to 'good cause'.<sup>12</sup> All this suggests that good cause may play only a small part in the reasons why parents with care do not want or do not have child support arrangements in place.

<sup>7</sup> Wikeley, N et al (2001) *National Survey of Child Support Agency Clients*, DWP Research Report No. 152, London: DWP.

<sup>8</sup> Only 123 respondents answer a question on whether they lived with the ex-partner of their child in FACS 2004.

<sup>9</sup> Bradshaw, J and Millar, J (1991) *Lone Parent Families in the UK*, DWP Research Report No. 6, London: DWP. See especially pp. 77-87 on child maintenance.

<sup>10</sup> *Ibid.*, p. 86.

<sup>11</sup> See Section 6, *Child Support Act*, 1991.

<sup>12</sup> Source: in house analysis of administrative data.

It is not possible to determine from large scale surveys the reasons why parents with care do not have agreements in place. However, survey data can inform us as to the circumstances and characteristics of the parents with care who have agreements and those who do not. 49% of those with no orders or agreements in place are on Income Support, but only 21% of the group who have agreements claim this benefit. 47% of those who have orders in place own their own home, compared with only 28% of those who do not have orders in place. 47% of those who do not have orders or agreements in place are or have been previously married, but amongst those who have agreements, 66% are or have been married. 69% of those respondents who work have an order in place, compared with only 44% from the group who do not have orders in place. When income<sup>13</sup> is examined, those who have orders are, on average, better off than those who do not have orders.<sup>14</sup> Respondents with a higher income, those who own their own home, respondents who work outside the home and those who are or have been previously married are all more likely to have a child support order in place.<sup>15</sup>

### **6.2.3 Please provide whatever information is available on amounts paid by non-resident parents, including the proportion paying anything, the proportion paying the full amount due, and the proportion paying part of the amount due.**

Many CSA clients have liabilities for child support payments that are nil or very low.<sup>16</sup> 44% of non-resident parents for the agency overall have a nil liability, 11% have a liability up to £5, 24% have a liability of between £5.01 and £40 and 19% have a liability of over £40 (per week figures as of March 2006). The mean figure is £20 per week.

The CSA reports that overall to date 60% of assessments/calculations have resulted in payments being made (in the case of Maintenance Direct arrangements have to be in place for 3 months before they are included in the figures). However, many of the above cases will only be partially compliant. Cases that are fully compliant make up 62% (as of March 2006) of all compliant cases.

When survey data on reliability of payments are examined, 63% of parents with care over all types of agreement report receiving all their due payments on time with a further 24% receiving all due payments but not always on time. For court payments these figures are slightly lower, with 60% receiving all and always on time and 21% receiving all payments but not always on time. 68% of those with voluntary agreement always paid on time and 22% paid all the monies due but not always on time. CSA clients reported receiving 46% of payments in full and on time, with a further 30% saying they received all payments but not always on time. However, only those who receive money at all are asked these questions. When we examine the data on the proportions of those receiving maintenance at all, 72% of those with court orders receive payments (of any sort), 93% of those with voluntary agreements receive payments and 51% of CSA cases receive payments.<sup>17</sup>

### **6.2.4 What is known about the characteristics of the non-resident parents who are not making payments or who are paying only a portion of the amount due? What is known about reasons for non-payment?**

Very little data exists on the reasons why non-resident parents do not make payments or full payments or on their characteristics. The CSA does not collect data on the reasons why parents do not pay maintenance. Examining survey data from major surveys such as Families and Children Study or the British Household Panel Study is problematic because there may not be many relevant questions on non-resident parents and sample sizes are often small. However, a study carried out by Bradshaw,

<sup>13</sup> Equivalized income figures have been used to take account of family size.

<sup>14</sup> Source: in house analysis, FACS 2004.

<sup>15</sup> Source: in house analysis, FACS 2004. The income predictor was significant at  $p < 0.05$  and the others were significant at  $p < 0.001$ .

<sup>16</sup> Figures are from the CSA's published Quarterly Summary Statistics, available on the internet on [http://www.dwp.gov.uk/asd/asd1/child\\_support/csa\\_quarterly\\_mar06.asp](http://www.dwp.gov.uk/asd/asd1/child_support/csa_quarterly_mar06.asp), accessed 25/06/06.

<sup>17</sup> Source: In house analysis, FACS 2004. The CSA figure should be treated with a great deal of caution as it does not include payments made through the DWP as these respondents are not routed to the questions on reliability of maintenance receipt. The derived variables on reliability of maintenance only relate a breakdown of those who receive maintenance.

