

**Department for Work and Pensions**

**Research Report No 405**

# **Child support policy: An international perspective**

**Christine Skinner, Jonathan Bradshaw and Jacqueline Davidson**

A report of research carried out by the Social Policy Research Unit,  
University of York on behalf of the Department for Work and Pensions

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# Glossary

<b>Attachment of earnings</b>	Deductions from earnings at source (for example, by employers).
<b>Case compliance</b>	The proportion of non resident parents who meet their child maintenance obligations.
<b>Cash compliance</b>	The proportion of child support obligation non resident parents pay.
<b>Centrelink</b>	The Australian Government's front-line social security agency.
<b>Centrum voor Algemeen Welzijnswerk (CAW)</b>	Social Work Centre in Belgium.
<b>Dienst voor Alimentatievordering (DAVO)</b>	(Marginal) agency responsible for dealing with non compliance of child maintenance obligations in Belgium.
<b>Inland Revenue child support (IRCS)</b>	Agency responsible for determination of formal child maintenance obligations in New Zealand.
<b>Landelijk Bureau Inning</b>	The Dutch national collection and support agency.
<b>Onderhoudsbijdragen (LBIO)</b>	For child maintenance.
<b>Liens</b>	Forms of security interest which can be granted over items of property to secure payment of debts.
<b>Luxembourg Income Study (LIS)</b>	A data set covering 30 countries.
<b>Ny Arbeids- og Velferdsetat (NAV)</b>	Norwegian Work and Welfare Agency.

<b>Scheiden in Nederland (SIN)</b>	Dutch statistical report.
<b>Shared care</b>	Defined as 'situations where children spend roughly equal time with each parent'.
<b>Temporary Assistance for Needy Families (TANF)</b>	A social assistance benefit in the USA.
<b>WoningBehoeftenonderzoek (WBO)</b>	Dutch statistical report.

# Summary

## Context

The child maintenance system in the UK has been plagued by problems since the inception of the Child Support Agency (CSA) in 1993. The scheme established by the 1991 Child Support Act was subject to a succession of reforms throughout the 1990s. In April 2006 the Department for Work and Pensions (DWP) issued an Invitation to Tender for a project to undertake international comparisons of child maintenance schemes covering the following countries: Australia, Austria, Belgium, Canada (Ontario), Denmark, Finland, France, Germany, Netherlands, New Zealand, Norway, Sweden, the UK and the USA. It was hoped that the evidence from this project would contribute to thinking about the redesign of the child maintenance system following the announcement of the Henshaw review – which was presented to the Secretary of State for Work and Pensions while this study was in the field.

## Methods

The study recruited national informants from 14 countries including the UK. They each completed a questionnaire during July 2006. These were analysed during August (2006) and the national informants then checked the analysis of the questionnaires, the findings therefore provide a snapshot of regimes across countries at that moment in time. In addition, secondary analysis of the Luxembourg Income Study (LIS) was undertaken. A first draft was completed in September prior to publication of the White Paper in December 2006. A final draft was concluded in January 2007 allowing some details of the White Paper to be incorporated in the report.

## Demographic and policy context

The LIS compared the prevalence and characteristics of lone parents, explored the proportion of families with children receiving child maintenance, and the contribution that it made to their income and the reduction of child poverty, at least for the year

2000, currently the latest year of available data. The LIS analysis, therefore, reports the child maintenance outcomes produced under the original formula in the 1991 Child Support Act. Data illustrated that the UK, in comparative perspective, had a high prevalence of lone parents and a low labour supply of lone parents, which is partly explained by their characteristics (though their labour supply has increased between 2000 and 2006). A smaller proportion of non-widowed lone parents received child maintenance than in any other country. However, for those receiving child maintenance the level of payment was comparatively high. Child maintenance made a comparatively small contribution to the relief of child poverty overall, but if lone parents actually received child maintenance the poverty reduction achieved was much more significant, producing child poverty rates which were less than half what they would have been without child maintenance (at least in 2000). The impact of child maintenance also varied according to whether the lone parent was or was not in employment. For lone parents in employment in the UK, child maintenance in 2000 could reduce child poverty by over two-thirds – more than any other country except Austria, France and the Netherlands. However, it was not more effective overall because comparatively few non-widowed lone parents had employment and child maintenance.

## Child maintenance regimes and private agreements

The research outlined three kinds of child maintenance regimes. Countries were clustered according to whether courts or agencies – or a mixture of both – were primarily responsible for the determination of formal child maintenance obligations in cases where parents are unable or unwilling to come to a private agreement. In Austria, Belgium, Canada (Ontario), France, Germany and Sweden, the court had the main responsibility for formal determinations of child maintenance. Agencies had the main responsibility for determinations in Australia, Denmark, New Zealand, Norway and the UK, whilst some amalgamation of courts and agencies were responsible in Finland, the Netherlands and the USA.

In every country some effort was made through public policy to ensure that parents with care (PWCs) and children were paid child maintenance by non-resident parents (NRPs). In most countries, PWCs in receipt of social assistance were compelled to pursue child maintenance irrespective of whether it is a court or agency based system; it appears that it was only in Denmark and Belgium that the PWC on social assistance had a choice not to pursue it. All other parents not on social assistance had a choice to use the formal system or to make private agreements. Sometimes parents chose to use formal assessment methods if they could not agree an amount between them, but otherwise private agreements were encouraged. All countries appeared to have a system for ratifying private agreements, but the place in which this could happen varied and did not directly correspond to a difference between agency and court based formal systems. In some countries, parents routinely had access to mediation and support services in making these private agreements that may or may not have been formally ratified.

Advantages of private agreements identified by the national informants were that they were seen as being more consensual, non-adversarial, relatively quick and inexpensive, and could be tailored to family circumstances. There were, however, also disadvantages, national informants noted that private arrangements in some countries had no legal standing – could be precarious unless ratified and could exacerbate any power imbalance between parents, with the weaker party potentially being pressured into an agreement that was not in their or their children's best interests. Additionally, they could produce inequitable outcomes where children in different families with similar circumstances/characteristics could receive differing amounts.

## Formal agreements

Comparatively, the UK differed from the majority of countries in some of the factors considered in making a formal assessment for child maintenance (that is based on the post 2003 child support system and formula). There was considerable variation in how the resources of the NRP were treated in formal determinations, but nearly all countries would take account of his/her obligations to new family members (at least in principle if not in practice); it would depend on the NRP's income levels if the obligation were to be reduced. Without exception, all countries would take account of the contact time children spent with the NRP. In the event of shared care (where the child spent roughly equal amounts of time living with each parent), the obligation to pay would be reduced to nil in the majority of countries (ten) and could be annulled completely in some countries, irrespective of disparities in the parents' incomes. Data on the prevalence of shared care arrangements was inconsistent and partial, with these caveats the levels reported across countries varied between about 7-15 per cent. In relation to taking account of the PWC's resources, there was a roughly equal split across countries as to whether this would happen or not, similarly as to whether the children's ages were taken account of or whether there was a minimum amount of child maintenance set.

The findings also showed that whilst the UK was similar to other agency based systems in relation to using more standardised determination methods such as a formula, it would be a mistake to simply equate this with less discretionary practices, as some of the court based systems also used standardised methods. Importantly, it was not possible to make judgements about the levels of discretion by merely considering whether so called formulae, guidelines or rules were used.

In relation to the amounts of child maintenance determined by formal systems, the hypothetical vignette scenarios demonstrated that, comparatively, the UK was among the top four countries expecting the highest levels for the poorest family in vignette one and ranked around ninth for the richer two parent family in vignette two.

## Collecting, paying, enforcing and guaranteeing child maintenance

Arrangements for collecting, paying, enforcing and revising child maintenance obligations in countries differed in terms of whether they allowed private transfers between parents. Some countries – Canada (Ontario), New Zealand, the Netherlands, the UK, and the USA – did not allow private transfers where the PWC was on certain social benefits; or in Canada (Ontario) where agreements had been made in court.

Most countries had some agency involvement in the collection and forwarding of maintenance which differed in terms of scope. The widest scope for agency involvement was in Australia, Denmark, Finland, New Zealand, Norway and the UK. A second group of countries with less scope for agency involvement consisted of Canada (Ontario), Sweden, the Netherlands and the USA. Finally, Austria, Belgium, France and Germany had a marginal role for agencies in the collection and forwarding of child maintenance. The options available to deal with enforcement of non-payment of child maintenance obligations were shown to be broadly similar in countries. Commonly, deductions from earnings were the first response to non-compliance.

Some countries provided guaranteed maintenance schemes: Austria, Belgium, Denmark, Finland, France, Germany, Norway, and Sweden. Guaranteed maintenance payments could be disregarded for social assistance benefits in some countries, but not in others. Informants noted that there were advantages and disadvantages to these schemes. A main advantage was that they guaranteed a minimal amount of maintenance for children regardless of the economic circumstances of the liable parent. The main disadvantages were that such schemes were costly to administer and the rate of recovery from NRPs was generally poor with only Finland and Denmark reporting a rate greater than 50 per cent (65 and 88 per cent respectively).

## Assessing effectiveness

Assessing the effectiveness of child maintenance regimes was difficult because of the non-comparability of the data; a mix of survey and administrative data was provided. Only six countries provided some information on the proportions of PWCs with agreements and only seven countries provided information on either case or cash compliance. With this caveat in mind, the UK's CSA seemed to be comparatively unsuccessful in terms of the proportions of parents with agreements, and in case compliance. National informants were given the opportunity to make their own assessments of their regimes. They reported that the most effective elements of performance were regularity of provision (Australia, Austria, Denmark, Finland, France, Norway and Sweden) and ensuring a child's entitlement (Australia, Belgium, Denmark, Finland, Germany, the Netherlands, Norway and Sweden). The most common criticism of regimes was that regimes did not take enough account of the actual needs of children, lacked transparency over how maintenance amounts were

calculated and contained no regularity of provision. It was difficult for the national informants to provide information on many of the costs involved in child support. But it appears that among those countries using agencies the UK is by far the most costly per pound transferred to PWCs.



# 1 Introduction

## 1.1 Background

The child maintenance system in the UK has been plagued by problems since the inception of the Child Support Agency (CSA) in 1993. The scheme established by the 1991 Child Support Act was subject to a succession of reforms throughout the 1990s. When the Labour Government came to power it enacted a new scheme in 2000 which, among other things, simplified the old scheme by introducing a standard child support formula and added a disregard of £10 for parents with care (PWCs) on Income Support (IS) and income-based Jobseeker's Allowance (JSA). The new scheme was due to be introduced from April 2002 but finally began to operate from March 2003 for new applications and linked cases. As a result of management and/or IT problems, none of the targets for the new scheme have been met. The most complete quarterly statistics<sup>1</sup> (June 2006) show that 40 per cent of all new cases were still in pre-calculation stage. The latest figures<sup>2</sup> (September 2006) show that case compliance was 69 per cent and cash compliance 61 per cent. Only 38 per cent of CSA cases on IS (social assistance) were receiving child maintenance (the target is 65 per cent). Over 828,600 cases were still on the old system, and those on IS and income-based JSA were not able to benefit from the £10 Child Support Premium available on the new system. The Work and Pensions Committee (2005) concluded at the end of the last parliament that the CSA was:

- a failing organisation which currently is in crisis. If the responses to our report do not provide the information necessary to make a judgement as to whether the CSA as currently constituted can be rescued, the Committee recommends that consideration be given to the option of winding up the CSA and plans made for an alternative.

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<sup>1</sup> [http://www.dwp.gov.uk/asd/asd1/child\\_support/csa\\_quarterly\\_jun06.asp](http://www.dwp.gov.uk/asd/asd1/child_support/csa_quarterly_jun06.asp)

<sup>2</sup> [http://www.dwp.gov.uk/asd/asd1/child\\_support/csa\\_quarterly\\_sep06.asp](http://www.dwp.gov.uk/asd/asd1/child_support/csa_quarterly_sep06.asp)

A new Chief Executive was appointed to the CSA. He undertook an urgent review, but his plans involved spending an extra £300 million over three years to implement over and above the Agency's current annual budget of £400 million. Even then only half of lone parents and only a third of lone parents on social assistance would receive any maintenance. The Secretary of State announced (*Hansard*, 9 February 2006 col 1019) that there would be another review by Sir David Henshaw to redesign completely the child maintenance system and to report by the summer recess of 2006.

The Secretary of State said, in his February (2006) announcement, that £600 million of maintenance was collected, twice the level in 1997 but the 'performance of the agency remains unacceptable'. He pointed out that:

*'The agency currently manages 1.5 million cases. Of the 670,000 cases assessed as having a positive maintenance liability, just over 400,000 PWCs are actually receiving any payment via the collection service or have a Maintenance Direct arrangement in place. There is a backlog of over 300,000 cases. Despite having collected £4.5 billion in maintenance, more than £3 billion of debt has also built up, and it has already cost the taxpayer well over £3 billion to administer. Only 30 per cent of lone parents receive any maintenance. Less than 15 per cent of lone parents on benefit receive any maintenance through the CSA. There is little evidence to suggest that outcomes are any better than under the court system that it replaced.'*

(*Hansard*, 9 February 2006 col 1019)

The National Audit Office (NAO) (2006) reported that the child support policy reforms of 2003 failed to deliver expected improvements in customer services and cost effectiveness. The NAO states:

*'In terms of the amount of maintenance collected, in 2004-2005 it cost the Agency £0.54 to collect £1 in maintenance from non-resident parents, excluding the costs associated with implementing the Reforms and the CS2 system. Including these costs increases the cost of collecting £1 of maintenance to £0.70. This largely reflects in part a policy that requires the Agency to collect and transfer relatively small amounts of maintenance from, and on behalf of, relatively poor customers. These customers have poor incentives for compliance and tend to experience frequent changes of circumstances. As a consequence, the Agency's performance continues to lag behind the organisations responsible for child support in certain other countries such as Australia, who use a different model.'*

(NAO, 2006: para 18, p 3)

The CSA is currently undertaking a three year strategy (the Operational Improvement Plan (OIP)) (2006-2009) to drive up its performance and implement the new scheme. The forward to the OIP states 'the aim of this plan is to improve our service to clients, increase the amount of money we collect, achieve greater compliance from non-resident parents (NRPs) and provide a better platform from which to implement evolving policy in the future' (Geraghty, 2006).

The Henshaw review was presented to the Secretary of State for Work and Pensions in July 2006 whilst this study was in the field. The Government immediately accepted the main recommendations (DWP, 2006). A period of consultation on the Henshaw proposals ended on 18 September 2006 and a White Paper was published on 13 December 2006 'A new system for child maintenance' which sets out the latest policy proposals (DWP, 2006c).

There are four new principles for child maintenance highlighted in the White Paper:

- help tackle child poverty;
- promote parental responsibility;
- provide a cost-effective and professional service;
- be simple and transparent.

Tackling child poverty is said to be the 'first and most critical test' of the reform (DWP, 2006d: 5). In order to refocus the system upon these four principles the main changes include:

- extending the child maintenance premium to all current CSA cases;<sup>3</sup>
- increasing the child maintenance benefit disregard;
- encouraging more private agreements and removing the compulsion from PWCs on social assistance benefits to apply for formal maintenance via the CSA;
- improving the quality and accessibility of information and guidance services to help parents reach private agreements;
- introducing a new agency to replace the CSA – the Child Maintenance Enforcement Commission (C-MEC);
- changing the formula for calculating child maintenance and basing it on tax data from HM Revenue and Customs (HMRC);
- focusing on 'tougher' enforcement measures;
- increasing efforts to collect historic debts;
- continuing with the OIP until 2008/09;
- promoting 'joint registration' of both parents at birth of a child.

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<sup>3</sup> The child maintenance premium is set at up to £10 per week. It is paid to PWCs on social assistance benefits but only where child maintenance is paid by the NRP. It is currently not available to CSA clients who entered the system between 1993 and before March 2003. The extension of this premium will include the pre-2003 cases and up to 55,000 more children will benefit.

In regards to tackling child poverty, the extension of the existing £10 per week premium to all CSA cases on social assistance benefits where maintenance is being paid (including to the pre-2003 cases) is expected to benefit a further 40,000 PWCs and 55,000 children (DWP, 2006d: 10). The new higher level for the child maintenance benefit disregard has not been announced, but will not be fully implemented until 2010/11. It is hoped that the promotion of more private agreements will improve compliance and the plans for improved advice and guidance services aims to support parents in that endeavour. Some key elements are still under consideration; the nature and extent of advice and guidance services and the provision of a national helpline or website to register private agreements. It is hoped that more private agreements will reduce the number of cases going through the new agency C-MEC helping provide a more efficient and cost effective service.

To further aid efficiency, the formula for calculating maintenance will be simplified. Child maintenance will be calculated using gross income and will be based on historic information using the previous year's tax earnings provided by HMRC. Assessments will be fixed for a period of 12 months and the level at which changes in current earnings will trigger a change in the assessment is set at 25 per cent. These changes will mean that only three pieces of information will be needed to make an assessment. To reflect the change from net to gross income the percentage of income to be paid in child maintenance will be reduced from 15 per cent of net income to ten per cent of gross income for one child and, for two children from 20 per cent to 15 per cent and for three or more children from 25 per cent to 20 per cent respectively (DWP, 2006c: para 4.16).

C-MEC will focus on providing stronger and more effective enforcement measures, new powers will be created to impose curfew orders and to remove passports. Additionally, the legal framework will be streamlined to allow C-MEC to take direct enforcement action without the need to always apply to the courts for orders. It represents a mainly administrative based solution to enforcement actions. C-MEC will also seek to reduce the level of historic debt from uncollected maintenance and will have the power to commission services, such as specialist debt collection agencies. It will also be responsible for winding down the CSA system. There will be no new or expanded role for the courts and, as now, 12 months following a court order, parents will be able to turn to C-MEC in the event of non-compliance.

The main thrust of the proposals is to limit the workload of C-MEC leaving it to concentrate on difficult cases and improve enforcement as an effective back-up to private agreements (some fees may be charged to parents as a disincentive to use its services and to encourage compliance).

The planned timetable for reform is:

- a new Bill for child maintenance – 2007/08;
- C-MEC to take over operations from the CSA – 2008/09;
- extend the child maintenance premium to all parents (where maintenance is paid) 2008/09;

- extend choice to make private agreements to parents on social assistance benefits 2008/09;
- implement new advice and guidance services 2008/09;
- support existing CSA clients to make choices about private agreements 2009/10;
- new applications to C-MEC accepted 2010/11;
- all clients to be on a single child maintenance system by 2012/13.;

## 1.2 Objectives of the study

This research was commissioned following an Invitation to Tender on 24 April 2006 for a project to undertake international comparisons of child maintenance schemes. The Invitation to Tender came well in advance of both the Henshaw report and the White Paper proposals. The intention was to commission a project to replicate the comparative study funded by the Joseph Rowntree Foundation and undertaken by Corden (1999).<sup>4</sup> The Department for Work and Pensions (DWP) specified the countries that should be covered: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Netherlands, New Zealand, Norway, Sweden, and the USA.

The key research objectives were to provide an overview of the child maintenance systems in the above countries and to compare their systems with the UK, including:

- rates of lone parenthood, family dissolution and formation;
- costs of the system;
- the administrative structures;
- assessment of maintenance;
- child maintenance in the context of social security benefits and tax credits;
- enforcement and collection methods;
- public attitudes to child maintenance;
- efficiency and effectiveness – i.e. unit costs, outputs and outcomes.

Information on the development of child maintenance policy in the relevant countries including any changes currently under consideration was also requested.

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<sup>4</sup> This study was republished with the addition of the USA (Corden and Meyer, 2000).

### 1.3 Methods

The project was commissioned at the end of May 2006 and had to be completed by the end of August 2006. Constrained by this timetable, the research employed methods used in previous comparative studies (see, for example: Bradshaw and Finch, 2002; Bradshaw *et al.*, 1996; Eardley *et al.*, 1996) of tax and benefit systems. These were also the methods employed by Corden (1999). National informants<sup>5</sup> were recruited (see the list in Appendix A), mainly academics that were used before in the studies referenced above. The report is, therefore, primarily based on data provided by informants rather than by administrative agencies or government departments in the various countries. Informants were sent a questionnaire at the end of June 2006 together with a completed version of the UK questionnaire to act as a model. They had until the end of July 2006 to complete and return it. Given the timetable, the questionnaire contained more structured elements than Corden used in her study, but also gave scope for discursive responses and included vignettes – standard hypothetical cases with the national informants asked to say what would happen to them in given circumstances.

All questionnaires for all countries were returned and they are available at <http://www.york.ac.uk/inst/spru/research/summs/childsupport.html>. This report was written by the research team during August 2006 and while writing, issues were clarified with the national informants by email. National informants were also given the opportunity to comment on the draft report in September 2006 and their responses were incorporated in the final draft. Given the size of the report and the extent and complexity of the data presented, there was a further extension (until January 2007) to the project for redrafting in the light of the White Paper.

In addition there was a small element of secondary data analysis – of the Luxembourg Income Study (LIS) to derive lone parent rates, their employment rates, rates of receipt of child maintenance, amounts of child maintenance and the impact on child poverty in 2000. The LIS analysis was therefore based on child maintenance outcomes from the original 1991 Child Support Act and formula. The rest of the analysis in the report is however based on the current child support system and formula implemented in March 2003.

### 1.4 Outline of the report

Chapter 2 presents the results of the analysis of the LIS (2000) to provide a description of the demographic and socio-economic context that child maintenance policies are operating in across countries. It describes the prevalence of lone parent families across countries, their socio-economic characteristics and the proportions in receipt of child maintenance. It also provides an analysis of the contribution of child maintenance to child poverty reduction.

Chapter 3 provides an overview of the child maintenance regimes. Countries are clustered according to whether courts or agencies – or a mixture of both – are primarily responsible for the determination of formal child maintenance obligations in cases where parents are unable or unwilling to come to a private agreement.

Chapter 4 is concerned with how formal child maintenance obligations are assessed, the process for deciding amounts and how parental resources are taken into account in each country, including how shared care is dealt with and obligations to the second families of NRPs. The level of discretion operating in regimes is also discussed.

Chapter 5 presents an analysis of the outcomes of formal child maintenance assessments using hypothetical vignette scenarios. It presents the amounts of maintenance that NRPs would be expected to pay in a number of hypothetical scenarios that explore different economic and family circumstances as well as the effect of 'roughly equal amounts of shared care' on the levels of maintenance obligations.

Chapter 6 is concerned with the operational processes of collecting, paying, enforcing, guaranteeing and revising child maintenance obligations. Informants' views on the advantages and disadvantages of guaranteed schemes are provided as well as a brief account of the interactions of child maintenance systems with tax and social benefit systems. The chapter concludes by discussing how revisions are made to uprate the levels of the obligation.

Chapter 7 presents national informants' estimates of effectiveness of regimes from a mixture of administrative data sources and survey evidence. Effectiveness is presented using three criteria; estimated proportions of parents in each country with child maintenance agreements, estimated proportions of parents' paying or receiving child maintenance and national informants' own assessments of the effectiveness of their regimes from a list of selected criteria.

Chapter 8 is concerned with the costs of the child maintenance regimes.

Chapter 9 outlines the policy environment for child maintenance in the countries under study. It discusses research into child maintenance; public attitudes and recent (and potential) future policy changes in countries. This helps place the current child maintenance regimes and systems within their country's policy framework, some of which are in the process of radical reform (Australia for example).

Chapter 10 presents the main conclusions from this study.



## 2 Context

The purpose of this chapter is to provide a comparison of the demographic and socio-economic context that child maintenance policies are operating in. In particular it explores the prevalence of lone parents, their labour supply behaviour and the contribution that child maintenance makes to their income and to the relief of poverty. We did not ask the national informants for this information. Previous experience has led us to conclude that it is impossible to get this kind of information from national informants on a consistent basis, and that it is better to obtain it via the secondary analysis of micro social data. We reviewed the European Social Survey and the European Community Household Panel for this purpose, but found that neither survey isolates the amount of child maintenance as a separate variable. Further they do not include the non-European Union (EU) countries we are interested in. So we turned to the Luxembourg Income Study (LIS).<sup>6</sup>

The advantages of LIS are that it includes all our countries except New Zealand and Denmark,<sup>7</sup> and classifies income sources in a consistent framework.<sup>8</sup> However, using LIS we cannot distinguish between child maintenance and alimony and we cannot tell whether the money comes from formal or informal sources or through a court order or otherwise.

We have already undertaken some comparative analysis of the extent to which child maintenance reduces child poverty rates using LIS (Bradshaw, 2006) – that analysis is replicated here with a rather different methodology.<sup>9</sup> Kunz *et al.* (2001) have also

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<sup>6</sup> The computing for this analysis was undertaken by Jun-Rong Chen.

<sup>7</sup> Denmark has recently withdrawn its data which was anyway only for 1997.

<sup>8</sup> V34 is 'child maintenance/alimony' and V20S2 is 'allowances to single parents such as advance maintenance paid by social security to compensate for unpaid alimony payments'. We included both these as child support except in Norway where we were assured by the national informant and her advisors that V20S2 included all benefits for lone parents except advanced maintenance.

<sup>9</sup> In this analysis the poverty threshold is fixed at 60 per cent of the median of net disposable income.

explored child maintenance for seven countries including the UK using LIS. They found that the proportion of non-widowed, female-headed families receiving child maintenance in the UK had fallen from 39.2 per cent in 1979 to 21.2 per cent in 1995 and the contribution of child maintenance to the net income of those receiving it fluctuated from 22.1 per cent in 1979 to 23.5 per cent in 1995.

The major disadvantage of LIS is that the latest data is from the circa 2000 sweep. LIS is updated every five years and the circa 2004 sweep is going to begin to be put up on the database in early 2007 so the timing of this project is unfortunate. The latest data for the UK is 1999, well before the new child maintenance scheme began to operate, before the recent increases in lone parent labour supply and before the reduction in child poverty. So the picture painted here is somewhat historical for the UK. This is even truer for Australia, because the latest data we have for there is 1994 and the child maintenance regime will have evolved considerably since then. It will be worth replicating this analysis when the circa 2004 sweep is produced.

## 2.1 Prevalence of lone parent families

Table 2.1 compares the prevalence and characteristics of lone parent families<sup>10</sup>. The UK, Sweden and the USA have the highest proportions, nearly a quarter of families with children headed by a lone parent.<sup>11</sup> In contrast the Netherlands has less than ten per cent of lone parent families. The New Zealand informant indicated that lone parent families constituted 29 per cent of all families with dependent children.

The majority of lone parent families in all countries are headed by a woman, however Canada has nearly a quarter headed by a man and the USA and the Nordic countries have more than 15 per cent headed by a man. Austria has only 3.3 per cent of lone parents headed by a man.

In all countries the majority of lone parents are divorced or separated from a marriage, but in Norway and Sweden nearly half have never been married.<sup>12</sup> In contrast, in the Netherlands only 16 per cent have never been married. Widowed lone parents are in a minority in all countries, but Austria has a much higher proportion (11.7 per cent) than Sweden (2.2 per cent).

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<sup>10</sup> Child support is also of relevance to step families but they are not identifiable in the LIS data set.

<sup>11</sup> The 2004 Families and Children Study (FACS) gives a proportion of lone parents families for the UK as 25 per cent.

<sup>12</sup> The Australian classification of marital status of lone parents is 28.2 per cent single never married, 69.7 per cent separated, widowed or divorced and 2.1 per cent married or de facto. We are, therefore, unable to exclude widowed lone parents from the subsequent analysis.

**Table 2.1 Prevalence of lone parent families, gender and marital status. Circa 2000**

Country	Lone parent families as a % of all families with dependent children	% of lone parents headed by a male	Single never married	Percentage of lone parent population who are:		
				Separated	Divorced	Widowed
Australia (1994)	14.1	14.8	28.2	71.8		
Austria	14.6	3.3	31.9	5.3	50.4	11.7
Belgium	13.7	8.8	17.2	22.2	51.0	9.6
Canada	18.5	24.4	31.8	29.3	30.7	4.3
Finland	17.9	15.5	31.7	10.6	52.4	5.2
France	14.8	12.0	38.1	6.4	47.9	7.6
Germany	15.7	8.4	28.7	18.0	48.6	4.8
Netherlands (1999)	9.7	8.0	16.0	3.6	72.9	7.6
Norway	21.5	17.5	43.5	17.6	35.1	3.7
Sweden	23.1	16.3	45.2	8.5	44.0	2.2
United Kingdom (1999)	24.2	10.1	38.3	22.6	33.7	5.4
United States	23.9	18.1	36.4	17.9	39.3	6.4

Source: Own analysis of LIS.

Table 2.2 compares the number of children, the lone parents' age and the proportion with a child under five. The most common lone parent family in all countries has only one child, but the UK has more large (three children or more) lone parent families than any other country. The UK also has the highest proportion of lone parents under 25 – 14.7 per cent compared with, for example, the Netherlands with only 0.5 per cent under 25. The UK also has the highest proportion of lone parents with a child under five – 37.3 per cent compared with 13.9 per cent in Austria.

These characteristics of lone parent families have been found to be part of the explanation for variations in labour supply between countries (Bradshaw *et al.*, 1996).

**Table 2.2 Lone parent families – number of children, age of lone parent and percentage with a child under five. Circa 2000**

Country	Number of children %				<25	Current age %			% with a child under 5
	1	2	3	4+		26-35	36-45	46+	
Australia	50.5	33.1	13.5	2.9	9.0	31.4	44.0	15.5	32.7
Austria	74.2	24.2	1.6	0.0	4.7	26.6	46.7	22.0	13.9
Belgium	56.2	32.4	11.4	0.0	2.5	21.4	64.9	11.3	26.6
Canada	54.2	34.8	8.8	2.2	9.8	29.6	43.0	17.7	23.1
Finland	61.3	27.8	9.0	2.0	5.0	25.0	44.8	25.1	18.9
France	58.1	31.1	8.6	2.2	3.7	27.4	48.3	20.7	23.6
Germany	68.8	25.5	4.1	1.7	6.0	31.2	46.9	15.9	26.9
Netherlands	49.2	37.5	10.6	2.7	0.5	29.4	49.9	20.2	19.5
Norway	64.7	28.4	5.9	0.9	8.6	34.9	39.3	17.3	24.1
Sweden	53.8	33.1	9.6	3.4	4.1	28.8	46.7	20.4	19.8
United Kingdom	47.4	32.9	13.7	6.0	14.7	37.6	33.4	14.3	37.3
United States	50.6	31.5	11.9	6.0	14.5	30.1	34.9	20.5	31.8

Source: Own analysis of LIS.

It can be seen in Table 2.3<sup>13</sup> that Australia and the UK<sup>14</sup> have the highest proportion of workless lone parent families and the UK has the lowest proportion of lone parents working full-time, defined as more than 30 hours. However, the characteristics of lone parent families are not the whole explanation for lone parent labour supply – the USA has the highest proportion of lone parents working full-time, despite sharing many of the UK lone parent characteristics – high proportions of single, young mothers, more children and under fives. Sweden also has a higher than average lone parent workless rate, despite the fact that it has smaller lone parent families, with older lone parents and fewer children under five. Other factors that may influence labour supply are the educational level of lone parents, labour demand and social policy. Among the relevant social policies is, of course, child maintenance – to which we now turn.

<sup>13</sup> Finland and Norway do not have data on hours worked.

<sup>14</sup> The employment rate of lone parent families has risen since 1999 – in spring 2006 it was 56.6 per cent with 31.9 per cent employed full-time (30 hours plus). Source: Labour Force Survey.

**Table 2.3 Working hours of non-widowed lone parents. Circa 2000**

Country	Working hours			
	0	<16	17-29	30+
Australia	57.3	8.0	8.4	26.2
Austria	25.3	2.0	22.4	50.4
Belgium	38.9	3.8	14.0	43.4
Canada	20.1	10.6	13.6	55.7
Finland	–	–	–	–
France	27.6	1.7	14.5	56.1
Germany	33.8	4.2	18.8	43.2
Netherlands	32.6	9.9	30.4	27.1
Norway	–	–	–	–
Sweden	40.9	7.6	11.9	39.6
United Kingdom	55.8	8.5	12.9	22.8
United States	15.5	2.1	9.1	73.3

Source: Own analysis of LIS.

Table 2.4 presents the proportion of all non-widowed lone parents who reported receiving child maintenance. This ranges from 21.5 per cent in the UK to 94.8 per cent in Sweden (probably because of the Child Support Guarantee). The proportion in the UK in 1999 was roughly the same level as found by Kunz *et al.* (2001) in 1995 (21.2 per cent).

It can also be seen in Table 2.4 that the number of non-widowed lone parents in the LIS data set for some countries is quite small, especially in Austria and Belgium. This will have an influence on sampling errors in the analysis in this chapter.

**Table 2.4 Percentage receiving child maintenance. All non-widowed lone parents. Circa 2000**

Country	Number of non-widowed lone parents	% non-widowed lone parents receiving child maintenance
Australia (1994)	363	33.2
Austria	80	58.8
Belgium	101	40.1
Canada	1,790	30.8
Finland	349	69.0
France	447	55.8
Germany	399	28.4
Netherlands (1999)	144	27.7
Norway	575	77.7
Sweden	519	94.8
United Kingdom (1999)	1,980	21.5
United States	3,986	31.7

Source: Own analysis of LIS.

Table 2.5 presents the average value of child maintenance paid to families receiving child maintenance using a set of different indices:

- in £ purchasing power parities per month;
- as a proportion of national average earnings;<sup>15</sup>
- as a proportion of average net disposable income; and
- as a proportion of total cash transfers.

Thus, it seeks to present the value of child maintenance in a consistent comparative perspective.

The USA has the largest cash payments and the highest as a proportion of cash transfers.<sup>16</sup> As a proportion of average earnings it is highest in France. The UK<sup>17</sup> has the third highest payment in cash terms; the third equal highest as a proportion of average earnings; the highest as a proportion of net disposable income; and the fourth highest as a proportion of average transfers. Interestingly the Nordic countries tend to be at the bottom of this league table.

**Table 2.5 Contribution of child maintenance. All families with children receiving it. Circa 2000**

	Child maintenance, £ppps	Child maintenance as % of national average earnings	Child maintenance as % of national average net disposal income	Child maintenance as % of national average net cash transfers
Australia (1994)	162	10.5	10.3	71.9
Austria	174	18.0	11.6	37.6
Belgium	158	12.9	10.0	35.4
Canada	227	12.1	11.2	74.9
Finland	116	11.3	9.2	51.8
France	178	18.3	12.5	38.0
Germany	159	10.0	11.6	41.3
Netherlands (1999)	141	8.3	9.5	44.7
Norway	136	10.4	8.3	34.6
Sweden	112	8.0	9.0	24.5
United Kingdom (1999)	222	12.9	13.2	65.0
United States	261	12.6	10.8	96.2

Source: Own analysis of LIS.

<sup>15</sup> For full-time earners working at least 30 hours per week.

<sup>16</sup> In fact they represent almost all cash transfers. However, this may be misleading as LIS does not record the value of food stamps.

<sup>17</sup> Bearing in mind that the figures refer to the pre 2003 scheme.

## 2.2 Contribution of child maintenance to child poverty reduction

We now explore what contribution child maintenance makes to the reduction of child poverty. To do this we assess the contribution that each element of the tax and benefit package makes to reducing the pre-transfer/market generated child poverty rates. Table 2.6 takes non-widowed lone parents only. A child poverty threshold is fixed as 60 per cent of median net disposable income in each country using the modified OECD equivalence scale:

- Column A gives the child poverty rate that would be experienced if households only received market income.<sup>18</sup> The child poverty rates range from 80.8 per cent in the UK to 47.1 per cent in Finland.
- Column B gives the child poverty rate after the addition of child and family benefits. This is Child Benefit in the UK and it does not have much impact: in the UK only 1.1 percentage point reduction in child poverty or 2.6 per cent of the pre transfer child poverty rate. In Norway the Transitional Allowance reduces the pre transfer poverty rate by 40 per cent.
- Column C then gives the child poverty rate after the addition of other cash benefits (Income Support (IS), Jobseeker's Allowance (JSA), Incapacity Benefit (IB) and Family Credit and so on in the UK) and this contributes to a substantial reduction in child poverty in the UK and many other countries.
- Then in Column D we add child maintenance to get gross income – child maintenance contributes a further 3.5 percentage point reduction in child poverty compared with ten percentage points in Australia for example.
- In Column E we take account of direct taxes to get at net disposable income. Taxes increase the post transfer poverty rate in most countries and by most in the Netherlands (13.0 percentage points). In the UK it is only 1.7 percentage points.
- Column D gives the impact of child maintenance on child poverty rates. Child maintenance may raise incomes without lifting them above the poverty threshold and thus reducing the poverty rate. Column F gives a measure of the extent to which child maintenance closes the poverty gap. This is the average of the difference between income and the poverty threshold that is closed by child maintenance. The reduction in the poverty gap due to child maintenance varies from 14 per cent in France to 1.9 per cent in the UK.

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<sup>18</sup> Unfortunately the data for Austria and Belgium is not strictly comparable because they only record net income.

Note this is a formal picture of the impact of child maintenance on child poverty. It takes no account of the behavioural consequences of the absence of any of these cash benefits. Nor does it take account of the interactions between them – the fact, for example, that child maintenance was fully taken into account in assessing IS in the UK in 1999.

The conclusion of this is that child maintenance does make a contribution to poverty reduction in all countries, but it is not the most important element in the package in any country and for lone parents in the UK it makes the second smallest percentage contribution to poverty rate and poverty gap reduction.