Stimson, Skinner and Williams<sup>18</sup> found that the odds of a non-resident parent paying maintenance were reduced if they were unemployed, if they were young when they became a parent, if no formal arrangements were in place for paying maintenance, if the parent with care was in receipt of income support and if the non-resident parent was not making any contributions to his children informally. The same study assessed the financial potential of non-resident parents to pay maintenance and found that 63% of non-payers had no paying potential because they were unemployed, in the lowest quintile of the income distribution or on income support. However, the study also explores how non-resident parents regard their obligations and many saw this as a commitment that could be negotiated depending on their ability to pay, the children's need for maintenance and the parent with care's (and any new partner they may have) ability to provide financially for the child/ren. Non-resident parents also saw a clear relationship between having contact with their children and whether or not they would pay maintenance; some thought they should not pay if they did not have the chance to see the child.

However, we cannot discount the possibility that some non-resident parents may not pay because they do not believe the CSA's processes are fair.<sup>19</sup> The British government has admitted that the level of CSA service is unacceptable and in addition to committing extra money to improve the CSA through the Operational Improvement Plan also asked Sir David Henshaw to redesign the child support system.

A more recent study of non-resident parents found that the following characteristics were most important in determining compliance: being in employment, being a home owner, being male and being previously married. Of lesser importance were: regular contact and seeing the child, distance from the child, satisfaction with contact arrangements and time since separation (more time meant compliance worsened).<sup>20</sup> Thus being unemployed, renting rather than owning one's own home, cohabiting or never living with one's partner instead of having a married relationship, not seeing the child regularly, being dissatisfied are all associated with a lower likelihood of compliance.

**6.2.5 Is there data available on the proportion of cases in which children spend roughly equal time with both parents? What is known about the types of cases that have this type of arrangement?**

Currently around 20% - 25% of NRPs using the CSA have some shared care. Those cases with shared care are more likely to have a higher income and less likely to be on benefit.<sup>21</sup>

**6.2.6 Consider parents with care who have an agreement in which child maintenance is to be paid. In what proportion are payments to be made directly (that is, directly from the non-resident parent to the parent with care, rather than through a collecting agency)?**

With the maintenance direct payment option, the money flows directly between the NRP and the PWC and it is assumed that all these cases are compliant. Maintenance direct accounts for 16% of all CSA cases with a positive calculation or assessment.<sup>22</sup>

**Please provide references to any sources you consulted for this part of the questionnaire.**

References are provided in footnotes.

<sup>18</sup> See Bradshaw, J, Stimson, C, Skinner, C and Williams, J (1999) *Absent Fathers?* London: Routledge.

<sup>19</sup> Wikeley et al cited above found a relationship between the perceived fairness of the child support system and compliance.

<sup>20</sup> Atkinson, A and McKay, S (2005) *Investigating the Compliance of Child Support Agency Clients*, DWP Research Report No. 285, London: DWP.

<sup>21</sup> Source: in house analysis of CSA administrative data.

<sup>22</sup> Source: in house analysis of CSA administrative data.

## PART SEVEN: THE OVERALL CONTEXT

*In this section we examine two topics: current topics of debate and research, and your own evaluation of how well the regime works along several dimensions.*

### 7.1 TOPICS OF DEBATE AND RESEARCH

**7.1.1 Consider the following potential topics of research - on which of these topics has there been research? What are the main conclusions of this research?**

- **the impact of your child maintenance regime on relationships between the parents, and relationships of the parents with their children**

There has been a great deal of interest in how the child maintenance assessment and the agency affects parental relationships and relationships between the NRP and the children. But it is hard to separate out the historical controversy over the CSA under the previous complex formula and current attitudes and evidence about the new CSA system. Very little research has been done on the new system itself or on how it affects family relationships since it was implemented in 2003. A baseline study of CSA clients was conducted prior to the 2000 reform (Wikeley et al 2001) in order to monitor these changes. Some of its main concerns were to explore the potential impact of the new system on work incentives, income levels and parental and child relationships, but this has not been conducted. There is some new qualitative evidence exploring compliance among CSA clients, and this has considered a range of factors including relationships between parents and between NRPs and children (Bell et al 2006: Atkinson and McKay 2005).

Specifically, in regard to child maintenance and NRPs' relationships with children, research evidence has shown an association between the payment of child maintenance and NRP (mainly fathers') regular contact with their children – though the direction of the relationship is not clear. (Eekelaar and MacLean, 1997; Bradshaw et al 1999; Atkinson and Mc Kay 2005). Certainly at the level of beliefs these two issues are related in the minds of NRP and PWC and are tied up in complex ways with beliefs about fairness and justice over sharing the care and financial responsibility for children after separation. Sometimes, this is also interwoven with beliefs about blame and guilt attached to the causes of relationship breakdown. Fathers express feelings of being victimised if contact with their children is 'obstructed' and yet they are still expected to pay child maintenance (Bradshaw et al 1999). Conversely, fathers feel that payment of maintenance gives them an 'entitlement' to contact (Wikeley et al 2001). Under the new reforms there is an explicit link between the level of contact and the amount of maintenance – and this has potential to create more conflict for some parents (Atkinson and Mc Kay 2005: 45).