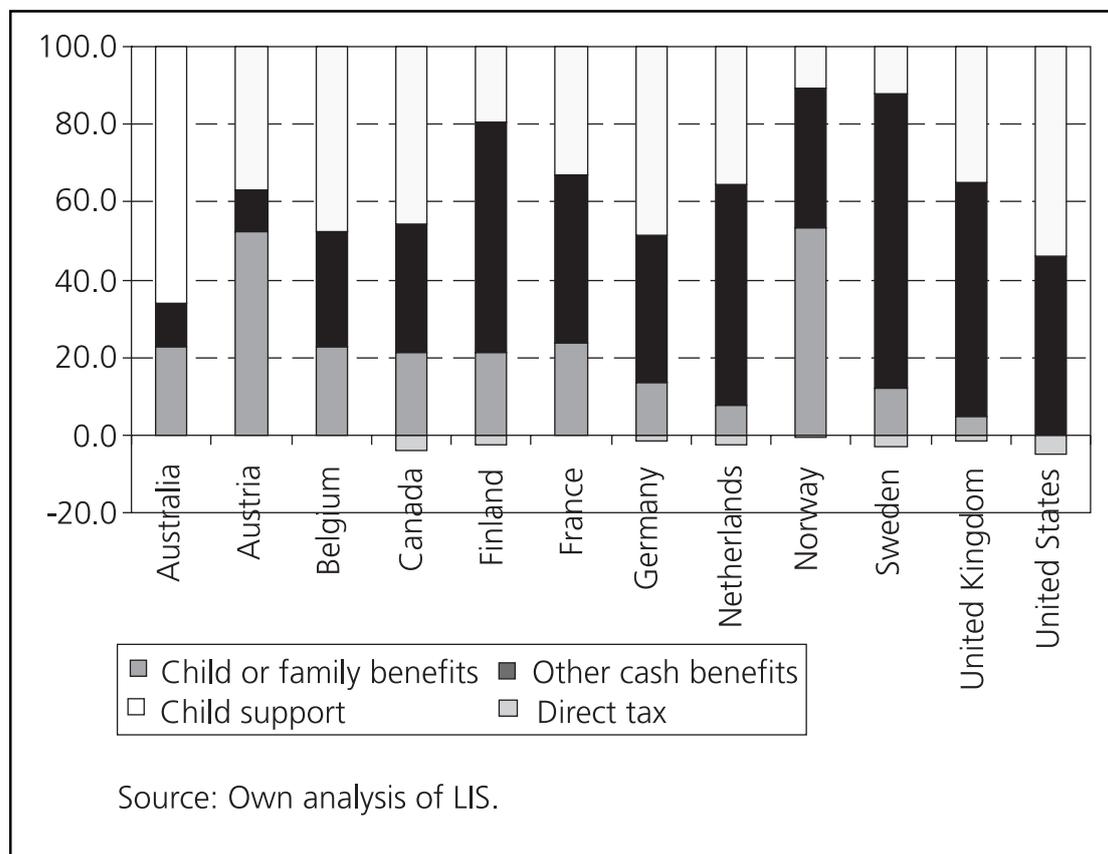
**Table 2.6 Child poverty rates. All non-widowed lone parents. Circa 2000**

	A	B	C	D	E	F
	Market income	(A)+Child or family benefits	(A)+All cash benefits before child maintenance	Gross income after child maintenance	Disposal income after direct taxes	% reduction in poverty gap as a result of child maintenance
Australia	73.3	68.9	56.7	46.5	46.5	6.0
Austria	63.8	44.8	38.4	24.8	24.8	8.7
Belgium	53.9	50.9	29.3	20.9	20.9	3.4
Canada	53.2	48.0	38.9	34.4	38.2	5.9
Finland	47.1	39.3	15.6	7.5	10.2	3.7
France	66.5	59.7	39.8	30.5	30.6	14.0
Germany	61.6	58.0	43.1	36.3	40.4	3.9
Netherlands	57.2	53.9	27.9	24.1	37.2	2.5
Norway	49.2	29.2	14.5	9.7	10.6	2.8
Sweden	50.4	45.7	14.4	9.0	12.8	5.4
United Kingdom	80.8	79.7	41.3	37.8	39.5	1.9
United States	58.2	58.2	51.2	47.5	52.4 <sup>1</sup>	6.0

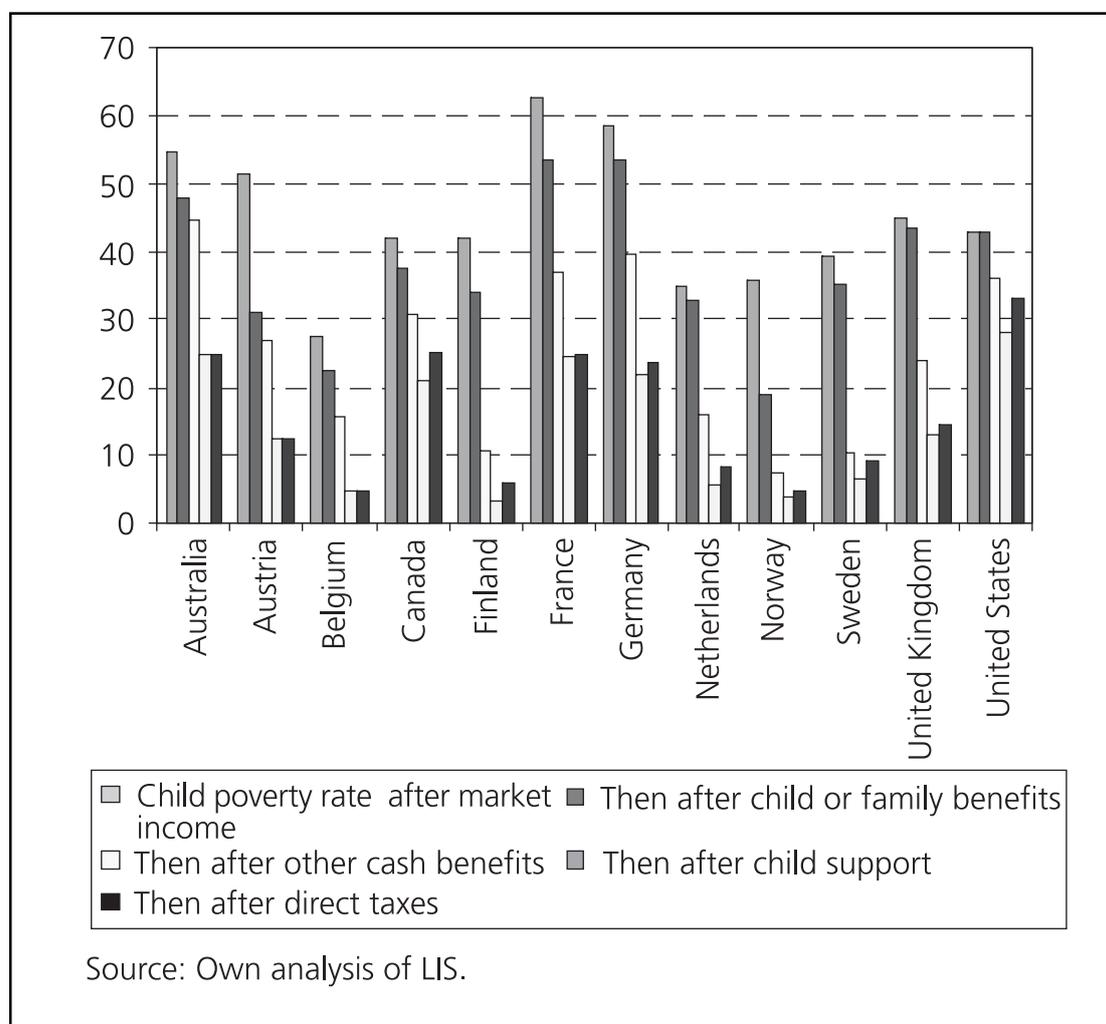
<sup>1</sup> This is income tax only. Earned Income Tax Credit is treated as income related benefit in LIS and is included in Column C.

The previous analyses have examined the overall impact of child maintenance on lone parent families whether or not they receive any child maintenance. Of course child maintenance makes much more impact on child poverty when it is received. Indeed this may give a picture of what child maintenance could achieve in child poverty reduction if it was working effectively. Figures 2.1 and 2.2 give the child poverty reduction for all families (mostly lone parents) receiving child maintenance. Child maintenance in the UK contributes to 35 per cent of the reduction in child poverty achieved by benefits (Figure 2.1) and if no child maintenance was received child poverty would be 46.5 per cent higher than it is (Figure 2.2).

**Figure 2.1 Percentage reduction in child poverty by cash benefits and transfers and percentage increase to post transfer child poverty by direct taxes. Families with children receiving child maintenance. Circa 2000**

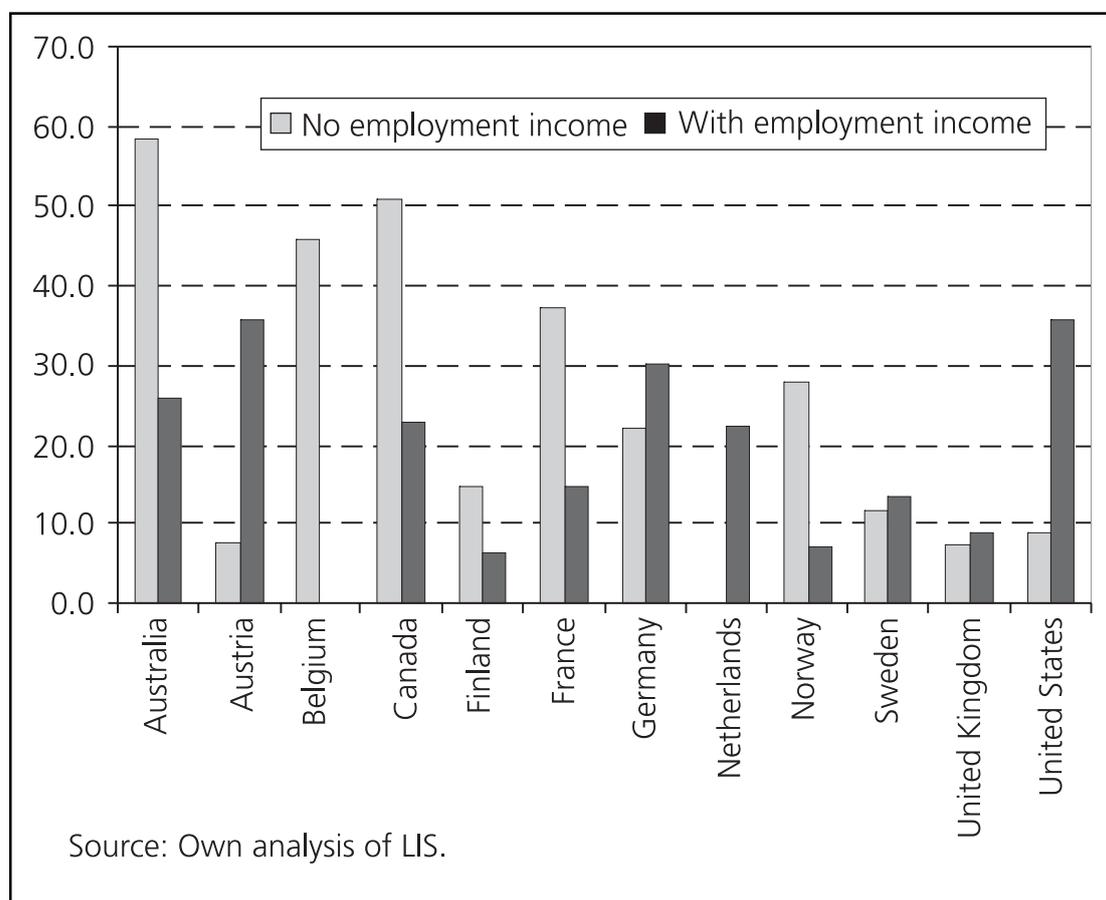


**Figure 2.2** Child poverty rate after each element of cash benefits and transfers. Families with children receiving child maintenance. Circa 2000



It also makes a difference whether or not a lone parent is in employment. Figure 2.3 shows the percentage contribution of child maintenance to child poverty reduction achieved by all transfers for lone parents with and without employment. There is considerable variation in the impact of child maintenance in different countries. In Australia and Canada child maintenance contributes to more than half the poverty reduction for lone parents with no employment and it makes an appreciable impact in Belgium. In the UK a child with a lone parent without employment income is very unlikely to be lifted out of poverty by child maintenance; child maintenance contributes to only 7.4 per cent of the reduction in child poverty. This is only a higher proportion than the Netherlands. If there is employment income, the UK is one of the countries where child maintenance contributes more to child poverty reduction but it is still one of the lowest – only 8.9 per cent.

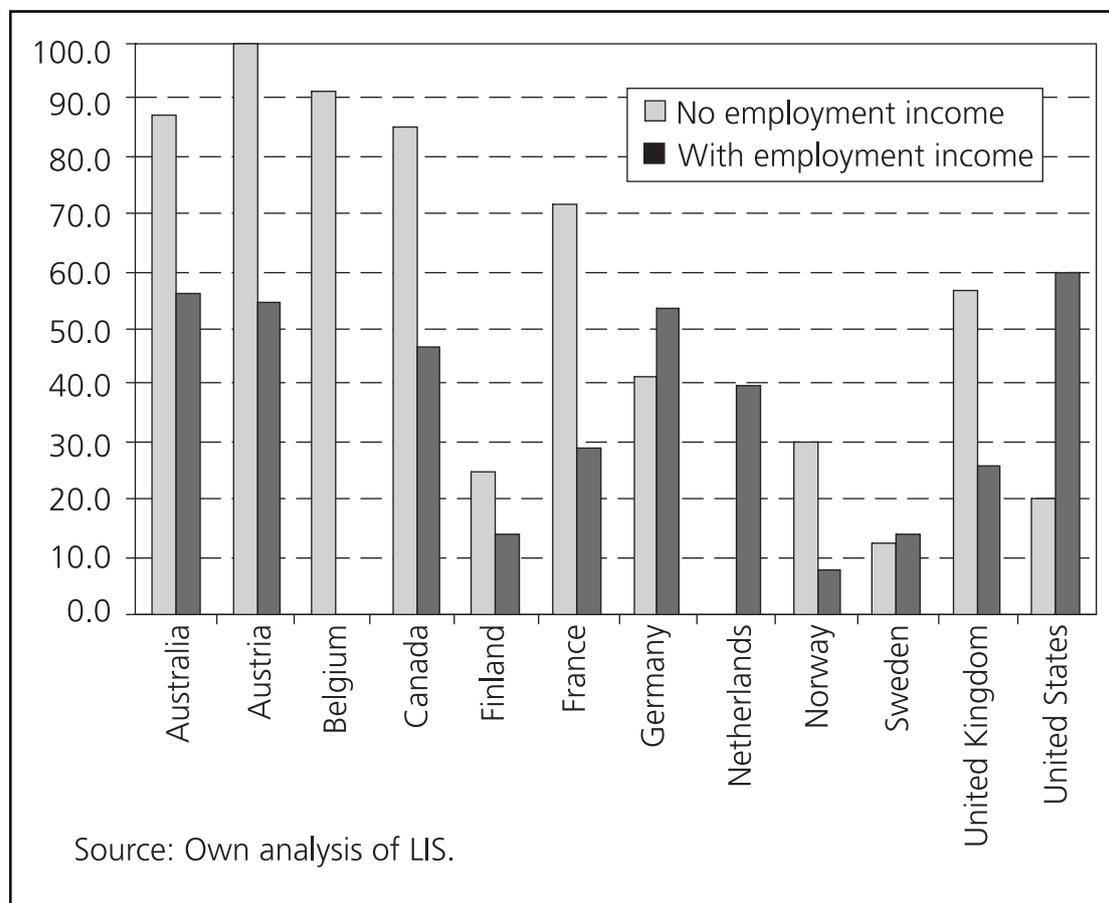
**Figure 2.3 Percentage contribution to reduction in child poverty due to child maintenance. All non-widowed lone parent families. Circa 2000**



Greater reductions in child poverty are achieved if child maintenance is received (Figure 2.4). In the UK if there is no employment income and child maintenance is received it contributes 56.6 per cent to the reduction in child poverty. However, only 10.3 per cent of lone parents without employment are receiving child maintenance in the UK. For those with employment income and child maintenance, the contribution of child maintenance to child poverty reduction is 25.6 per cent in the UK. But again only 14.8<sup>19</sup> per cent of all non-widowed lone parents in the UK have employment income and child maintenance in 1999.

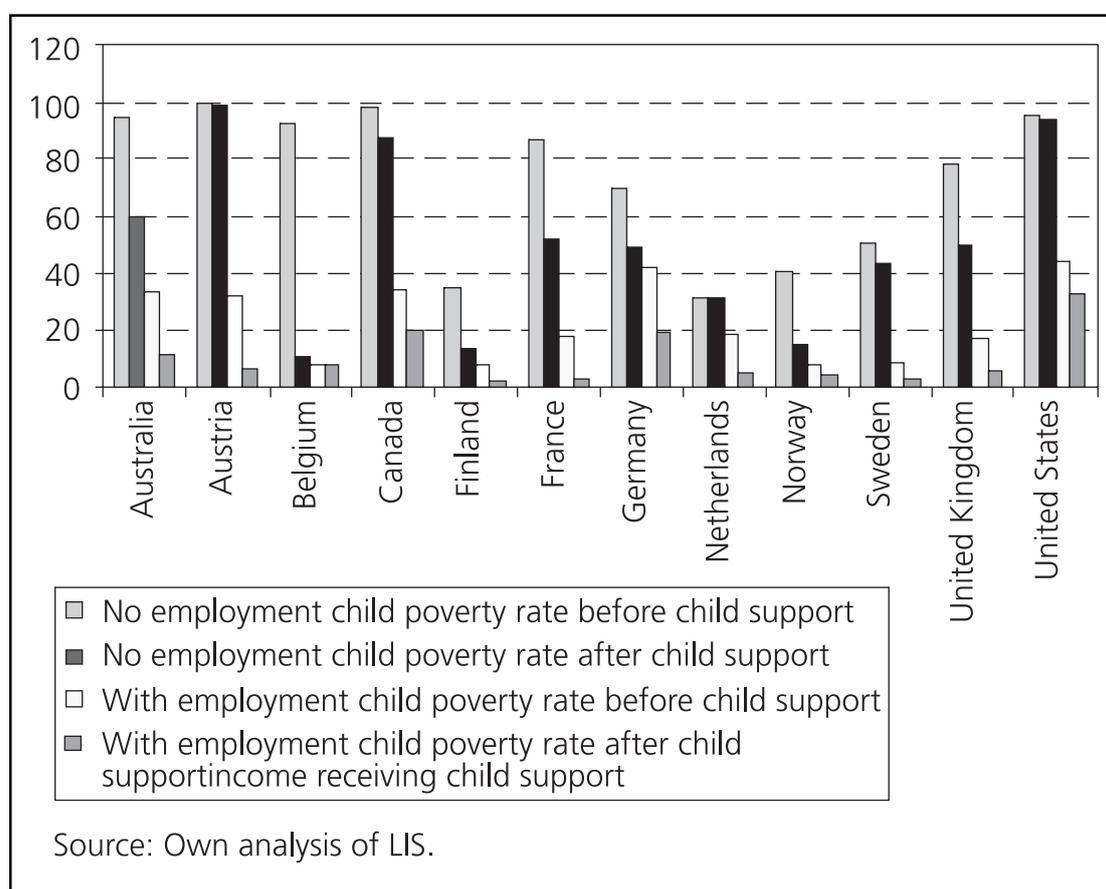
<sup>19</sup> FACS 2004 indicates that the proportion had increased to 21 per cent.

**Figure 2.4 Reduction in child poverty due to child maintenance. Only non-widowed lone parent families receiving child maintenance. Circa 2000**



The previous two figures summarise the contribution of child maintenance to overall child poverty reduction, but they do not illustrate how much child poverty is reduced by child maintenance. This is summarised in Figure 2.5 just for those receiving child maintenance. In the UK, for the 5.7 per cent of non-widowed lone parents receiving child maintenance with no employment income, it reduces child poverty by 36 per cent. Out of the 14.8 per cent of non-widowed lone parents with employment income and child maintenance the reduction in child poverty is 67.2 per cent. This picture for the UK has changed following the introduction of Child Tax Credits (CTC). Bradshaw (2006) has produced a similar analysis for the UK based on the 2004/05 Family Resources Survey. The child poverty reduction of child maintenance for those receiving it was 64.2 per cent for lone parents in employment and 50.0 per cent for lone parents with no employment.