- **the impact of your child maintenance regime on 'new' relationships or marriages, or stepchildren**

There has been less interest in this compared to impacts on relationships between parents and children. Even so, anecdotal accounts say that the involvement of the CSA puts additional strains on relationships in new families. As above however, there is little evidence on the new CSA system – but under the previous system 50 per cent of NRP said it had caused 'upset' with new partners and just over a quarter of PWC said it caused upset (marital status with new partners was not reported) (Wikeley et al 2001).

- **the impact of child maintenance on the labour market behaviour of parents with care**

There is a great deal of policy interest in this as it relates to the policy goal of reducing child poverty – and employment is seen as the best route out of poverty for the PWC and children. Child maintenance is thought to provide added labour market incentives for PWC as under the

new regime they can keep all the CSA maintenance if employed, even if they still receive in-work benefits. The evidence however is sparse for the reasons highlighted in 7.1.2. Previous studies show that receipt of child maintenance among low income lone parent families can help them get into work, (Marsh 2001:15 ) and that payment was associated with an increased employment rate among lone mothers, but in combination with a number of other factors (Millar and Ridge, 2004:143).

- **the impact of child maintenance on the labour market behaviour of non-resident parents**

There has been a policy concern that the CSA may reduce the work incentives of NRPs. Limited evidence prior to the 2000 reforms showed that 14 per cent of NRPs stated they would give up work because of the CSA, however we do not know if they did in fact give up work (Wikeley et al 2001). As far as I know therefore we have no evidence on actual labour market behaviour, though we have some on NRP's attitudes.

- **(if there is a guaranteed maintenance program) the effect of guaranteed maintenance on non-resident parents payment of child maintenance**

There is no such scheme in the UK, but there is a great deal of speculation about its impact if it was to be introduced, but mainly in relation to its influence on the PWC and their labour market behaviour. Potentially it could be an employment incentive as it would be a more regular and reliable income source than coming directly from the NRP. However, it could also potentially act as disincentive for the NRP to comply as his/her children would be provided for without their payments.

- **(if some or all child maintenance is retained by the state for parents with care that receive means-tested benefits) the effect of this retention on non-resident parents payment of child maintenance?**

All the child maintenance monies are retained by the state where the PWC receives means-tested Income Support (except for the £10 child Support Premium under the new scheme) and there is a great deal of interest in how this impacts on NRP's willingness to pay child maintenance. Many of the campaign groups against the CSA and academics interested in child poverty see this as one of the major flaws of the CSA as it exacerbates the problem of non-compliance by NRPs. There is new research evidence on compliance commissioned by the government, but this did not look at the issue of advance maintenance or the effect of the Child Support Premium (Atkinson and McKay 2005). Other qualitative evidence exploring different payment methods and compliance, found that there was a good deal of confusion and anger among NRPs who failed to understand that not all the child maintenance they paid went to the PWC and children (Bell et al 2005:64). It seems there is no hard evidence that this leads to non-compliance.

### **Are there any other main areas of research on child maintenance in your country?**

See below

### **Please provide citations of what you view as the 2-5 most important pieces of published research.**

Bradshaw, J., Stimson, C., Skinner, C., and Williams, J. (1999), *Absent Fathers?*, London: Routledge.

Wikeley, N., Barnett, S., Brown, J., Davis, G., Diamond, I., Draper, T., and Smith, P. (2001), *National Survey of Child Support Agency Clients, DWP Research Report 152*, Leeds: HMSO Corporate Document Services.

Barnes, H., Day, D., and Cronin, N. (1998), *Trial and Error: A Review of UK Child Support Policy*,

Occasional Paper 24, Family Policy Studies Centre, London: FPSC.

Barnes, H. (2000), 'Child Support -Light at the End of the Tunnel?' in *Benefits: A Journal of social Security Research, Policy and Practice*, Issue 27, pp 8-11. Nottingham: Benefits Editorial Board

Davis, G., Wikeley, N. and Young, R. (1998), *Child Support in Action*, Oxford: Hart Publishing.

Corden, A. (1999) *Making Child Maintenance Regimes Work*. London: Family Policy Studies Centre

### **7.1.2 What are the current main topics of interest and debate about your child maintenance regime?**

Numerous hot topics of interest, as the CSA is currently under review:

- How to create an efficient and cost effective system that delivers all the child maintenance obligation on time to the PWC. Here the debate is around reconsidering the role of the Court, the role of the CSA and the role of the tax collecting body in making this a reality so that determining the amounts of maintenance is straightforward, that collection services are simple and effective and that non-compliance is dealt with swiftly and effectively.
- There is debate about the method of determining the child maintenance obligation – should a rigid but simple formula be applied – or is it better to leave it for parents to negotiate amounts privately and more flexibly and have their agreement ratified by a public body.
- Debate around finding ways to deal effectively with non-compliance and create a culture of willingness to pay maintenance among NRPs.
- Deal with the issues around contact and child maintenance in such a way that it does not involve the CSA in resolving disputes between parents about the care of their children.
- Find ways to offer more effective support to parents during the difficult and painful process of separation to allow them to make effective agreements over child maintenance and ongoing parental care.
- Not explicit in policy concerns – but implied by the policy interest in the impact of the CSA on personal relationships – that any system should cause no harm to children and their relationships.