**Figure 2.5 Percentage reduction in child poverty as a result of child maintenance. Non-widowed lone parents. Circa 2000**



## 2.3 Conclusion

Using the LIS this chapter has compared the prevalence and characteristics of lone parents, explored the proportion of families with children receiving child maintenance, and the contribution that it makes to their income and the reduction of child poverty. The UK in comparative perspective has a high prevalence of lone parents and a low labour supply of lone parents, which is partly explained by their characteristics. A smaller proportion of non-widowed lone parents receive child maintenance than in any other country. However, for those receiving child maintenance the level of payment is comparatively high.

These findings have implications for the relief of poverty. Child maintenance makes a comparatively small contribution to the relief of child poverty overall, but if lone parents actually receive child maintenance the poverty reduction achieved is much more significant, producing child poverty rates which are less than half what they would have been without child maintenance. The impact of child maintenance also varies according to whether the lone parent is or is not in employment. For lone parents in employment in the UK child maintenance can reduce child poverty by over two-thirds – more than any other country except Austria, France and the Netherlands. However, it is not more effective overall because comparatively few non-widowed lone parents have employment and child maintenance.

This was the situation circa 2000 (1999 in the case of the UK). We know that for the UK things have changed, in particular employment rates of lone parents have been rising and child poverty rates have been falling. We will not have a more up-to-date comparative picture using LIS data until the 2004 sweep data becomes available during 2007.

There are more recent estimates of the impact of child support on child poverty rates in the UK. Bradshaw (2006) estimated that in 2004/05 child support reduced child poverty by 5.6 per cent overall, by 11.8 per cent for children in lone parent families overall, by 50.2 per cent for lone parents receiving child support and 64.2 per cent for lone parents in employment and receiving child support.

In the USA, although there is some evidence that child support has been improving especially for never married mothers (Grail, 2006; Sorensen, 2003; Sorensen and Hill, 2004), there is no more recent national analysis comparable with the LIS analysis reported here because the US research uses the US official poverty line which is much lower than 60 per cent of the median. Nonetheless, analyses from the US tend to show that child support is received by an increasing proportion of families below the poverty line (Sorensen, 2003) and is an increasingly important part of the income package of single mothers. The improvements in the US have not been uniform, however, and some states show substantially better performance than others (Cancian, Meyer and Park, 2003).

In relation to Australia there appears to be no more recent estimate of the impact of child maintenance on poverty than 1997-1998 (Harding and Szukulska, 2000). This estimated that child support increased for \$10 per week in 1982 to \$36 per week in 1997-98 or from two per cent to eight per cent of total disposable income of sole parent families and this improvement reduced the child poverty rate (50 per cent threshold from 15.4 per cent to 14.2 per cent).

Chapter 2 considers the different child maintenance regimes in the countries under study.

# 3 Overview of child maintenance regimes

## 3.1 Introduction

This chapter describes the divergent child maintenance regimes in the countries included in this international comparison. Countries organise their child maintenance in different ways. Traditions of support are influenced by history, culture and socio-political institutions and there is a deal of similarity and difference in the considered role of the state in the lives of the 'family' (Abrahamson *et al.*, 2005: 1) and indeed over what constitutes a family.

In the first part of the chapter countries are clustered according to the weight they give either to the court or an agency in child maintenance policy (note the Canadian data refers mainly to Ontario and not to the whole of Canada) Three main clusters are identified: 'court'; 'agency' and 'hybrid' and the degree to which parents can negotiate private agreements within such structures is discussed. Countries are also situated along a continuum of 'discretion and standardisation' in relation to decision making about child maintenance obligations. The chapter then moves on to present national informant's perspectives about different systems of provision before concluding with a discussion of the relevance of the findings for the Henshaw proposals.

## 3.2 Child maintenance regimes

This section identifies three major types of decision making systems – court; agency and hybrid (often a mixture of both – see Table 3.1), which will impact on whether and how parents are able to come to a private agreement about child maintenance obligations. Of course, it is also the case that the involvement of institutions and agencies will occur if parents are unwilling, or unable, (rather than prohibited from doing so by legislation) to come to a private agreement about child maintenance.

The relationship between the political centre and locale is important in understanding differences in cross national social policy. Mechanisms for redistribution and administration make a difference to outcomes (Behrendt, 2002: 203) and there is diversity in the administrative structures and systems in place in the countries under study which should briefly be commented on here. The nature of the state – whether unitary or federalist for example, influences where responsibility for policy making and financing is situated. At the risk of oversimplification, this can lead to differences within countries in terms of policy and outputs, as well as differences between them.

**Table 3.1 Child maintenance regimes: an overview**

Country	Responsibility for divorce proceedings			Determination of child maintenance in divorce/separation		Different arrangements for children of parents not married to each other	Responsibility for enforcement of payments	Advanced maintenance scheme
	By parents	By courts	By agencies	By parents	By courts			
Australia	Yes	Yes, ratified by court	Yes: Child Support Agency	No	No	CSA	No	
Austria	Yes – ratified by court	Yes	No	No	No	Court	Yes	
Belgium	Yes – ratified by court	Yes	No	No	No	Court; <i>Dienst voor Alimentatievordering</i> (Service for Maintenance Claiming)	Yes	
Canada (Ontario)	Yes – ratified by courts	Yes	No	No	No	Court; Family Responsibility Office (FRO) (Ontario specific)	No	
Denmark	Yes – ratified by <i>statsamt</i> (County Governor's office) Most cases courts have residual role	No	Yes – <i>statsamt</i> (County Governor's office)	No	No	Municipality	Yes	
Finland	Yes, mediated and confirmed by Social Welfare Board	Yes (residual role)	Yes, Municipal Social Welfare Boards	No	No	Municipal Social Welfare Board	Yes	

Continued

Table 3.1 Continued

Country	Responsibility for divorce proceedings		Determination of child maintenance in divorce/separation		Different arrangements for children of parents not married to each other	Responsibility for enforcement of payments	Advanced maintenance scheme
	By parents	By courts	By parents	By courts			
France	Courts	Yes – ratified by courts	Yes	No	No	Courts and social security agency ( <i>Caisse d'allocations familiales</i> )	Yes
Germany	Courts	Yes	Yes	No	Yes, <i>Jugendamt</i> (Youth Welfare Office) obliged to offer every unmarried mother advice and support, especially in relation to determination of paternity and child maintenance	Courts	Yes
Netherlands	Courts	Yes, ratified by courts	Yes	No	No	<i>Landelijk Bureau Inning Onderhoudsbijdragen</i> (LBIO) (national collection and support agency)	No

Continued

able 3.1 Continued

Country	Responsibility for divorce proceedings	Determination of child maintenance in divorce/separation			By agencies	Different arrangements for children of parents not married to each other	Responsibility for enforcement of payments	Advanced maintenance scheme
		By parents	By courts	By courts				
New Zealand	Courts	Yes	Yes (residual role)	Yes, Inland Revenue Child Support	No	Inland Revenue Child Support	No	
Norway	Fylkesmann (County Governor's Office)	Yes	Yes, (residual role)	Yes, NAV (My Arbeids- og Velferdsetat – Work and Welfare Agency), via the National Maintenance Payment Collection Centre	No	NAV (My Arbeids- og Velferdsetat – Work and Welfare Agency), via the National Maintenance Payment Collection Centre	Yes	
Sweden	Courts	Yes, approved by Social Welfare Board	Yes	No	No	Enforcement Service	Yes	
United Kingdom	Courts	Yes, ratified by courts	Yes (residual role)	Yes, Child Support Agency	No	Courts and Child Support Agency	No	
United States	Courts	Yes, ratified by courts	Yes	Child Support Agency – powers vary by state	No	Courts and Child Support Agency	No	

### 3.3 Private agreements

Essentially, all of the countries in our study require both parents to contribute financially to the maintenance of their children. However, there are cross national differences in the extent to which parents are able to decide between themselves – or come to a private agreement on both the level and method of financial support. Further, the policy aims behind the promotion of private agreements can be as varied as encouraging harmonious relations between parents, on the one hand, to reducing the role of the state in family life (whether on the grounds of subsidiarity and/or cutting expenditure) on the other.

Thus ‘private’ decisions about child maintenance by parents are made in a particular social context in each country and mediated by different institutions and social norms. The latter are reflected in differences within countries concerning who is able to make a private agreement: this is evident in the marital and social benefit status of parents. In all of the countries except Germany and Norway, generally for married parents who are divorcing (rather than separating), decisions concerning child maintenance obligations will be a factor considered in the granting of a divorce. The court (or its representatives) will want to make sure that support for children is, in a particular national context, adequate. This is not to say that parents who have not been married or who have been married but are not petitioning for divorce cannot apply for their agreement to be ratified and/or approved with a third (legal or administrative) party – but the difference is that they are not obliged to, with obvious implications for the support of children. However, Germany’s system allows private agreements, but in the case of either separated cohabitantes or unmarried parents who have not lived together, the *Jugendamt* (Youth Welfare Office) may play a role in reaching an agreement and determining child maintenance. The Youth Welfare Office is an agency of the state whose main task is the protection of children’s rights and interests.<sup>20</sup>

The social benefit status of parents is also important – whether parents are in receipt of (mostly) means tested social benefits in, for example, the UK, the USA, Australia, the Netherlands, New Zealand and Canada (Ontario) can affect their ability to come to private agreements about child support.

As we would expect, in the majority of countries included in this study, private, court and, usually (but not necessarily governmental), agency systems all coexist. Below, however, countries are clustered according to the societal institution (a court, organisation or agency) which is primarily responsible for the determination and administration of formal child maintenance.

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<sup>20</sup> If an unmarried woman gives birth to a child the Youth Welfare Office receives information about this birth from the Register Office. The Youth Welfare Office then is obligated to offer the mother advice and support, especially in relation to determination of paternity and child maintenance.

### 3.4 Courts

There are six countries in our study – Belgium, Austria, Canada (Ontario), Germany, Sweden and France in which the court has the main responsibility for the determination of formal child maintenance obligations. However, there is a deal of diversity in how they accomplish this. Courts in many cases are automatically involved in the determination of child maintenance obligations in the case of divorcing parents, and can also act to ratify the private agreements of married parents who are separating but not divorcing. In France for example, a juridical civil procedure determines child maintenance payments: this procedure is automatic after a divorce or formal legal separation of married parents (*'séparation de corps'*), but only on the request – generally when there is disagreement or non-payment – in the case of separated married or unmarried parents. The judge of family issues (*'juge aux affaires familiales JAF'*) has responsibility for the determination of the amount of obligation. He/she can also officially confirm a private arrangement. There is a residual role for the social security system which contains social benefit and/or child maintenance enforcement facilities for cases of non-payment. Generally, the social security system is subsidiary and is only aimed at complementing and/or facilitating the enforcement of juridical decisions relative to child maintenance.

In Belgium, court agreements are the only ones with legal power and consequence. The determination of child maintenance is a primary role for the courts. In many cases, courts will do no more than verify that the amount of maintenance already decided by the parents (perhaps with the help of a mediator or lawyer) is correct. However, they also determine the exact amount of maintenance, especially in cases of parental conflict. Private agreements need to be confirmed in court to have any legal standing. If parents cannot agree on an amount, mediators (such as the *Centrum voor Algemeen Welzijnswerk (CAW)* (Social Work Centre)), lawyers or notaries can be enlisted to help them. Failing that, the Juvenile Court will determine the amount and enforce the child maintenance to one of the parents. When a (unratified) private agreement breaks down, parents will have to go to court for the judge to decide the amount and enforce the child maintenance.

In Austria, all parents are free to come to a private agreement regarding child maintenance. However, this agreement always needs the approval of the court in order to be effective. The crucial consideration is the welfare of the child and the court usually denies its approval if the agreed child maintenance is considered too low.

In Canada (Ontario) (oral and written) private agreements between parents can be binding. It is understandably harder to enforce an oral agreement, or resolve a dispute if one arises, and so couples are always encouraged to have a written agreement, which is considered binding if it is signed by both parents (unless it can be shown that there are legal reasons for discarding the agreement, for example, evidence of coercion). A parent may seek a court order varying a private agreement but would need grounds for doing so.

In Germany parents are free to come to an agreement on the amounts of maintenance without the involvement of courts, lawyers, agencies, or other organisations. If parents cannot reach a private agreement, then they may wish to seek help from a lawyer or from the Youth Welfare Office (*Jugendamt*). If this fails, one parent (usually the parent with care (PWC)) can request and instigate a court decision (on behalf of the child). As in Belgium, the German courts have a dual function in relation to the determination of amounts. Courts must determine the amount of child maintenance in cases of parental disagreement or non-payment, or where the determination of child maintenance is part of the divorce proceedings. Over time in Germany, the courts have developed a set of guidelines and 'support tables' for the calculation and determination of child maintenance obligations that are not only used by the courts but also by parents, lawyers, the Youth Welfare Office and parents who are making private agreements.

In Sweden the court uses guidelines to decide the amounts of child maintenance obligations. Parents can, in most municipalities, ask the local social service agencies for counselling, advice and mediation in family matters – however, this does not include counselling concerning any financial responsibilities of parents to their children.

One of the defining features of judicial procedure – discretion to take account of individual circumstances – is also one of the main features of the system, as Chapter 4 highlights. However, in some of the countries above, courts operate with 'tables and guidelines' to decide on the amounts due – so allowing some kind of standardised decision making. Thus, court determinations take place along the 'discretion – rules' continuum. France would be placed at the 'discretion' end of the continuum, as would Belgium, where there are no fixed rules or methods to determine amounts of obligations. Mediators ask for data about the parents' income and real and personal estate in order to determine amounts and they are also able to refer to calculation formulae (Method of *Renard*, of *Roodhooft* or *Gezinsbond*) as reference points. Moving along the continuum, over time the German courts have developed their own so called 'support tables' – the most renowned being from *Oberlandesgericht Düsseldorf* called '*Duesseldorfer Tabelle*' which are used to calculate and determine the amount of child maintenance. Whilst these tables act as quite formal guidelines (and are also used by the Youth Welfare Office), courts still have the discretion required to take account of individual circumstances. Austria and Canada also use guidelines and formulae in their court determinations, although in Canada a recent Supreme Court decision seems to give a little more scope for discretion.

### 3.5 Agency

We move now to discuss a group of **five** countries which have an administrative body or agency responsible for **either** or **all** of the assessment, collection and transference of child maintenance obligations. The UK and Australia both have a Child Support Agency (CSA). The origins of the CSA in Australia can be found in the

recommendations of a parliamentary joint select committee established to monitor the operation of the Family Law Act in 1978. Consequent research in Australia reiterated that, like the UK's court based system pre Child Support Act 1991, there were several weaknesses (for example, low orders awarded, sporadic enforcement, and non-application for orders) (Wikeley, 2006: 168). The two new CSA systems thus share a number of similarities (courts have no rights to make child maintenance orders where the Agency has jurisdiction; assessments are based on formulae), but also important differences – the Australian system is closely integrated with the tax system in its daily operations for example (Wikeley, 2006: 170). In Denmark there is the *Statsamt* (effectively the County Governor's office), which is a quasi-judicial regional body. In Norway, NAV (*Ny Arbeids- og Velferdsetat* – a Work and Welfare Agency created on 1 July 2006 (an amalgamation of employment and social insurance agencies)) is now the relevant agency and in New Zealand it is the Inland Revenue Child Support (IRCS).

In New Zealand, the Child Support Act (1991) is administered by the IRCS. IRCS has access to all taxpayer information in respect of income returns and employer records. IRCS has wide powers in regard to requesting information from taxpayers and third parties and is the only agency legally charged with determining child maintenance and related matters. Its functions include determining the amount of child maintenance according to formulae, registering private agreements, receiving and paying funds, enforcing payment, and undertaking administrative reviews. IRCS has access to all information regarding all kinds of income (from salary, wages and benefit) because employers and the Ministry of Social Development (the agency responsible for paying social security benefits) are required by law to provide this information on a monthly basis. Formula assessments are regarded as the norm in New Zealand covering 98 per cent of agreements registered with IRCS. As the national informant reported, where they are able to:

*'Couples make voluntary agreements because they want to go beyond the formula assessment. This indicates that they perceive this to be a better arrangement, either for themselves, or for their children. The arrangement gives greater flexibility to the types of coverage, level and forms of payments, and this is a benefit when both parents are in work and have some degree of shared care. Registering an agreement means that the custodian has more surety that payments will be collected because IRCS has the same enforcement powers in relation to voluntary agreements as formula assessments.'*

In Norway, all parents are encouraged to make private voluntary agreements. The only circumstance in which public authorities will intervene is where the PWC is in receipt of forwarded maintenance and the parents have agreed on a sum smaller than the forwarded amount, but NAV (*Ny Arbeids- og Velferdsetat* – Work and Welfare Agency) believes the non-resident parent (NRP) could afford to pay more (see Chapter 4 for further discussion). If parents cannot reach a private agreement, either party may ask NAV to make the decision for them. This is now considered a public service, for which the parents pay 860 Norwegian Krone (around £56) each. It is only the **determination** of the amount that is charged for; forwarding and reclaiming services are provided free of charge.

In the UK, courts have a marginal role in the determination of formal child maintenance. Parents are free to make private agreements, but if these subsequently break down they would be able to apply to the CSA for a determination of child maintenance who will assess amounts according to their formulae. However, as soon as the parent with care (PWC) claims social assistance benefits any private agreements are overturned. Similarly, in Australia<sup>21</sup>, in cases where parents agree about child maintenance arrangements they are free to make their own arrangements, except where the payee is in receipt of means tested income support payments from Centrelink (the Government's front-line social security agency) other than the basic rate of Family Tax Benefits (FTB). If parents are unable to agree then either parent can apply to the CSA for an assessment (though only the PWC can request the CSA to collect payments). The agencies in both the above countries also forward payments to PWCs (paying out money to the PWC once they have received it from the NRP).

In Denmark, parents can prepare and sign an *aftale om børnebidrag* (agreement on child maintenance). The *statsamt* mediates private agreements made during divorce and separation and where the parents request it. Whilst agreements have some flexibility – see below – they are made in awareness of the formal guidelines, as the national informant put it: 'one bargains in the very deep shadow of the law'. Courts play no role in determining maintenance amounts. When private agreements break down the PWC sends an *Ansøgning om Børnebidrag* (Petition for Child Maintenance) to the *statsamt*. In the Petition, the PWC can ask for the standard rate, the highest possible rate, or specify a (lesser) rate making it possible to introduce flexibility into the system. The agency has some discretion and can overturn an openly unreasonable request (for example, zero). When the parent requests the highest possible rate and where the parents cannot agree on the obligation, the *statsamt* determines the amount based on quite rigid guidelines (see Chapter 5). The *statsamt* is the gatekeeper to the guaranteed maintenance and enforcement system. The PWC must have a ratified agreement in order to be eligible for guaranteed maintenance and municipal assistance with enforcement.

### 3.6 Hybrid: court and agency

There were **three** countries in the study which located responsibility for the determination of child maintenance obligations in several institutions, Finland, the Netherlands and the USA. For example, in Finland if parents cannot reach a private

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<sup>21</sup> Note correspondence received from the Australian Government's Department of Families, Community Services and Indigenous Affairs (2 March 2007) stated that 'if parents wish to claim FTB Part A (an extensively accessed payment not restricted to Income Support (IS) recipients) they must apply to the CSA for a child support assessment. It is also worth noting that because access to, and take up of, FTB(A) is very extensive in Australia, the proportion of parents who are able to make private agreements without registering for a CSA assessment is very small.

agreement, then they may seek advice from the municipal social welfare board or the court to help them. Municipal social welfare boards (and the courts – see below) assess whether the proposed agreement will meet the conditions expressed in the Maintenance Act (8:2). In the case of divorcing parents, lawyers may be involved in that a statement of arrangement for children must be filed with the court. However, most often mediation and advice is sought from the municipal social welfare board. Alternatively, parents can turn to private solicitors who would then mediate between them – or they could allow the court to decide the matter. Formal guidelines apply to both the court and municipal social welfare boards – both bodies apply the same statutes of the Maintenance Act. When a ‘private’ agreement is confirmed either by the court or the board then it is binding and enforceable.

The child maintenance system in the Netherlands currently operates as a tripartite system of cooperation between the courts, the *Landelijk Bureau Inning Onderhoudsbijdragen* (LBIO) (which is the national collection and support agency), and the municipal social assistance office. This arrangement aims to ensure the payment of child maintenance by NRPs to PWCs through mutual consent (or if necessary via the LBIO collection agency) and to ensure the child receives an equal amount of support from both parents. Parents are allowed to come to a private agreement concerning maintenance under the supervision of their lawyers. If the parents of the child cannot agree on the level of child maintenance, or are receiving social assistance from the Government then a judge will make the decision concerning the amount due based on the national index of the cost of raising a child and taking into account any specific needs of the child, and the income and expenditures of the NRP. Courts in the Netherlands have, since 1974, used the national index on the cost of raising a child as a basis for approving and determining amounts due. The municipal social assistance office is involved in determining whether the parent(s) will be able to support themselves and the child under maintenance obligation (not involved in determining amounts).

In the USA, most states use courts for the setting of orders, which means there is considerable variation across the federal states (Grall, 2006). The national informant reports that the federal government has tried for a number of years to induce the states to opt for more administrative decision-making, and some states do give the CSA the power to set orders. The informant reported on the system in Wisconsin (as highlighted in the introduction), here the courts play a primary role in determining maintenance amounts, and the CSA can bring cases to court. However, the national informant notes that, although the CSA does not have explicit legal power to set orders, in some countries they have considerable *de facto* power: agencies will determine what an appropriate order would be, and court approval is somewhat *pro forma*. Families not receiving income-tested Temporary Assistance for Needy Families (TANF) or food stamp benefits are allowed to make private child maintenance agreements, whether married or not, and whether they have lived together or not.

## 3.7 National informants' views about different systems

Informants were asked to give their views regarding the advantages and disadvantages of the different systems – private, court and agency – of which their regimes were comprised. This section places countries into their regime clusters in order to provide a context for the informants' assessments.

### 3.7.1 Perspectives on private determinations of child maintenance obligations

There were six countries in the study – Belgium, Austria, Canada (Ontario), Germany, Sweden and France – which placed the main responsibility for the determination of child maintenance obligations in the courts.

In those countries in which the court played a primary role in the determination of child maintenance obligations, private agreements were seen as beneficial because they could be made quickly (Belgium) and they avoided an adversarial court process (Austria) and so fostered (and/or perhaps reflected already) good relations between parents (Sweden) which could benefit the child(ren) (France). They were also considered as being cheaper than court decisions because there were no lawyers' fees for parents to pay (Belgium, France) and there were mediators able to assist them in coming to private decisions (Belgium). Where private agreements work, they save on state administration and forward maintenance costs (Sweden). There was no data available on this issue in Canada.

Disadvantages were seen as being that private agreements had no legal standing unless they had been ratified in court (Austria (no legal standing in regard to the child but binding between the parents), Belgium), and so were potentially insecure in terms of regular and timely payments from the NRP (Germany); difficult to enforce (Germany, France) or change the terms agreed (France). There was no data available on this issue in Canada.

The next section considers perspectives on private agreements in the five countries – the UK, Australia, Denmark, Norway and New Zealand – which were primarily reliant on agency based determinations for child maintenance obligations. These countries also mentioned the consensual, inexpensive nature of private agreements. They further brought out advantages associated with giving parents choice in the methods and **amounts** of payments (UK and Norway, Denmark). In New Zealand – in which agency decisions were the norm, parents made private decisions when they wanted amounts higher than those set by the formulae. The Norwegian informant is worth quoting here:

*'The Ministry expresses a very strong wish to have more voluntary/private agreements in this area. The main arguments are that private agreements are more flexible, and will be more legitimate because the parents themselves have thought through the issues and made their own decision, tailored to their situation.'*

It was thought that private agreements may also be more open to negotiating changes to obligations in relation to changes in circumstances (UK) and might be associated with greater degrees of compliance because they were voluntarily and consensually agreed (Denmark).

In terms of disadvantages, the inherent precariousness of such agreements was highlighted (see above – although the New Zealand and Danish systems allows private agreements to be registered by the agency thus giving the PWC more security because IRCS and the Danish municipalities have the same enforcement powers for registered private as for agency determined agreements). Moreover, private agreements were thought to be open to very different outcomes for children in similar circumstances (UK). Two country informants also raised the potential for coercion and weaker parties to be taken advantage of (UK and Norway) in private agreements. In Norway, (where about 75 per cent of all parents ask NAV – Work and Welfare Agency) to make the decision about child maintenance obligations for them) the Norwegian informant reported on a study which illustrated that:

*'Easing a conflict' is a reason both for private and public determination. It is easy to understand how a conflict can be dealt with by leaving the decision to a 'neutral third party', less easy to see how it can be eased by continuing private negotiations – unless one party 'solves' the conflict by giving in. This is what worries some child welfare workers – that this emphasis on private agreements will lead the weaker party in the relationship (one is particularly worried about abused women) to be manipulated or threatened into accepting a very unfair deal. So far, however, there is no evidence on this.'*

Those countries classified as **'hybrid'** earlier in this chapter, raised mostly the same issues as above – private agreements are more flexible – thus being able to take account of individual circumstances or needs (Finland), more likely to be paid, less costly to parents and beneficial for the child in terms of parental relationships.

They also raised similar disadvantages: potential inequity between children in similar circumstances and the less powerful may be manipulated or coerced. Non-monitoring of agreements may lead to time delay in payments for PWCs (USA) in terms of official determination and enforcement of obligations. Although in Finland the national informant reminds us that:

*'Most voluntary agreements are approved by officials. There is substantial variation in outcomes among parents in similar circumstances. Weaker parties may be taken advantage of. When given the opportunity the officials see that agreements are not unfair to either party.'*

### **3.7.2 Perspectives on agency determinations of child maintenance obligations**

Some of those countries in which court determinations were common in child maintenance obligations – Belgium, Austria, Canada (Ontario), Germany, Sweden and France – did not see the relevance of discussing agency decisions. This was so for France, Canada (Ontario), Belgium and Austria. Only the Swedish national informant

commented that they perceived agency systems as potentially mediating and promoting good relationships between parents an advantage (at least when compared to a court system).

As we would expect, countries which primarily relied on agency decisions for child maintenance obligations – the UK, Australia, Denmark, Norway and New Zealand – had more to contribute to the debate. Thus the common issues raised were that a standard formula meant that decisions were consistent across similar cases (as opposed to a more discretionary court based system, for example) (Australia, UK – at least in relation to amounts that NRPs were asked to pay). The Danish informant considered that in terms of simplicity and efficiency, their scheme was uniform and thus predictable for parents and relatively easy to administer. Agency or third party determinations were also seen to ease conflict between parents (Denmark, Norway – where 75 per cent opt for agency decisions) and informants stated that some parents actually wanted the decision made by a third party (Norway, Denmark). Schemes were also seen as an advantage when they gave access to guaranteed maintenance for the PWC (Denmark). The Australian informant also pointed out that with regards to agency decisions either parent can apply and does not need the agreement of the other parent to do so. It therefore ensures that children receive support even where one party is unwilling<sup>22</sup>.

Turning to the perceived disadvantages, the UK national informant mentioned that national and centralised bureaucracies sometimes had difficulties responding to changes in circumstances, that waiting times for assessment were sometimes long (UK) and agency determinations did not necessarily imply compliance (UK). Some informants also thought that formulae could be quite complex and difficult for parents to understand (UK, Norway). Some agencies charged for their use – not only at the point of application but also every time circumstances changed (Norway). Where agency decisions are rigid, they can be inflexible (Norway). As the Danish informant pointed out:

*'The system is rigid and there is very little room for discretion or individual consideration.<sup>23</sup> No account is taken of the child's former way of life and policy does not try to preserve it.<sup>24</sup> PWC can be dissatisfied when the agency award makes it impossible to maintain e.g. private school enrolment or residence in the family home. The Justice Ministry, in its white paper on Child Maintenance (2000), expressed satisfaction with the functioning and administration of the system but dissatisfaction with the standard award levels of DKK 1,000 per month (GBP 90) which are notably low by international and Scandinavian standards.'*

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<sup>22</sup> Further explanation from the Australian Government's Department of Families, Community Services and Indigenous Affairs (2 March 2007) stated that if the PWC were to apply without agreement from the liable parent, then the agency would make an assessment but not necessarily ensure that child support was received by the PWC.

National informants in countries in which decisions concerned both court and agency determinations of child maintenance (i.e. hybrid) had similar comments on agency decisions. Advantages were seen as being: consistency (Finland); the reductions in costs when compared to court decisions and, where agency decisions meant higher rates of payment, a reduction on social assistance outgoings for government. Where the agency enforced payment this was also seen to reduce burdens on parents (the Netherlands).

In terms of disadvantages, the Finnish informant commented that where formulae were rigid then this could result in debt problems for NRPs.

### **3.7.3 Perspectives on court determinations of child maintenance obligations**

The chapter turns now to consider perspectives on court determinations of child maintenance obligations. National informants in countries reliant on court decisions – Belgium, Austria, Canada (Ontario), Germany, Sweden and France – for determinations of child maintenance obligations identified a number of advantages with their system. The Austrian informant considered that the decision being made by an ‘objective’ third party was helpful, and a number of informants noted that court agreements, by their nature, had legal standing and could thus be executed (Sweden, Austria, Belgium, and Germany) to claim child maintenance and advanced maintenance (Belgium). As the French informant commented:

*‘The decision is strong since it is a court’s decision. It gives to the parent with care some more guarantees and/or procedures for enforcing the payment. The parent with care may undertake a civil legal action to recover the child maintenance. The determination of child maintenance by a court may also enable the parent with care to receive a benefit called ‘allocation de soutien familial’ and/or to be helped by the social security agency for collecting unpaid child maintenance.’*

Disadvantages were seen as being the adversarial nature of court determinations and the associated effects on parental relationships (Sweden); the court and lawyers fees for parents (Austria, Belgium, France and Germany) and the time that decisions could take to process in court (Belgium, Germany and France). Court decisions made by judges moreover can, where they are discretionary, appear arbitrary. In this respect the German informant made an interesting point in relation to the German system where courts have over time, produced ‘tables’ for determination of obligations (which, whilst not obligatory are widely used as a *de facto* standard):

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<sup>23</sup> Maria Larsen, *Statsamt Storstrøm*, personal communication with national informant, 26 July 2006.

<sup>24</sup> Lars Thøgersen, Family Agency (*Familiestyrelsen*) personal communication with national informant, 27 July 2006. This is in contrast to the USA, where for example, an explicit policy goal in California divorce law is that the child’s daily life be preserved as far as possible.

With regard to determining the amount of the child maintenance obligation in the German system, at the end there is no real reason to apply for a court decision, because with the well-known, widely used guidelines of the courts an agreement can be reached that would not be far away from a court's decision.

On the whole, however, most of the issues raised above could make it very difficult to take account of changes in circumstances, as the French informant pointed out:

*'For both parents, the possibilities for revising are very difficult in practice, the procedure is considered as too slow, and, as a whole, it remains a heavy procedure, as any court's procedure. It cannot follow over time the real and current changing situations of both parents.'*

Those countries which relied on agency decisions – the UK, Australia, Denmark, Norway and New Zealand – raised similar issues. The Danish, New Zealand, UK and Norwegian informants pointed out that court decisions on child maintenance did not happen or were rare in their regimes, reflecting the marginal role of such determinations in this cluster of countries. Advantages were mostly seen as court decision making processes being able to consider all circumstances in a decision (UK and Norway); a point which was expanded on by the New Zealand informant where courts can only review agency decisions:

*'There is probably greater acceptance of the fairness of the Court determined outcome, although men's groups have been quite vocal in complaining about the biases of the Family Court, though normally in relation to custody.'*

Agreements were also seen to have legal standing (UK).

In regards to disadvantages, the UK informant perceived that these included the expense associated with lawyer's fees for parents, the adversarial nature of court process and the inconsistency in outcomes for children where determinations are highly discretionary.

In those countries described as hybrid in terms of their determination of child maintenance obligations – the USA, the Netherlands and Finland – informants perceived that court decisions were more readily enforceable (USA, Finland) and that courts could promote equity and make sure that weaker parties had 'their interests considered' (USA). National informants also mentioned that where judges had discretion then decisions could take account of individual circumstances (Finland). The informant in the Netherlands perceived an advantageous mix here between standardisation and discretion:

*'The court-based systems advantage lies in the fact the judge's decision is final and creates a firm base on which the parent with care can ensure payment if the non-resident parent fails to keep up child maintenance. Also the decision of the court is based on national figures on the cost of raising a child but it is still left up to the judge's discretion to determine child maintenance.'*

In terms of disadvantages noted by these informants, it was thought that court based decisions, if perceived as 'unfair' by the NRP would be less likely to be complied with (USA); the adversarial process, expense, and possible inconsistency of outcomes (Finland) were also mentioned as relative disadvantages. In the Netherlands:

- The disadvantage of this system is the high costs associated with using the courts to come to a decision, current thinking in the Netherlands is that the process of child maintenance should move away from courts in favour of a central agency except in unique cases.

### 3.8 Conclusion

Chapter 3 has outlined three kinds of formal child maintenance regimes; courts or agencies – or a mixture of both. In Belgium, Austria, Canada (Ontario), Germany, Sweden and France, the court had the main responsibility for formal determinations of child maintenance. Agencies had the main responsibility for determinations in Australia, Denmark, New Zealand, Norway and the UK, and some amalgamation of courts and agencies were responsible in Finland, the Netherlands and the USA. These formal child maintenance systems were primarily responsible for the determination of child maintenance obligations in cases where parents were unable or unwilling to come to a private agreement.

In all countries parents could make private agreements and this may sometimes have been the preferred and promoted method with the formal system acting mainly as a back up should parents be unable to agree or where there is non-compliance. Parents' choice to make private agreements however varied, especially by their social benefit status. For example, in Australia, Canada (Ontario), the Netherlands, New Zealand, UK and the USA, if they were in receipt of social assistance this limited their freedom to choose a private agreement. Only Denmark and Belgium seemed to offer all parents in receipt of social assistance benefit the choice to decide whether to make private agreements.

It was possible to have private agreements registered/ratified by the Courts or by the Agency in some countries. For example in New Zealand the IRCS will register agreements and in Denmark parents sign a legal agreement. The policy aims behind the promotion of private agreements were wide ranging and could focus on encouraging harmonious relations between parents, on the one hand, to reducing the role of the state in family life (whether on the grounds of subsidiarity and/or cutting expenditure) on the other.

The new proposals in the UK intend to promote private agreements for all cases, including social assistance cases and comparatively this is unusual. These agreements may be registered via a national helpline or website. The details of registration at the time of writing, are still under discussion and it is not made clear what the advantages of registration might be. The White Paper implies that private agreements are beneficial to parental relations and thereby could help to improve compliance rates. This accords with the advantages identified by the national informants in this

study, that private agreements were seen as being more consensual, non-adversarial, relatively quick and inexpensive, and could be tailored to family circumstances. There are however also disadvantages, national informants noted that private arrangements in some countries had no legal standing – could be precarious unless ratified; they could also exacerbate any power imbalance between the parents with the weaker party potentially being pressured into an agreement that was not in their or their children's best interests. Additionally, they could produce inequitable outcomes where children in different families with similar circumstances/ characteristics could receive differing amounts.

The UK does not explicitly address these matters in the White Paper, as yet there are no details on the advice and guidance services and whether they might work to provide mediation to help safeguard against inadequate agreements (mediation is provided in other countries to support private agreements) – this is still under serious consideration. The White Paper is also silent on what will happen if payments are sporadic or for very small amounts: will this be sufficient grounds to seek a Child Maintenance Enforcement Commission (C-MEC) assessment and enforcement actions?

The following chapter considers how amounts of child maintenance obligations are formally calculated in the different countries (and in the case of Canada for Ontario only).

# 4 Formal assessment of child maintenance amounts

## 4.1 Introduction

As discussed in Chapter 3, the new child maintenance policy proposals in the UK (DWP, 2006c) will encourage all parents to make private agreements, even where they may be receiving social assistance benefits. However, this does not remove the need for some kind of formal assessment and enforcement system as the state will want to intervene if parents cannot agree or if their arrangements break down. In addition, advisors may wish to refer to a formal assessment method to help parents work out an appropriate amount of child maintenance. Thus, there will still be a need for a set of rules or guidelines to work out amounts of child maintenance and this is the topic of this chapter.

It will be useful to have some understanding of the variety of formal calculation methods used across countries, the types of income and expenditure that might be taken into account in calculating amounts and how obligations to family members are accounted for (such as supporting second families and maintaining contact with non-resident children) as well as the levels of discretion that might operate within systems.

The chapter begins by describing where the locus of responsibility for calculating formal child maintenance lies. It also shows who the main beneficiary is, how parents' resources and expenses are accounted for in calculations and how contact time and shared care are dealt with. It then provides an assessment of the different levels of discretion that might operate within systems. For ease of comparison, tables in this chapter present country's child maintenance systems in two groups: either an agency based or a court/hybrid based system. The UK data is based entirely on the post 2003 child support system and formula.

## 4.2 The locus of responsibility for formal agreements

Table 4.1 provides a description of the locus of responsibility for formal agreements, the research informants' broad classification of the calculation method used and in whose name formal maintenance is awarded (the child or parent with care (PWC)).

The locus of responsibility for calculating formal amounts varies across countries, with the (five) agency systems concentrating responsibility in the Child Support Agency (CSA) in the case of Australia and the UK or in Denmark the Statsamt (after 2007 the statsforvaltninger) under the direction of the Familiestyrelsen, or in the Inland Revenue Child Support (IRCS) in New Zealand or in the new Work and Welfare agency in Norway. The remaining nine countries concentrate responsibility either in the courts (or in the three hybrid systems of Finland, Netherlands and the USA), jointly in the courts and an administrative type agency, though the courts might have the final say. Commonly, therefore, across countries, it was the court which had the main responsibility for calculating amounts and seemed to operate with more discretion. All five agency systems were said to apply more rigid rules in calculating amounts than the court or hybrid systems which operated with discretion or informal guidelines (levels of discretion are discussed further in Section 4.5).