### **7.1.3 Please describe any impending changes in legislation, or policy developments that are likely to affect your child maintenance regime in the coming five years.**

- A major independent review is currently underway, but it will not report back until July 2006. Their remit is to:
  - 'Work out how best to ensure that parents take financial responsibility for their children when they live apart;
  - The best arrangements for delivering the outcomes in a cost effective way; and
  - The options for moving to new structures and policies while recognising the need to protect the level of service offered to the current 1.5 million PWC' (CSA Business Plan 2006-2007:6).

### **7.1.4 What are the public's attitudes towards your child maintenance regime? Please refer to any evidence for your replies.**

- Based on the findings of the Office for National Statistics Omnibus Survey of 2004 (Peacey and Rainford, 2004); the public overwhelmingly support the principle that non-resident parents should pay child maintenance (81 per cent) and they should be penalised if they do not (80 per cent). But only 53 per cent believed that PWC should claim through the CSA.
- The majority agreed that the amount should depend on the NRPs income levels (84 per cent) and the PWCs income levels (72 per cent). But a majority (63 per cent) also believed that the

NRP should pay something even if their income was very low or they were dependent on social assistance.

- The majority agreed that the costs to the NRP of new children should reduce the amount of child maintenance (67 per cent) and the costs of contact with children when they stayed overnight with the NRP should be taken into account (54 per cent).
- The respondents had very little knowledge about the new CSA system – only 8 per cent said they had heard that it had changed the way it calculated child maintenance.
- Slightly over half (51 Per cent) believed that the PWC on social assistance should keep all the maintenance paid and 29 per cent that they should keep some of it.

#### **7.1.5 Please describe any organised opposition in your country to the determination and enforcement of child maintenance, and the issues of contention.**

There are a number of 'fathers rights' groups who have objected to the CSA. The National Association Against the CSA (NACSA) however was one of the first to focus specifically on that – but it reinvented itself in 2002 as the National Association for Child Support Action. Currently it seems to be less involved in profile raising – though it still exists. The areas of contention are too numerous to mention – but it aims to promote the welfare of the child (undefined) as the central focus of child maintenance, that the interests of the state should be protected and that the system should recognise the responsibility of both parents to support their children – meaning that the PWC should be expected to make a contribution financially. Other groups fighting for equal rights over contact have been at the forefront of recent campaigning and this is currently the main issue grabbing attention.

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## **7.2 YOUR EVALUATION OF THE CHILD MAINTENANCE REGIME**

*This section provides several criteria that one might use to evaluate the child maintenance regime as a whole. We ask for your expert assessment of areas that your regime is working well and not working well.*

### **7.2.1 Please consider the following criteria that could be used to evaluate a child maintenance regime.**

- a. Maintenance is regularly provided to children and/or parents with care
- b. Children who need (or desire) maintenance have a formal entitlement
- c. Maintenance policies do not negatively influence relationships between children and their non-resident parents
- d. Those in similar circumstances are treated similarly
- e. Those who need more child maintenance, receive more
- f. Parents easily understand how amounts of maintenance are calculated
- g. Child maintenance obligations are determined promptly
- h. Parents with care feel the amount of maintenance is adequate
- i. Nonresident parents feel the amount of obligation is affordable given their costs of living
- j. The child maintenance regime is administered efficiently and effectively
- k. Non-compliance with maintenance obligations does not add a substantial amount to governmental costs

Select one or two of these in which your assessment is that your regime is performing well. (If your assessment is that your regime works well on multiple criteria, please select the most important one or two.) In one paragraph, explain.

Of the list above, the UK CSA is failing to work well on nearly all of them. As the Formula is standardised – it might be argued that those in similar circumstances are treated similarly (criteria d). In addition, the new formula being used by the CSA is much simpler than the previous formula, so as this becomes more well-known, criteria F should become a strength as parents may understand it better.

**7.2.2 Select one or two of the above criteria in which your assessment is that your regime is not performing well. (If your assessment is that your regime does not work well on multiple criteria, please select the most important one or two.) In one paragraph, explain.**

It is not working well on:

J. The child maintenance regime is administered efficiently and effectively

k. Non-compliance with maintenance obligations does not add a substantial amount to governmental costs

**7.2.3 Is there another criteria (not listed) on which you think your regime does particularly well or is a particular problem? What? In one paragraph, explain.**

The CSA is struggling to manage its caseload, due to a number of interrelated problems, a flawed computer system, successive incremental policy changes to calculating maintenance resulting in two systems running concurrently, and a build up of arrears resulting from poor caseload management and a history of resistance and avoidance strategies adopted by NRPs. Recovery strategies for non-payment have not been that successful. As a result of all these problems, £3 billion of arrears of unpaid child maintenance has built up. Also as a result of these problems, the CSA is failing to achieve well on all of the other indicators outlined above: a through to k.

*This concludes Parts 1-7 of the questionnaire. If you have additional comments, please write them here:*

## PART EIGHT: VIGNETTES

*In these vignettes, we provide a basic situation and ask the likely outcome given the child maintenance policies in your country. We then vary a selected characteristic and ask whether the outcome would differ. We then ask you to report on what would happen if various circumstances changed over time.*

### 8.1 BASE CASE 'A': MISS FIELD AND MR HILL

*Miss Field is 25 years old and has never been married. She has a daughter, Susan, who is three months old. Miss Field lives with Susan in a small rented flat in the town centre. Miss Field has not had paid work since Susan's birth, and is claiming the social benefits available to a person in her position.*

*Susan's father, Mr Hill, is 27 years old. He has never lived with Miss Field. He lives locally and sees Miss Field and Susan quite often. He is fond of his daughter, and remains a friend of Miss Field's, although they do not want to set up a home together. He bought baby clothes and equipment when Susan was born but he makes no regular financial contribution.*

*He is unemployed but sometimes takes temporary, low-paid work. He currently depends on the out-of-work social benefits available to a person in his position. He rents a small flat. He has no other children, or major financial responsibilities. He has begun to talk recently about a serious effort to re-train, possibly in engineering.*

*Miss Field knows he has very little money. However, she feels that, in view of Mr Hill's interest in re-training, and the possibility that he will be able to earn more in the future, she thinks it might be sensible to make a formal arrangement regarding child maintenance.*

**8.1.1 Please discuss the process by which decisions about child maintenance would be made in this type of case. First, explain whether Miss Field has a free choice in deciding to seek a formal arrangement.**

- A. If she has free choice, please describe the options available to her in establishing a formal child maintenance arrangement. Which of these options would be most likely? What is the likely time-scale for a decision being reached if she decides to go forward?**

Miss Field does not have an entirely free choice over whether to seek child maintenance or not.

- B. If she does not have free choice, please describe what happens, explaining the likely procedures and time-scale for a decision on child maintenance being reached.**

In the UK, Miss Field would be claiming Income Support, a benefit for individuals who are not working and on a low income. Her claim for benefit will be treated as an application for child maintenance. If she refuses to provide details of the father of her child her benefit will be significantly reduced unless she has 'good cause'. 'Good cause' means that she thinks that applying for child maintenance will put her or her child at risk of harm or distress. Given that Miss Field and Mr Hill seem to have an amicable relationship, it is unlikely that Miss Field would claim good cause. The maintenance will be used by the CSA to off-set the cost of her Income Support and she will be allowed to keep up to £10 per week of her child support through a scheme called the Child Maintenance Premium. In practice, the maintenance is likely to be paid to and retained by the CSA so that the Income Support payments do not have to be calculated each time maintenance payments are made. However, we know that Mr Hill is also on a low income as he is claiming benefits for an out

of work person. This benefit is called Job Seeker's Allowance in the UK. In these circumstances, where she clearly has an amicable relationship and allows Mr Hill to see their child she would not be able to claim good cause. Even though Mr Hill is on a low income, he is still liable for child support for £5 per week (flat rate) which is taken off his benefit income. In terms of timescales for a decision to be reached, this will depend on the individual circumstances of the case. However, for the new child support scheme (March 2003 onwards), 20% of applications to date have been cleared in six weeks or less and another 17% have cleared between 6 and 12 weeks.

**Discuss the criteria considered in reaching decisions, referring to the information you have already provided in the questionnaire about guidelines or discretion.**

In this case, there would be little room for discretion as both parents are on state benefits. Miss Field is required to give details concerning Mr Hill and he is required to pay the small amounts which are deducted from his benefits. However, discretion exists in making a judgement about whether there is 'good cause', but that would not seem to apply in this case.

**In your account please explain what further information might be needed to determine the obligation level, and how this would be collected.**

Normally Mr Hill would be required to provide details of his income and of any children living with him but because the flat rate liability applies he does not have to do so.

**Please indicate what kind of problems might arise in setting an obligation, and how these might be tackled.**

I am not aware of any problems that would especially arise in this case, as long as Miss Field has full details regarding Mr Hill's address and other contact details.