**Table 4.1 Determination of formal child maintenance agreements**

Country	Locus of responsibility	Informants' descriptions of method	Name awarded
<b>Agency systems</b>			
Australia	CSA	Rules/rigid formula	PWC
Denmark	<i>Statsamt</i>	Rules/rigid formula	Child
New Zealand	Inland Revenue Child Support	Rules/rigid formula	PWC
Norway	Work & Welfare Agency	Rules/rigid formula	Child
UK	CSA	Rules/rigid formula	PWC
<b>Court/hybrid systems</b>			
Austria	Courts	Formal guidelines and rules/rigid formula	Child
Belgium	Courts	Mostly discretion, informal guidelines	Child
Canada (Ontario)	Courts	Formal guidelines	PWC
Finland	Courts/Social Welfare Board	Mostly discretion, informal guidelines	Child
France	Courts	Mostly discretion, informal guidelines	Child
Germany	Courts	Mostly discretion, informal guidelines	Child
Netherlands	Courts/Social Assistance Office	Mostly discretion, informal guidelines	PWC
Sweden	Courts	Mostly discretion, informal guidelines	Child
USA	Courts/CSA	Formal guidelines	PWC

PWC = Parent with care.

### 4.3 The beneficiary

The last column in Table 4.1 shows in whose name the child maintenance award is made. There is an equal split across countries with either the child or the PWC being seen as the beneficiary, however, informants were not always clear about the letter of the law on this. Also, even if the award was said to be in the child's name or seen as the child's right, it was still generally the PWC who received the actual money, this was the case in Sweden, Denmark, Norway, Finland and Austria. But in Belgium, whilst it was paid to the parent it was considered to be the earnings of the child and was, therefore, taxable and could affect some of the child's social benefits but not the benefits of the PWC.

In contrast, in the Anglophone countries of the UK, USA, Canada (Ontario), Australia and New Zealand the beneficiary is the PWC and this is also the case in France and the Netherlands. The informants were not explicitly asked whether it was possible to make payments directly to dependent children themselves but such an arrangement would be in keeping with the principle of children's rights as envisaged within the United Nations Convention on the Rights of the Child (UN CRC).

In relation to the age at which the obligation might end, in most countries it is when the child reaches 18 years of age, but will carry on if they are attending post school education such as University (not shown in Table 4.1). There are also provisions for disabled children. Australia and the UK are slightly different. In the UK, the obligation ends at age 16 or age 19 if in full-time school education, similarly in Australia it ends at age 18 or when schooling is finished<sup>25</sup>. In the USA it varies across states and can end at age 16, or age 18-19 if the child is still in high school, but in some states the obligation may continue up to age 25 if the child is in higher education (University). In New Zealand the obligation only continues past age 16 if the child is still defined as 'financially dependent'. Australia and the UK are the only two countries that tend not to officially extend the obligation past school education.

### 4.4 Taking account of parents' resources

The analysis now considers which financial resources of the parents are taken into account, how the non-resident parents' (NRPs') obligations to second families are treated and how contact time and shared care of children are considered.

#### 4.4.1 Non-resident parents' income and expenses

Table 4.2 shows how the income and expenses of NRPs are accounted for in calculating amounts, including any obligation to second families.

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<sup>25</sup> Additionally, the Australian Government's Department of Families, Community Services and Indigenous Affairs (2 March 2007) stated that 'Further application can be made to court for an order or consent agreement for maintenance for a child over 18 who is in post school education or with disabilities'.

The first two columns in Table 4.2 show whether net or gross earnings are used as the basis for calculating amounts and whether income from other sources is also included. Overall, net income forms the basis of the calculation in eight countries: Austria, Belgium, Canada (Ontario), Finland, France, Germany, Sweden and the UK. Interestingly, among agency systems, gross income is more common, this is the case for Australia, Denmark, New Zealand, and Norway, but not in the UK – it uses net income. The Netherlands and the USA are both hybrid systems and are more unusual. The Netherlands is alone in setting a threshold for deciding whether gross or net income is used and the USA is more like the agency systems in using gross income.

In relation to other sources of income (apart from earnings) these are commonly taken into account in all countries except Finland and Sweden. However, what counts as 'other income' varies considerably across countries, Canada (Ontario) provides the most extensive list of what is included and in the UK other income includes Tax Credits and payments from pension schemes (earnings from share dividends and assets above a threshold might be taken into account if the PWC applies for a variation to the original order).

In regards to where systems gathered data on incomes from, the informants provided little additional information. For Australia and New Zealand the income data is gathered from details provided by the tax office and is, therefore, based on the previous year's earnings. In France, the judge tends to ask for the 'income tax declaration' which informs the taxable income and according to the French informant this taxable income is roughly equal to net wages. The UK is about to adopt the practice of using tax data from HM Revenue and Customs (HMRC), this will mean setting awards based on the previous year's gross earnings (DWP, 2006c).

The NRPs' basic living expenses are accounted for in all countries except Belgium, Denmark, the UK and the USA, but the method used varies. The most common approach is to exempt an allowance for expenses from the calculation of child maintenance. Other approaches include setting a lower earnings threshold in which a nil assessment for child maintenance is made (Canada (Ontario)), or leaving it to the full discretion of the court judge to decide what expenses should be allowed (France). However, in Belgium the informant also said that whilst no routine allowance is made, a high level of discretion would be operated by the court judge which would, therefore, include an assessment of basic living expenses in a similar way to France. As the Belgian informant notes the 'style of living of the family' is considered and:

*'The Civil Code says that parents have to take care of their children in proportion to their means. Within this very general guideline, courts decide with full discretion.'*

Also, whilst there is no explicit allowance made in Denmark, the UK or the USA in the calculation of child maintenance, there is an interaction with the social benefit system that would in effect take account of very basic living expenses (discussed further in Chapter 6).

In relation to the treatment of additional personal expenses (such as work related or sickness/disability expenses), the data is patchy and there is some overlap with consideration of ‘basic living expenses’. Even so, it seems consideration of these are less common; none of the five countries with an agency system routinely consider additional expenses (Australia, Denmark, New Zealand, Norway, and the UK) and three of the court based systems would not (Austria, Belgium and the USA); though exceptional allowances might be made for sickness/disability expenses. In Canada (Ontario) and Finland, work related expenses are routinely considered and in France and the Netherlands it is up to the judge to decide what is included for consideration.

**Table 4.2 Accounting for the non-resident parents’ resources in determination of formal child maintenance awards**

Country	Earnings	Other income	Basic living expenses	Additional personal expenses	Expenses second families		
					Own children	‘New’ partners	Step children
<b>Agency systems</b>							
Australia	Gross Inc	Yes	Yes	No	Yes	No	Not usually
Denmark	Gross Inc	Yes	No	No	Yes	No	No
New Zealand	Gross Inc	Yes	Yes	No (maybe sick/disabled)	Yes	Yes	Yes
Norway	Gross Inc	Yes	Yes	No (maybe sick/disabled)	Yes	Yes	No
United Kingdom	Net Inc	Yes	No	No	Yes	No	Yes
<b>Court/hybrid systems</b>							
Austria	Net Inc	Yes	Yes	No	Yes	Yes	No
Belgium	Net Inc	Yes	No	No (maybe sick/disabled)	Yes	Yes	Yes
Canada (Ontario)	Net Inc	Yes	Yes	Yes	Yes (protect against hardship)	Yes (protect against hardship)	Yes (protect against hardship)
Finland	Net Inc	No	Yes	Yes	Yes	Yes	Yes
France	Net Inc	Yes	Yes	Yes	Yes	Yes	Yes
Germany	Net Inc	Yes	Yes	Yes	Yes	No	No
Netherlands	Gross or net depends on threshold	Yes	Yes	Yes	Yes	Yes	Yes
Sweden	Net Inc	No	Yes	Yes	Yes	Yes	Yes
United States	Gross Inc	Yes	No	No	No	No	No

#### 4.4.2 Non-resident parents' second families

The last three columns in Table 4.2 present data on how second families of NRPs are treated in calculating maintenance amounts. The term 'own children' refers to the NRPs' biological children born in a new/subsequent relationship and 'stepchildren' refers to children who are not the biological children of the NRP. All second/new family members are considered to live with the NRP.

Table 4.2 shows that all countries, except the USA, consider obligations to biological children residing with the NRP. The USA is unique in giving primacy to children in first families (i.e. the non-resident children); the informant states:

*'First children come first: the amount owed to the first child or children are not adjusted just because there is another resident child.'*

Consideration of financial obligations to the new partner of the NRP is also quite common, but less so; nine of the 14 countries take it into account (all except three of the agency systems, Australia, Denmark, the UK and two of the other systems, Germany and the USA). Similarly, with regards to the financial obligations for stepchildren, eight of the 14 countries account for them (all except three of the agency systems Australia, Denmark and Norway and three of the other systems, Austria, Germany and the USA). Interestingly, the UK is the only country that does not take account of obligations to new partners but will do so for their children, i.e. the NRPs' stepchildren. The opposite is true for Norway and Austria; they will take account of expenses to new partners but not stepchildren.

Overall, obligations to second families are rarely ignored at least in principle (whether in reality it would make a difference to the actual amounts of child maintenance expected is considered further with hypothetical cases in Chapter 5). The USA is alone in ignoring all second family obligations, but this does not mean to say that they are not accounted for in the interaction between child maintenance and social benefits. Australia, Denmark and Germany on the other hand are highly specific in their considerations; they only take account of expenses of the NRPs' biological (and sometimes also adopted) children in second families.

#### 4.4.3 Contact time and shared care

As well as obligations to second families, fathers will generally also incur some expenditure in maintaining contact with their non-resident children. The study wanted to explore how these expenses were accounted for across countries especially as this has been a highly controversial topic in the UK child support system. However, defining contact is not straightforward as an informal distinction is made between 'contact' and 'shared care' with the latter (rightly or wrongly) implying more involvement by the NRP.

Informants were, therefore, asked two questions: whether the amount of contact was considered in calculating maintenance amounts and how sharing the care of children roughly 'equally' was dealt with. Shared care was not defined, leaving it

open to informants to interpret in the context of their own systems. Contact was usually (but not always) referred to as a measure of the number of overnight stays children spent with their NRP. Consequently, the data presented in the first two columns of Table 4.3 comes from a mix of administrative rules about the numbers of overnight stays and informants' own judgements about contact and about shared care and how they were dealt with.

Table 4.3 shows that without exception, all countries took account of contact time in one way or other using different thresholds. More specifically, ten countries would in principle annul the child maintenance obligation if it was deemed there was roughly 'equal' shared care. That is all countries except Australia, Austria, New Zealand and the UK, although child maintenance might be reduced based on the number of overnight stays. Interestingly, of these four, all bar Austria had agency based systems. The Austrian informant reported that it is possible for parents to share the care 'equally' but only if they reach a private agreement for the child maintenance **and** the care of children (if child maintenance was determined by the court, shared care arrangements would not annul the obligation).

In practice, however, among the ten countries where the obligation would be annulled, in six cases a transfer of maintenance from the richer to the poorer parent would be expected irrespective of parents' gender. The finer nuances around this issue are summed up by the informants from Belgium and the Netherlands. Both have their own terminology to describe the phenomena of shared care:

*'When a child is **bi-located**, there is no obligation because there is no longer a PWC and a non-resident parent. Both parents become PWCs. But in practice the income of both parents will be taken into account. If one makes substantially more money, maintenance will have to be paid. This is also true if one parent takes on a larger part of the financial costs (for example, for education or health care). Moreover, the child allowance will be taken into consideration and/or given to the parent with lower income.'*

(Belgian informant)

*'If the child spends an equal amount of time with both parents then the entire child maintenance obligation is seen as being paid in natura and there is no need for a financial transaction. However since it's very rare for the non-resident parent (usually the father) to provide an equal amount of care for the child, this obligation is almost always fulfilled through financial means. The judge who is deciding on the maintenance obligation will take into consideration these expenses and change the amount accordingly.'*

(Informant from the Netherlands)

In practice, therefore, the impact of shared care on child maintenance obligations was complicated and this is explored further in the hypothetical vignettes in Chapter 5.

The study was also interested in exploring the extent of shared care across countries and this is reported in Table 4.3 in the last column. This data however is not of good quality, it is patchy and partial, relies on a mix of administrative records and survey estimates, and the way it is reported is inconsistent. For example, in Australia the informant reports CSA clients as having 'some element' of shared care and in the UK that CSA NRPs have 'some shared care' implying that all levels of contact are included here and not just roughly equal amounts. Also, these countries are reporting administrative data on CSA clients only and not on the whole population of separated parents. Comparisons are therefore unreliable.

With these caveats, the levels of so called shared care varied between about seven-15 per cent. The UK reports higher proportions (20-25 per cent) but for CSA clients only and even then it is for those with 'some degree' of shared care rather than roughly equal shared care. Norway also reports higher proportions (20 per cent) but these are from estimates of survey data explored by Jensen (2005). Where there is data, it seems that those with shared care tend to be the better off and previously married parents. The proportion with shared care may be increasing as Belgium, France and New Zealand informants reported some relatively recent changes in the law that encouraged 'co-parenting' and the USA reported increases in proportions with shared care over time. We did not ask informants to provide data on family law arrangements for contact and residency.

**Table 4.3 Contact time and shared care**

Country	Contact time with children (a)	Child maintenance obligations		Estimates of the proportions with 'shared care' arrangements (as defined by informants) (c)
		nil if Shared Care (b)	roughly equal Shared Care (b)	
<b>Agency systems</b>				
Australia	Yes	No		Nine per cent of the CSA caseload has 'some element' of shared care <sup>1</sup> .
Denmark	Yes	Yes		No data.
New Zealand	Yes	No		Very little data and no data trends since 1998. Surveys indicate that co-parentage occurs between the previously married and there is discrepancy between fathers and mothers reports; 23 per cent of fathers saw themselves as being co-parents compared with only ten per cent of mothers seeing them as such.
Norway	Yes	Yes		Numbers are very uncertain: eight per cent of children have official addresses in both their parents' home, but Jensen (2005) estimates 20 per cent spend roughly equal time with both parents. We know little, but shared residency has always been associated with middle-class families where neither parent relies on benefits, with couples with higher education, and those committed to an ideology of gender equality.
UK	Yes	No		Currently around 20 per cent – 25 per cent 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.
<b>Court/hybrid systems</b>				
Austria	Possibly	No		No data.
Belgium	Yes	Yes		No data.
Canada (Ontario)	Yes	Yes		In 2000 6.6 per cent of divorcees had shared care arrangements (defines as at least 40 per cent of time with each parent). Fourteen per cent of children of recently separated parents have shared living arrangements.

Continued

Table 4.3 Continued

Country	Contact time with children (a)	Child maintenance obligations nil if roughly equal Shared Care (b)	Estimates of the proportions with 'shared care' arrangements (as defined by informants) (c)
Finland	Yes	Yes	No data.
France	Yes	Yes	In 2003 8.8 per cent were 'résidence alternée' (children lived alternatively with both parents). The parents concerned are generally well off.
Germany	Yes	Yes	No data.
Netherlands	Yes	Yes	No data.
Sweden	Yes	Yes	About seven per cent of those with advanced maintenance in 2006 had alternate advanced maintenance.
USA	Yes	Yes	Wisconsin: Among divorces with children in 21 counties in 1996-98, 15 per cent had equal-time arrangements. These are more likely among cases with higher income and among divorce cases than non-marital (paternity) cases. Similar analysis in 1990-93 showed six per cent had equal time arrangements.

<sup>1</sup> Information from the Australian Government's Department of Families, Community Services and Indigenous Affairs (2 March 2007) stated that this will increase in 2008 as the threshold for defining 'shared care' will decrease from 30 per cent to 14 per cent.

(a) A mix of data from administrative rules as reported by informants and informant's own judgements.

(b) A mix of data from administrative rules as reported by informants and informant's own judgements.

(c) A mix of data from administrative records and survey data as reported by informants.

#### 4.4.4 Parent with care's resources

So far the analysis has considered the resources of the NRP, but it is also important to see how the PWC's resources are accounted for in calculating formal amounts and this is shown in Table 4.4.

Table 4.4 demonstrates that there is an equal split across countries in whether the PWCs's resources (earnings and income) are taken into account. According to informants, three of the five agency systems do not take this into account (Denmark, New Zealand and the UK) and neither did the court or hybrid systems in Austria, Canada (Ontario), Germany and the USA. In order to understand this split in the treatment of PWC's resources, it may be necessary to analyse child maintenance systems in the context of other gender equality policies and cultural differences, which is beyond the scope of this study.

**Table 4.4 Accounting for parent with care's resources and children's needs in determination of formal child maintenance awards**

Country	PWC's income and earnings	The children' needs	
		Child age is regarded	Minimum amount set
<b>Agency based system</b>			
Australia	Yes – above a threshold	No	Yes
Denmark	No	No	Yes
New Zealand	No	No	Yes
Norway	Yes	Yes	No
United Kingdom	No	No	No
<b>Court/hybrid system</b>			
Austria	No	Yes	Yes = Normal requirement
Belgium	Yes	Yes	No
Canada (Ontario)	No	No	No
Finland	Yes	Yes	Yes
France	Yes	Yes by discretion	No
Germany	Not generally	Yes	Yes
Netherlands	Yes	Yes	Yes
Sweden	Yes	Yes	Yes
United States	No	No	No

#### 4.4.5 The needs of the child

Table 4.4 also shows how children's needs were accounted for in determining amounts, at least in relation to children's ages and whether a minimum amount was set.

In six countries the age of the child was not relevant to the determination of child maintenance: this includes four of the agency based systems in Australia, Denmark, New Zealand and the UK as well as the court based system of Canada (Ontario) and the hybrid system of the USA. In the other eight countries where age was relevant, five stated that the older the child the higher the level of maintenance expected, and three did not make it clear whether child maintenance rose or fell with the child's age. Similarly, in six countries a minimum amount was not set (the two agency systems of Norway and the UK as well as court/hybrid systems of Belgium, Canada (Ontario), France, and the USA). In some countries with a set minimum this was said to be the 'standard amount' (Denmark) or the 'normal requirement' (Austria), but the data was inconsistent. Similarly, the data was not clear about whether or how calculations might have been based on the actual costs of a child. The Netherlands stated that they used a 'national index on the cost of the child' and other countries stated that calculations were at least partly based on the 'needs' of the child.

Overall, as expected there is considerable variety across countries in how the resources of parents were accounted for, how the NRPs' second families were considered and how contact and shared care were dealt with in calculating child maintenance amounts. Similar variety exists in respect of accounting for children's ages or setting minimal amounts based on the cost of a child. However, the evidence suggested that at the broader level of types of systems – agency or court based – there were some similarities. In agency based systems there was a tendency to use gross rather than net income and they were all described in Table 4.1 as operating rigid rules or formula, whereas only one of the court/hybrid systems were described in this way. Levels of discretion in calculating amounts therefore also varied and the next section explores this further.

## 4.5 Layers of discretion

Informants' categorisations of the level of discretion operating within formal calculation methods were described already in Table 4.1. Informants chose from a list of four descriptors which was intended to represent a continuum with full discretion operating at one end and no discretion (rules/rigid formula) operating at the other.

- 'full discretion';
- 'mostly discretion, informal guidelines';
- 'formal guidelines'; or
- 'rules/rigid formula'.