**8.1.2 Please discuss the outcome in terms of whether there would be a formal child maintenance obligation, and if so, the amount that would be awarded. (Please provide the amount in your own currency.) It may be necessary to introduce quantitative information or new facts into your account. For example, you may need to introduce amounts of money, for rent or living expenses, in order to demonstrate the use of standard guidelines. Please use those amounts that would be typical in your country, and explain the basis for these decisions.** There would be a formal child maintenance obligation established by the Child Support Agency. As explained above, because he is on Job Seeker's Allowance, the amount would be set at the flat rate of £5 per week.

**8.1.3 If an obligation for child maintenance is set, please describe how monies be collected from Mr Hill? How would the money be transferred to Miss Field or Susan (if at all)?**

Monies would be deducted from Mr Hill's benefits directly. Miss Field can receive the money paid directly into her bank account, by cheque or girocheque or in cash. Miss Field may only be receiving the Child Maintenance Premium and not a maintenance payment as such because she is on Income Support. Because Mr Hill only pays £5 that is all Miss Field will receive on top of her benefits.

**8.1.4 If Mr Hill does not pay, what would happen?**

In this case, Mr Hill cannot refuse to pay as the money is deducted from his benefits before they are paid to him. However, if there is a failure to make a deduction, the CSA can ask Mr Hill directly for the money.

**8.2 BASE CASE 'A', VARIANT 1: MR HILL HAS REGULAR EMPLOYMENT**

*We would like to understand how the outcomes would change if one of the circumstances in this case*

were slightly different (Variant 1).

*The situation is exactly the same as Base Case A except that at the time Miss Field pursues maintenance, Mr Hill has just completed his training course, and just gotten a job at which he earns 75% of median full-time male earnings.*

**8.2.1 Would the maintenance obligation differ from what you reported in 8.1.2? Please explain.**

Yes the obligation would differ substantially. As before, Miss Field is required to pursue an application for child support. She will have provided details of the name and whereabouts of Mr Hill, who will be contacted for his income details. As Mr Hill is now in employment, the CSA will make a calculation based on his earnings. The CSA differentiates between those in employment who have incomes over £100 per week and below £200 per week (reduced rate) and those whose incomes are over £200 per week (basic rate). As Mr Hill is earning 75% of median full-time male wages, his after-tax income is over £200 per week and he is liable to pay the basic rate of child support. We assume that Mr Hill's income (after tax, NI and pension contributions) is approximately £254.00

The formula used to calculate Mr Hill's obligation is 15% of his income as he only has one child. His obligation would therefore be **£38 per week**.

**8.2.2 Would any other outcomes likely differ? Please explain.**

Miss Field is likely to receive slightly more maintenance now as the Child Maintenance Premium will allow her to keep up to £10 a week of her child support. As explained above, the rest (which would be £28.00 per week) is off-set against her Income Support.

**8.3 BASE CASE 'A', CHANGE IN CIRCUMSTANCES 1: MR HILL FINDS EMPLOYMENT THREE YEARS LATER**

*We now explore how your system would deal with a change in Mr Hill's circumstances. Return to the base case (Mr Hill is currently unemployed but is considering training), and assume the maintenance obligation has been set as you have described in 8.1.2.*

*Three years later, Mr Hill completes the training course, and accepts a job at which he earns 75% of median full-time male earnings. Miss Field feels the maintenance amount should be increased.*

**8.3.1 Please explain the options and procedures for adjustment to the previous child maintenance arrangement. Is it likely the maintenance obligation would change? To what? Please explain.**

Miss Field should contact the CSA and ask for her maintenance calculation to be superseded. As Mr Hill is now in employment he is now subject to a maintenance calculation under the CSA formula. The maintenance amount will be calculated according to Mr Hill's income as described in 8.2.1. The maintenance amount would be the same as stated in 8.2.1 (**£38.00 per week**) and the change would take effect from the date the change was notified to the CSA.

**8.3.2 Would any other outcomes likely differ? Please explain.**

As Miss Field remains on Income Support, she can still only keep up to £10 a week from the Child Maintenance Premium.

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#### 8.4 BASE CASE 'A', CHANGE IN CIRCUMSTANCES 2: MISS FIELD FINDS EMPLOYMENT THREE YEARS LATER

*We now explore how your system would deal with a change in Miss Field's circumstances. Return to the base case (Mr Hill is currently unemployed but is considering training), and assume the maintenance obligation has been set as you have described in 8.1.2.*

*Three years later, Miss Field finds employment. She begins to work part-time and earns median female wages for part-time work. Mr. Hill feels his obligation should be reduced if not eliminated, now that she is working.*

##### 8.4.1 Please explain the options and procedures for adjustment to the previous child maintenance arrangement. Is it likely the maintenance obligation change? To what? Please explain.

In the UK child support scheme, the parent with care income is not taken into consideration. However, now that Miss Field is working she will no longer be required to use the CSA's services. If she does choose to continue to use the CSA, Mr Hill's maintenance obligation remains the same as described in 8.1.2; that is, the flat rate of **£5 per week** despite the fact that he is out of work and she has earnings from employment.

##### 8.4.2 Would any other circumstances likely differ? Please explain

No other circumstances would differ in this case. If Miss Field is no longer receiving Income Support, she keeps all the child support paid, regardless of Mr Hill's work or benefit status. However, in this case, since Mr Hill remains on benefit, "all the child support" will amount to the flat rate of **£5 per week**.

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## 8.5 BASE CASE 'B': MR AND MRS COAST

*Mrs Coast is about to start divorce proceedings after having been married for ten years. The couple are in their early 40s, and have two children, Anne aged six years and John, aged nine years. Both children attend school.*

*Mrs Coast and the children have remained in the rented accommodation they shared when they were together, while Mr Coast has moved away to another town 100 km away where he rents a small flat.*

*Mr Coast has a secure job, and earns one-and-a-half median male full-time earnings. Mrs Coast has a part-time job, earning median female part-time earnings. There are no child care expenses.*

*Mr Coast collects both children every other weekend, and cares for them in his new home from Friday evening to Sunday evening. This involves a long journey by car (100km each way). While the children are in his home he has full financial responsibility, and has bought stocks of clothes, bedding, equipment and toys, which he keeps at his home.*

*Mrs Coast believes her husband should make significant child maintenance payments. She feels that most of the additional expenditure made by Mr Coast for the children (on clothes and toys) only benefits them when they are at his home. She finds she cannot meet her fuel and telephone bills. She welcomes the chance to formalise their financial situation, and believes it will be in her favour.*

*Mr Coast points to his additional housing expenses, his need to run a car in order to share the care of his children, and the money he already spends on their weekend stays. He does not want to be divorced, anyway, and he is bitter about what has happened. He very much wants to maintain relationships with his children, and is worried that a formal financial arrangement will be made that will leave him in financial difficulties.*

### **8.5.1 Please discuss the process by which decisions about child maintenance would be made in this type of case. First, what are the options for formalising arrangements about child maintenance, under the circumstances described above. Explain the likely procedures and timescale for reaching a decision.**

Mr and Mrs Coast have a number of options in the UK regime.

Before the couple go through the process of divorce they would be free to come to a voluntary arrangement about what Mr Coast pays before they (or she) start divorce proceedings. During the process of divorce, it is obligatory for the Coasts to file to the Court a 'statement of arrangement' for the children, detailing who they will live with; how much time they will spend with the non resident parent and the financial arrangements which will be made for them.

The Court judge decides whether the overall arrangements made in respect of children are satisfactory. If they are not, the couple can not proceed with the divorce. Also, if they cannot agree about the child maintenance obligation in the statement, then they will have to approach the CSA as private clients for a child maintenance assessment.

### **Discuss the criteria considered in reaching decisions, referring to the information you have already provided in the questionnaire about guidelines or discretion.**

There are two likely outcomes here. The first would be that the parents can reach an agreement about child maintenance with the support of their lawyers, who would use the CSA formulae as a guideline in working out the obligation. The formulae would not necessarily be rigidly applied, thereby maintaining some flexibility for the parents to agree the amounts. We assume this would be the preferred option of the NRP.

In the second likely outcome, the parents would be unable to agree the amount of child maintenance and they would therefore be referred to the CSA as private clients. The formulae would then be rigidly applied and the amount of maintenance would be fixed, but the parents would still retain some choice over the

collection method used. They could choose either a direct payment to the PWC or make use of the CSA collection service where it is paid by the NRP to the CSA and then passed onto the PWC.

**In your account please explain what further information might be needed to determine the obligation level, and how this would be collected.**

In private consultation with parents, it would be up to the lawyers to discuss how to use the CSA formulae to work out the amount of money due. The lawyer should be in possession of full information about the parents' incomes and financial circumstances.

Should the couple ask for a formal CSA decision then the agency would require the following information:

- The number of children qualifying for support (from this and other relationships)
- Mr Coast's net income (gross income minus income tax, National Insurance contributions and contributions to an (approved) pension scheme. Consideration would also be given to overtime, bonus, and profit related payments.
- Whether Mr Coast has any children (for example, from a previous or subsequent relationship) living with him.

**Please indicate what kind of problems might arise in setting an obligation, and how these might be tackled.**

For private negotiations with lawyers the likely problem is lack of agreement over the amount, in which case the CSA could be approached to calculate the amount.

If the CSA is involved in calculating the amount, the likely outcome is delay in reaching a calculation as the CSA would have to treat them as a new case and collect all necessary information from the PWC and NRP.