During the analysis it became clear that this method alone was inadequate at capturing the levels of discretion operating within systems as a whole for three main reasons. First, some parents could exercise discretion in choosing to enter into the formal system in the first instance. Second, the terminology was difficult, for example the description of formal calculation methods used such as 'formula',

'tables' or 'guidelines' were interpreted differently in relation to their levels of flexibility. Third, in some countries and/or under certain conditions decision makers could choose whether or not to apply formal calculation methods. For example, in Norway whilst its formal system applies rigid formula for calculating amounts (Table 4.1), parents can choose to ignore it if they wish and return to a private agreement.<sup>26</sup> Analysing the level of discretion operating in systems was therefore highly complex; it would have been a serious error to simply equate the use of formula or rules with a lack of discretion or vice versa.

Hence, the preliminary analysis demonstrated that potentially there were at least three layers of discretion operating in child maintenance systems and these are represented in Figure 4.1. It begins in the centre with different formal calculation methods that are more or less flexible, then in the middle circle there is a layer of discretionary decision making as judgements can be made about when to apply or depart from the formal calculation methods. These two inner circles represent the formal system and the application of formal calculation methods, but this sits within the broader context of child maintenance policy and practice such that in the outer layer some parents (but not all) are free to choose to make their own private agreement or to enter into the formal system.

#### 4.5.1 Developing a measure of discretion

Having identified these layers, it was important to understand how they might vary across countries. An attempt was made to capture these elements of discretion operating within systems using a new descriptor with five categories. This was developed from the data to capture the level of discretion operated by decision makers in applying or departing from accepted calculation methods (i.e. the middle layer in Figure 4.1). The descriptor used the term **rules** to describe calculation methods such as tables, formulae etc. that were usually applied to determine the amounts and **guidelines** which were not as prescriptive in determining amounts. The five categories are:

- rules: no departure except in closely prescribed circumstances;
- rules: can depart in loosely prescribed circumstances;
- guidelines: are usually consulted but can depart from them;
- guidelines: may be consulted but not adhered to;
- no guidelines: full discretion.

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<sup>26</sup> As long as in cases where the PWC receives forwarded maintenance the amount of maintenance privately agreed is not less than this forwarded amount.

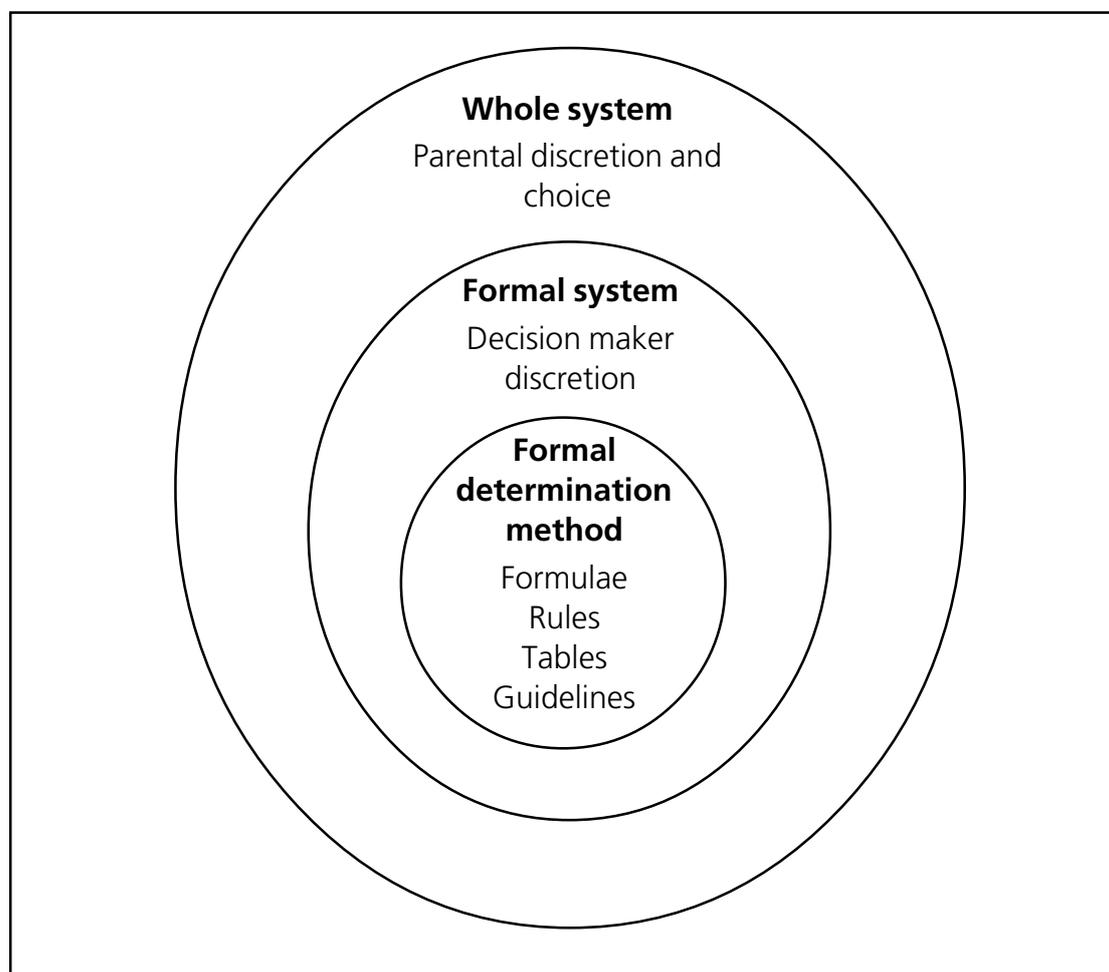
**Figure 4.1** Layers of discretion

Table 4.5 presents all three layers of discretion for each country. It presents the different entry routes into the formal system (representing the level of parental discretion in the outer layer in Figure 4.1), the new descriptor that captures decision makers discretion to depart from the application of formal calculation methods (middle layer in Figure 4.1) and the informants' classification of flexibility/rigidity in the formal calculation methods (inner layer in Figure 4.1).

#### 4.5.2 Discretion in regimes

Table 4.5 shows that there are four main entry routes into formal systems: voluntary entry and where parents cannot agree and compulsory entry when the PWC is on social assistance or in receipt of guaranteed or forwarded maintenance.

In terms of discretion, ten countries have compulsory entry if the PWC is in receipt of social assistance; Australia, New Zealand, UK, Austria, Canada (Ontario), Finland, France, Germany, Netherlands and the USA. In two countries, Norway and Sweden, it is only compulsory if the PWC is in receipt of forwarded or guaranteed maintenance. Denmark and Belgium are the only countries offering a choice to parents whether to enter the formal system when they are in receipt of social assistance benefits. Thus, in relation to the outer circle of Figure 4.1 these two

countries were unusual; they operated with the fullest levels of discretion. The UK however, might soon be in this category if the new plans to allow parents on social assistance benefits a free choice to stay outside the formal system go ahead.

In considering levels of discretion in the formal calculation methods as classified by informants (representing the inner layer in Figure 4.1) Table 4.5 also shows that the five agency based systems operated with 'rules/rigid formula' systems (Australia, Denmark, New Zealand, Norway and the UK). None of the court/hybrid systems were solely categorised in this way. Among the nine court/hybrid systems six were described as primarily operating 'mostly discretion, informal guidelines' in calculating maintenance amounts (Belgium, Finland, France, Germany, the Netherlands and Sweden) and three as operating 'formal guidelines' (Austria, Canada (Ontario) and USA). No one described their calculation method as operating with 'full discretion'.<sup>27</sup>

Clearly, on this classification the agency systems were less discretionary than court/hybrid systems. But, if the standardised measure is also considered (representing the level of decision-maker discretion to depart from formal calculation methods – the middle layer in Figure 4.1) then there is even greater diversity across countries with court/hybrid systems than the informants' classifications would suggest. For example, Finland and France have been judged to operate with full discretion as they apparently have no formal **guidelines** (see summary of data in last column of Table 4.5). Whereas, in Germany and Belgium *guidelines* may operate but these do not have to be consulted or adhered to and the Belgian informant was keen to point out that:

*'The law sets only very general limitations on court discretion'.*

In contrast, in Canada (Ontario), the Netherlands and Sweden guidelines tend to be consulted but can be departed from fairly easily. In the case of Canada (Ontario), it can be seen in the summary of data in Table 3.5 that describing discretion within systems is difficult as both 'tables' and 'formula' are used. Austria was unusual; it was the only country that seemed to operate with **rules** like the agency based system. But this was not entirely clear either in the informants' own classification or in the new descriptor. Later (after reading the first draft of the report) the informant reported that:

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<sup>27</sup> Interestingly, three of the informants changed their categorisations on reflection after reading the draft report. Belgium reclassified from 'full discretion' to 'mostly discretion, informal guidelines' and even then thought it would be best described as 'discretion within broad boundaries'. Denmark changed from 'formal guidelines' to 'rules/rigid formula' and the informant from Austria found it difficult to choose and decided that the system was both based on 'formal guidelines' and on 'rules/rigid formula'. This demonstrates the difficulties in defining levels of flexibility/discretion in child maintenance systems.

*'Essentially, the legal regulations apply but a practice of judicature has developed in order to concretise those rules. The courts are not bound to this judicature but usually comply with it.'*

The USA (or more accurately Wisconsin) was also unusual. Like agency based systems **rules** are applied, but unlike agency systems it is possible to depart from the rules under **loosely** prescribed circumstances (based on notions of 'fairness'). Perhaps this difference reflects the hybrid nature of the Wisconsin system in the USA, as **rules** were used but with court based discretionary practices, hence the informant classified it as operating with 'formal guidelines'.

Overall, it does seem that agency based systems operate with less discretion. But this analysis has demonstrated that there is a high degree of complexity involved in determining the levels of discretion within and across child maintenance systems both within the formal methods for determining amounts of maintenance and in how they might be applied by decision makers in practice. Figure 4.1 tries to represent this by showing the layers of discretion operating within systems.

**Table 4.5 Levels of discretion in child maintenance regimes**

	Entry route into formal system	Informant classification of formal calculation method	Descriptor of discretion	Summary of data on discretion
Agency based systems				
Australia	Parents cannot agree. PWC on Family Tax Benefit (FTB) (Part A).	Rules/rigid formula	Rules: no departure except in closely prescribed circumstances	'The CSA has quite a wide scope to alter an assessment if parents request one on grounds of justice and equity... The appropriate 'fair and just' response is set out often in some detail.'
Denmark	Voluntary. Parents cannot agree. Choice if PWC on social assistance.	Rules/rigid formula	Rules: no departure except in closely prescribed circumstances.	'The guidelines themselves are quite simple and rigid.'
New Zealand	Voluntary. PWC on social assistance.	Rules/rigid formula	Rules: no departure except in closely prescribed circumstances.	Departure orders in court and administrative reviews are available and are based on the same grounds. The grounds for departure are listed in detail.
Norway	Voluntary. Parents cannot agree. PWC receives forwarded maintenance.	Rules/rigid formula	Rules: no departure except in closely prescribed circumstances.	If parents want to, they can decide to discontinue their formal agreement and make their own private agreement. <sup>1</sup>
UK	Voluntary. PWC on social assistance.	Rules/rigid formula	Rules: no departure except in closely prescribed circumstances.	Can apply for variation in the formula, but there are very limited grounds.

Continued

Table 4.5 Continued

	Entry route into formal system	Informant classification of formal calculation method	Descriptor of discretion	Summary of data on discretion
Court based or hybrid systems				
Austria	Voluntary. Parents cannot agree. Possibly, if PWC on social assistance.	Formal guidelines and rules/rigid formula	Possibly Rules: no departure except in closely prescribed circumstances.	'Standardised amounts regarding the normal requirement decided and regularly adjusted by the Higher Regional courts in relation to child's age. Certain percentage of the net income in relation to the child's age.'
Belgium	Voluntary. Parents cannot agree. Choice if PWC on social assistance.	Mostly discretion, informal guidelines	Guidelines: may be consulted but not adhered to.	Very general guidelines written in law; more concrete guidelines that can be consulted – either the 'method of Renard' or 'Gezinsbond'.
Canada (Ontario)	Voluntary. Parents cannot agree. PWC on social assistance.	Formal guidelines	Guidelines: are consulted but can depart from them.	Tables with standard amounts relating to income are used, but are based on a 'complex formula'. There is 'some leeway' on amounts, when payment would cause undue hardship, where there is a prior voluntary agreement and where previous transfer of assets.
Finland	Voluntary. Parents cannot agree. PWC on social assistance.	Mostly discretion, informal guidelines	No guidelines: full discretion.	There is full discretion, 'no uniform practice', but currently guidelines are being proposed. Continued

**Table 4.5 Continued**

	<b>Entry route into formal system</b>	<b>Informant classification of formal calculation method</b>	<b>Descriptor of discretion</b>	<b>Summary of data on discretion</b>
France	Certain types of divorce. Parents cannot agree. PWC on social assistance.	Mostly discretion, informal guidelines	No guidelines: full discretion.	'There is full discretion, 'no official guidelines' the 'judge decides him/herself'. But currently some judges are proposing guidelines.'
Germany	Voluntary. Parents cannot agree. PWC on social assistance.	Mostly discretion, informal guidelines	Guidelines: may be consulted but not adhered to.	Courts have developed their own 'support tables', and whilst 'they could be described as 'formal guidelines', courts can still use their own discretion.
Netherlands	Parents cannot agree. PWC on social assistance.	Mostly discretion, informal guidelines	Guidelines: are consulted but can depart from them.	Courts use the 'national index on the cost of raising a child' as a basis to determine amounts. Yet, the Judge will also make the decision based on any special needs of child, and the NRP's income and expenditure.
Sweden	Parents cannot agree. PWC receives guaranteed maintenance.	Mostly discretion, informal guidelines	Guidelines: are consulted but can depart from them.	Court decides on amount based on income of both, parents, needs/costs of a child and parents' expenditures in order to decide 'reasonable amounts'. Legal practice expects that child maintenance 'roughly corresponds with the living standard of the NRP'.
USA	Voluntary. Parents cannot agree. PWC or NRP on social assistance.	Formal guidelines	Rules: can depart in loosely prescribed circumstances.	Courts use a formula based on percentages of NRP gross income, it is presumptive unless the court explicitly finds it is 'unfair to the child or to any of the parties'.

<sup>1</sup> As long as in cases where the PWC receives forwarded maintenance the amount of maintenance privately agreed is not less than this forwarded amount.

## 4.6 Conclusion

This chapter covered three main areas; firstly it described the main locus of responsibility for formal child maintenance, the method of determination used and to whom the obligation was officially awarded. Secondly, it demonstrated which factors were taken account of in calculating formal child maintenance awards, including the resources of parents, shared care arrangements and obligations to second families. Finally, it explained the level of discretion in the various methods used for calculating amounts and compared the differences across systems.

The findings demonstrated that it even if maintenance was formally awarded to children, in practice it was the PWC who received it. In regards to the method for calculating amounts, it was commonly based on net income; this was used in eight countries most of which were court or hybrid systems. Among agency based systems, the UK was unusual in using net income all the rest, including the USA used gross income. This is about to change, under the new proposals gross income will be used as the basis for the formula assessment – the main reason being that information on earnings can be gathered more simply and directly from tax data held by HMRC rather than relying on the cooperation of parents or employers to provide it (see Chapters 5 and Chapter 6 for further discussion).

There was considerable variation in how the resources of the NRP were treated in formal determinations, but nearly all countries would take account of his/her obligations to new family members (at least in principle if not in practice); it would depend on the NRP's income levels if the obligation were to be reduced. Without exception all countries would take account of the contact time children spent with the NRP. In the event of shared care (where the child spent roughly equal amounts of time living with each parent), the obligation to pay would be reduced to nil in the majority of countries (ten) and could be annulled completely in some countries irrespective of disparities in the parents' incomes. Data on the prevalence of shared care arrangements was inconsistent and partial – with these caveats the levels of shared care reported across countries varied between about seven to 15 per cent. In relation to taking account of the PWC's resources, there was a roughly equal split across countries as to whether this would happen or not, similarly as to whether the children's ages were taken account of or whether there was a minimum amount of child maintenance set.

Comparatively, the UK differed from the majority of countries in some of the factors considered in making an assessment for child maintenance. It did not take account of the NRP's obligations to new partners (though it did for children in second families); did not reduce the obligation to nil amounts in the event of shared care (though it did reduce the amount expected) and did not set a minimum amount for all children (eight countries did, including three of the agency based systems).

The findings also showed that whilst the UK was similar to other agency based systems in relation to using more standardised determination methods such as a formula, it would be a mistake to simply equate this with less discretionary practices,

as some of the court based systems also used standardised methods. Importantly, it was not possible to make judgements about the levels of discretion by merely considering whether so called formulae, guidelines or rules were used. A much more sophisticated judgement is required that can consider the regime as a whole – that is whether parents have a choice to enter the formal system in the first instance and how discretion works in relation to whether the calculation methods are ever applied to all cases or are departed from and under what circumstances this might happen.

Discretion to make private agreements is being promoted as an advantage to parents on social assistance benefits but as yet the choice open to new cases to enter the C-MEC system (where compliance remains unknown) is unclear, (DWP, 2006c: 71). Also, the level of discretion that decision makers might have to apply the formula and the grounds for departure are not always made explicit in the White Paper especially in relation to dealing with shared care and contact time. These are important aspects considered by the majority of countries and on which the White Paper is silent. Making a nil assessment where there is a roughly equal shared care arrangements might be an option worthy of consideration and one adopted in many other countries.

The next chapter considers variations in the levels of awards across countries using hypothetical cases (Vignettes).



# 5 Levels of child maintenance awards

## 5.1 Introduction

In order to make meaningful comparisons of the levels of maintenance awards across countries, a vignette technique was used following Corden in 1999. Informants were asked to work out the actual child maintenance award for hypothetical families with a range of different circumstances; this facilitates comparisons across countries using purchasing power parities in pounds sterling (£ppp) for 2005, GBP (£). This helps to take account of the wide variations in assessment methods as it shows the outcome in terms of maintenance awards. The chapter therefore will compare how the UK assessment method and rules (under the post March 2003 child support system and formula) perform in producing maintenance outcomes in certain circumstances.

## 5.2 Vignettes

The study used two hypothetical families as contrasting child maintenance cases; **Vignette one** depicts parents who have one child and who have never married or cohabited. **Vignette two** depicts a married couple who are separating with two children. The analysis begins by exploring the maintenance awards for the base set of circumstances of the two vignettes; it then moves both sets of parents through a series of changes in circumstances – new scenarios – in order to explore their effects on maintenance outcomes. These scenarios were constructed to explore particular contexts that different families might face in reality. For example, for the parents in vignette one, there are a series of changes in employment and social benefit status, and for parents in vignette two there are a series of changes in relation to the development of shared care arrangements and commitments to new (second) families. Altogether the analysis of the changing scenarios in the two vignettes explores the effect on the value of the child maintenance award in the following circumstances:

- the different employment patterns and social benefit status of both parents;
- the development of shared care arrangements;
- the new partner of a non-resident parent (NRP);
- the new partner of a parent with care (PWC);
- the new biological children born to a NRP.

The amounts of the child maintenance award for the different scenarios are presented in Figures 5.1 to 5.4 in £ppp. It is important to note that the awards represent only the final amounts of child maintenance that the NRP is expected to pay which is not necessarily the same amount that the PWC would receive. As shown in Chapter 6, many countries count maintenance receipts for social benefit purposes.