**8.5.2 Please discuss the outcome in terms of whether there would be a formal child maintenance obligation, and if so, the amount that would be awarded. As before, it may be necessary to introduce quantitative information or invent new facts or life circumstances for the couple. You may need to decide how much Mr Coast now pays to rent his new flat. Please use those situations and amounts which would be typical in your country.**

It is likely that they would agree a voluntary arrangement – but if not it is likely that there would be a formal obligation set by the CSA.

The amount awarded by the CSA would be **£102 per week**.

(This amount is calculated on the assumption that Mr Coast's net weekly earnings are £509.00; that he has the 2 children to stay with him for less than 52 nights per year. These are the only criteria taken into consideration in determining his obligation by the CSA).

**8.5.3 If an obligation for child maintenance is set, how would monies be collected from Mr Coast? How would the money be transferred to Mrs Coast or the children?**

They Coasts could choose either a direct payment to the PWC or make use of the CSA collection service where it is collected from the NRP by the CSA and then passed onto the PWC.

**8.5.4 If Mr Coast does not pay, what would happen?**

If Mrs Coast had requested that the CSA collect payment, payments due and arrears that accrue are the responsibility of the Child Support Agency to collect and Mrs Coast would have no jurisdiction to enable her to collect the debt herself. If Mr Coast refuses to pay, the Agency will seek to enforce payment of arrears using the powers available to them, such as deduction of earnings orders in the first instance.

**8.6 BASE CASE 'B', VARIANT 1: CHILDREN LIVE WITH BOTH PARENTS EQUALLY**

*We would like to understand how the outcomes would change if one of the circumstances in this case were different (Variant 1).*

*The situation is exactly the same as Base Case B except Mr Coast lives in the same town as Mrs Coast and the children. The Coasts decide that the children will spend an equal amount of time living with each parent, alternating one week with Mrs Coast and one week with Mr Coast.*

**8.6.1 Would the maintenance obligation differ from what you reported in 8.5.2? Please explain.**  
Yes, to **£37.00 per week**, to take account of the increased time the children now spent with Mr Coast

**8.6.2 Would any other outcomes likely differ? Please explain.**  
No there would be no change in other outcomes.

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**8.7 BASE CASE 'B', CHANGE IN CIRCUMSTANCES 1: MRS COAST HAS A NEW PARTNER THREE YEARS LATER**

*We now explore how your system would deal with a change in Mrs Coast's family circumstances. Return to the base case (Mr Coast lives in another town and has the children with him every other weekend). Assume the divorce is final and that the maintenance obligation has been set at the amount you have described in 8.5.2.*

*Three years later, Mrs Coast tells her husband that she has a new partner who has moved into the house. Mr Coast knows the man personally, and knows he has earnings comparable to his own. He feels that the arrival of this new partner for Mrs Coast should count in the financial decisions that have to be made during the divorce.*

**8.7.1 How would Mr Coast go about trying to change the obligation?**

There would be no change – because the parent with care's income is not taken into account in the CSA formulae.

**8.7.2 What would result -- is it likely the obligation would change? To what? Please explain.**  
Not applicable.

**8.7.3 Would any other outcomes likely differ? Please explain.**  
Not Applicable

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**8.8 BASE CASE 'C', CHANGE IN CIRCUMSTANCES 2: MR COAST HAS A NEW PARTNER AND NEW CHILD THREE YEARS LATER**

*We now explore how your system would deal with a change in Mr Coast's family circumstances. Return to the base case (Mr Coast lives in another town and has the children with him every other weekend; Mrs Coast does not have a partner). Assume the divorce is final and that the maintenance obligation has been set at the amount you have described in 8.5.2.*

*Three years time later, Mr Coast has formed a new relationship with a woman and they have a ten month old child. He wants to maintain contact with his own children, whom he loves dearly, but his own household expenses have now gone up considerably. His new partner does not have paid work herself.*

**8.8.1 How would Mr Coast go about trying to change the obligation?**

It depends on whether he had a voluntary or CSA agreement; If a voluntary agreement - he would discuss with the PWC and negotiate a new amount, this might take place in the shadow of the CSA formula whereby they might refer to this in their decisions over the amount. This is because they could still approach the CSA for an assessment and collection service and therefore the CSA can be used as part of the bargaining in the negotiation process. The difficulty here would be understanding how the formula is applied in these new circumstances, and they may approach other organisations for advice on this. If they had a CSA calculation – then Mr Coast would contact the CSA for a review due to change in circumstances.

**8.8.2 What would result -- is it likely the obligation would change? To what? Please explain.**

Under a CSA agreement the obligation would change to take account of his new child and the formulae described above would reduce his payment to **£87 per week**.

**8.8.3 Would any other outcomes likely differ? Please explain.**

No.

***This concludes the vignettes (Part Eight). If you have additional comments on either of these vignettes, please write them here:***