### 5.2.1 Levels of awards – Vignette one

#### *Vignette one – Ms Field and Mr Hill*

Vignette one – scenario one represents the base case of a lone parent family with the mother and child residing together and the father is the NRP (see Box 4.1). Both parents are unemployed and they receive whatever social benefits they are entitled to in their specific country.

#### **Box 5.1 Vignette one – scenario one, the base case Ms Field and Mr Hill**

##### **Unmarried parents (and never cohabited) without ‘new’ families and both parents unemployed**

Ms Field and Mr Hill are unmarried parents in their mid twenties who have a three month old daughter. The parents have never lived together but the father maintains a relationship with his daughter and sees her regularly and relations with the mother are amicable. He has bought some baby clothes and equipment for his daughter, but he makes no regular child maintenance payments.

The mother has been unemployed since the birth of the child and she claims social assistance for herself and the child. The father is unemployed and he too claims social assistance for a single unemployed person. He lives in rented accommodation and is thinking about re-training as an engineer.

The mother decides she wants to pursue a formal child maintenance agreement.

Figure 5.1 shows the level of child maintenance awards for vignette one.

In Austria, Canada (Ontario), France, Netherlands, Norway and Sweden no maintenance would be expected from the NRP. Whereas in Germany, Denmark and the USA<sup>28</sup> the award was relatively high and in Australia, Belgium, Finland, New Zealand and the UK relatively smaller amounts of between £10 and £36 per month were expected. Germany is very unusual, the NRP would not be expected to pay, but his parents would be assessed and the relatively large amount in Figure 5.1 represents their liability as grandparents if they had the capacity to pay.

The USA also stands out because it calculates the amount the non-resident has to pay based on expected earnings were he in employment, it is irrelevant that he is unemployed. As the national informant reported:

*'In the USA there are no programs that provide cash benefits to someone in Mr Hill's position unless he is found to be permanently and totally disabled. The likely scenario is that his income would be imputed based on his earning capacity. (He would be referred to the job centre, and perhaps ordered to cooperate with it.) A typical scenario might be assuming he could earn minimum wages (\$6.50/hour) and could work full-time. The most likely scenario, in my view, is that the court assumes minimum-wage, full-time employment.'*

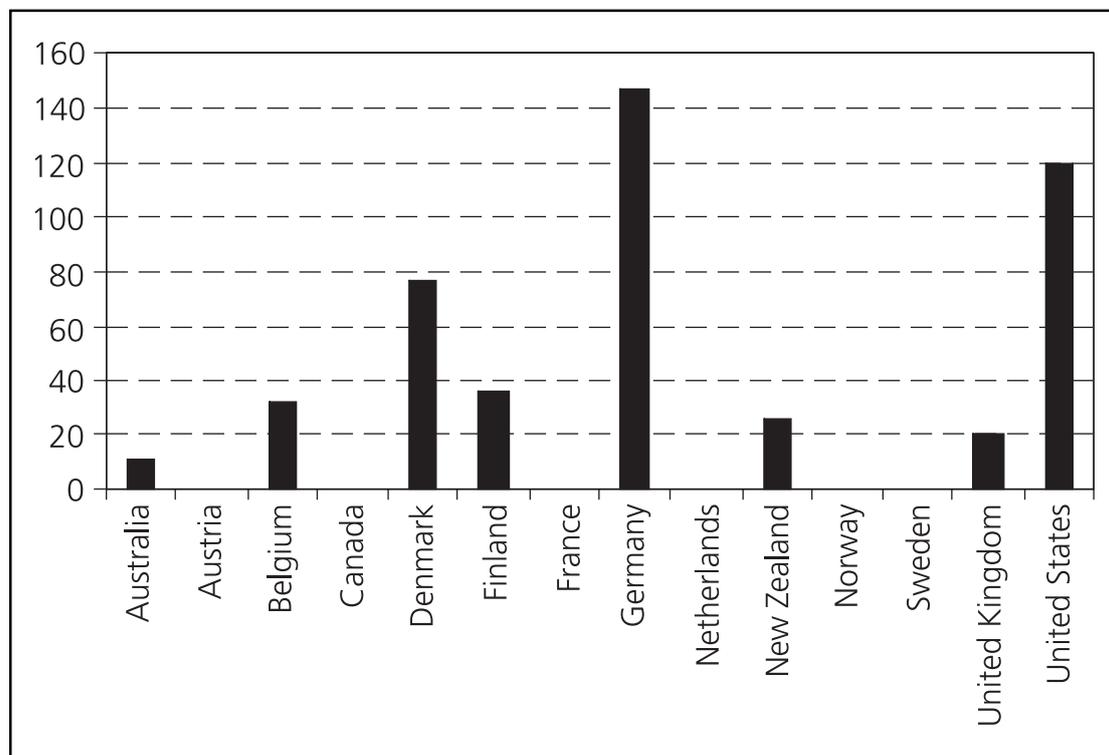
However, in Denmark, the relatively large amount expected would not actually be paid by the NRP because complex interactions with taxation and social benefits would effectively reduce the obligation.

In the Belgium system the national informant reported that the amount would depend on who was making the decision (judges have discretion) and whether the parents had enlisted the services of a lawyer or a mediator. The amounts reported below are calculated according to the 'method of Renard', but in practice many courts award higher child support payments, especially in the Dutch-speaking part of Belgium. In Finland, the informant thought it likely that **if** the NRP was required to pay anything at all (again the decision is discretionary) it would be a relatively small amount that would be set by the municipal social welfare board.

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<sup>28</sup> Note, that in the case of the **USA** the analysis of amounts is based upon the state of Wisconsin and is not representative of the whole country.

**Figure 5.1 Vignette one, scenario one; both parents unemployed and in receipt of relevant individual social benefits. The child maintenance award in £ppp per month for one three month old child**



The next section considers scenario two (see Box 5.2), where Mr Hill is depicted as finding full-time employment.

### **Box 5.2 Scenario two father employed – Ms Field and Mr Hill**

Mr Hill, the NRP finds full-time employment and he now earns 75 per cent of median income in his country. Ms Field remains unemployed and claiming social assistance benefits and she feels he should now pay more child maintenance.

For scenario two, the amounts that have to be paid are shown in Figure 5.2.

The figure highlights how in all countries the NRP is expected to pay now he is in employment. The USA (more specifically Wisconsin), Canada (Ontario) and France expect the highest amounts above £150 per month. The French national informant estimated that the judge would decide the award should be around 15-20 per cent of his net earnings which works out at £180 per month. Canada's award of £172 was arrived at by reference to Ontario's guidelines.

The majority of countries expected an amount between £100-150 per month (Australia, Austria, Finland, Germany, the Netherlands, Norway and the UK). In Australia<sup>29</sup> (and New Zealand) calculations are made on the basis of the previous year's earnings and so would be estimated in this case and subsequently adjusted. In New Zealand, the figure given actually refers to what the NRP (Mr Hill) would have to pay in the following year, since as the national informant reports:

*'Because the income used is lagged income, the fact that Mr Hill is now earning does not affect the current assessment. It would be picked up in the following year's assessment.'*

Belgium, Denmark, New Zealand and Sweden expected the smallest amounts at between £50-100 per month. In Denmark the amount remains the same as if Mr Hill were unemployed at £77, because as the national informant reported:

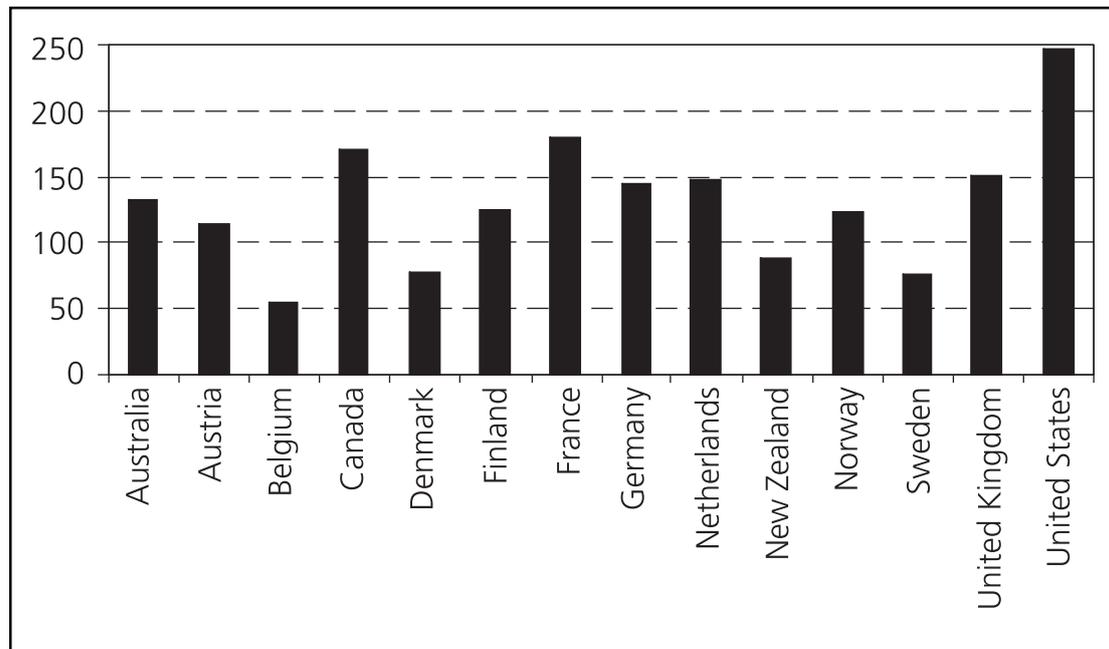
*'In Denmark 75 per cent of median full-time male earnings is not enough to move him into a higher obligation band. Mr Hill would have to earn more than DKK 330,000 a year gross before he will have to pay more. The standard rate is designed to apply also to average earnings.'*

In Belgium the amount this NRP is expected to pay (following 'the method of Renard') now that he is in employment at 75 per cent median earnings remains quite small; a rise from £32 per month when unemployed to £52 when employed.

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<sup>29</sup> The figures given assume that this higher income is picked up when Mr Hill lodges his tax return which in reality is likely to be in the following year. Australia is therefore similar to the New Zealand system and if this were a real case, there would be no adjustment to child support to reflect Mr Hill's higher income until the subsequent year.

**Figure 5.2** Vignette one, scenario two; the NRP is in full-time employment at 75 per cent median male earnings, PWC remains on social benefits. The child maintenance award in £ppp per month for one three month old child



In scenario three, the circumstances change again so this time it is the PWC who finds part-time employment (see Box 5.3).

### **Box 5.3** Scenario three mother employed - Ms Field and Mr Hill

Ms Field is now in part-time employment and earns median female wages for part-time work. Mr Hill is once again unemployed and he feels his obligation to pay child maintenance should be reduced if not eliminated in these circumstances.

Interestingly in scenario three there is no difference in the amounts awarded than if both parents were unemployed (as depicted in Figure 5.1). The PWC's part-time employment therefore had no effect on what the non-resident was expected to pay in all countries. National informants gave a number of reasons for this:

- Resources of PWCs not taken into account in maintenance assessments (Austria, Canada (Ontario), Denmark, Netherlands and the UK).
- The NRP is still regarded as having no capacity to pay (Norway and Sweden).
- As long as the NRP remained unemployed the amount expected would remain the same as in scenario one (in the USA (or Wisconsin) and New Zealand).

In Australia the assessment would not change for more complex reasons:

*This would not change the assessment for two reasons. First, Mr Hill is already paying the minimum. Second, Miss Field's earnings are below the median for all persons (the female median is below the overall median), the threshold at which some account can be taken of her income in calculating child support payable by Mr Hill.*

In the discretionary Belgian, French and German systems the national informants thought it unlikely that the amount the NRP is expected to pay would be decreased. In Finland, whilst the NRPs' obligation would not change, the PWC would lose some guaranteed maintenance now that she was employed.

Overall, the analysis of vignette one demonstrates that even where a NRP has no earnings, some countries would still expect him to pay an amount of child maintenance (Australia, Belgium, Denmark<sup>30</sup>, Finland, New Zealand, UK and the USA). In Germany, if the NRP were unemployed, the obligation to pay would fall on the paternal grandparents instead. In all countries, the part-time employment for the PWC did not alter the obligation level when the NRP remained unemployed; the reasons for this differed across countries. However, in all countries (bar Denmark) the amount expected increased when the NRP entered full-time employment and earned 75 per cent of median male earnings. Comparatively, the UK expected similar amounts as the majority of countries in the middle ranges.

## 5.2.2 Levels of awards – Vignette two

### *Vignette two – Mr and Mrs Coast*

Vignette two – scenario one represents the base case of Mr and Mrs Coast who are married parents with two children in the process of divorcing. Both parents are employed; the father full-time and the mother part-time (see Box 5.4). This represents a typical pattern of employment for a married family in the UK, but not typical earnings for the father. He earns one and half times median male full-time earnings. In this vignette we explore changes in relationships rather than employment. The amount of child maintenance expected to be paid in the base scenario is shown in Figure 5.3.

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<sup>30</sup> In Denmark, however, he would be able to claim most of this amount back through taxation. Mr Hill would not be expected to pay here and now because his income does not hit the legal threshold. However, his obligation will be tallied and he will be expected to pay if and when his income increases.

### Box 5.4 Vignette two – scenario one, the base case Mr and Mrs Coast

#### Divorcing parents, both in employment and father with above average earnings

Mr and Mrs Coast are divorcing parents who had been married for ten years. They have two children, one aged six years and the other aged nine years. The father earns one and half median male full-time earnings and the mother earns median female part-time earnings. The mother and the children reside together in the rented family home and the father has moved 100km away and lives in a rented flat (he is the NRP). He has the children to stay with him in his flat from Friday evening to Sunday evening every other weekend.

The father does not want to get divorced and he is bitter about the ending of the parents' marital relationship. He wants to maintain a close relationship with his children.

The mother wants to pursue formal child maintenance arrangements.

Figure 5.3 shows that all countries would set a child maintenance obligation for Mr Coast.

The USA (Wisconsin) would expect the highest amount; he would be required to pay 25 per cent of his income equal to £727 per month. In Australia it would be £531, and in Canada (Ontario) it would be £548 per month, the PWC's income is ignored because in Australia, it is below the disregarded annual income limit. In Finland, the national informant reported that the amount of £512 per month would, by Finnish standards, be very high because in reality the housing benefits would be taken into account:

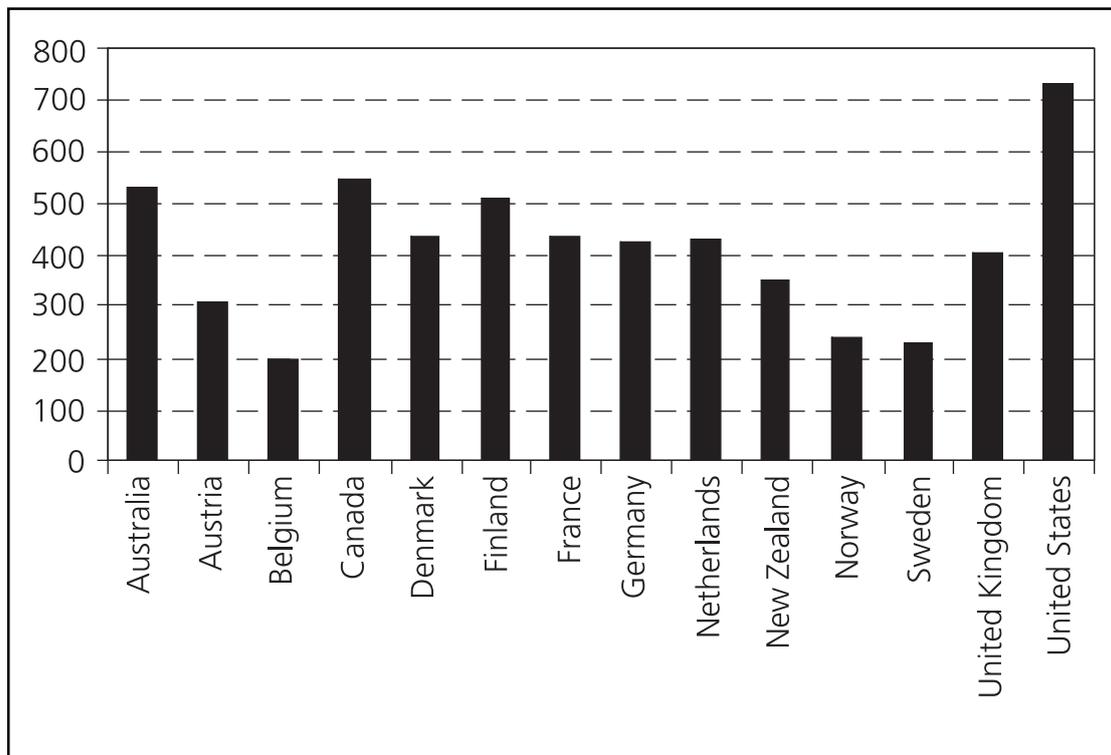
*(N.B. The amount of maintenance for Mr Coast is very high by Finnish standards. That may be caused by the fact that single parents with school aged children most usually work full-time. Mrs Coast's rent is also very high. She would probably be entitled to housing allowance. That would decrease housing expenses and Mr Coast's maintenance payments considerably. **(But)** For the sake of simplicity housing allowance is not calculated for Mrs Coast.)*

Amounts were very similar in Denmark at £433, Germany at £424, France at £433 and the Netherlands at £429 per month. The UK was slightly lower at £400. Interestingly, these similar outcomes were reached by very different means; in France, for example, by a discretionary decision on the amount of the NRPs' salary that the judge would take into account and in the Netherlands, by basing the amount on the cost of a child index and in the UK on the basis of a formula.

In Austria, the figure was lower at £306 and was reached after consideration of several factors; the NRPs' income, the amount of contact time spent with the children and the PWC's income. In New Zealand, the amount was £348 and the

Norwegian, Swedish and Belgian informants gave the lowest figures of £240, £228 and £200 respectively.

**Figure 5.3** Vignette two, scenario one; the NRP earns 1.5 median earnings, the PWC earns equivalent to median female part-time earnings. The level of child maintenance award expected in £ppp per month for two children, one aged six years and the other aged nine years



Scenario two now explores a change in the father's contact arrangements with his children – moving from a situation of regular contact to one of shared care (see Box 5.5).

### Box 5.5 Scenario two shared care – Mr and Mrs Coast

The father now lives in the same town as the PWC and children. The parents decide that they want to split the care of the children between them equally and that the best arrangement is for the children to live with the mother one week and the father the next.

They both want to have the formal child maintenance arrangements adjusted to take account of this change.

Shared care arrangements did have an impact on what the NRP was expected to pay. This is shown in Figure 5.4 and it is compared to the amounts expected where there was no shared care (the same as Figure 5.3). In five countries (Belgium, Denmark,<sup>31</sup> Finland, Netherlands and Sweden), the child maintenance obligation would be annulled. This reflects an understanding that if parents share care, then the costs of rearing the children will be met equally between them. There is no amount given for Germany, because it appears there is no consistency in accounting for shared care:

*The situation is extremely difficult. Actually the whole German system is built around the cash/care-distinction. But, in the 50/50-model this distinction is not possible. That's why there are different interpretations and there have been different court decisions.*

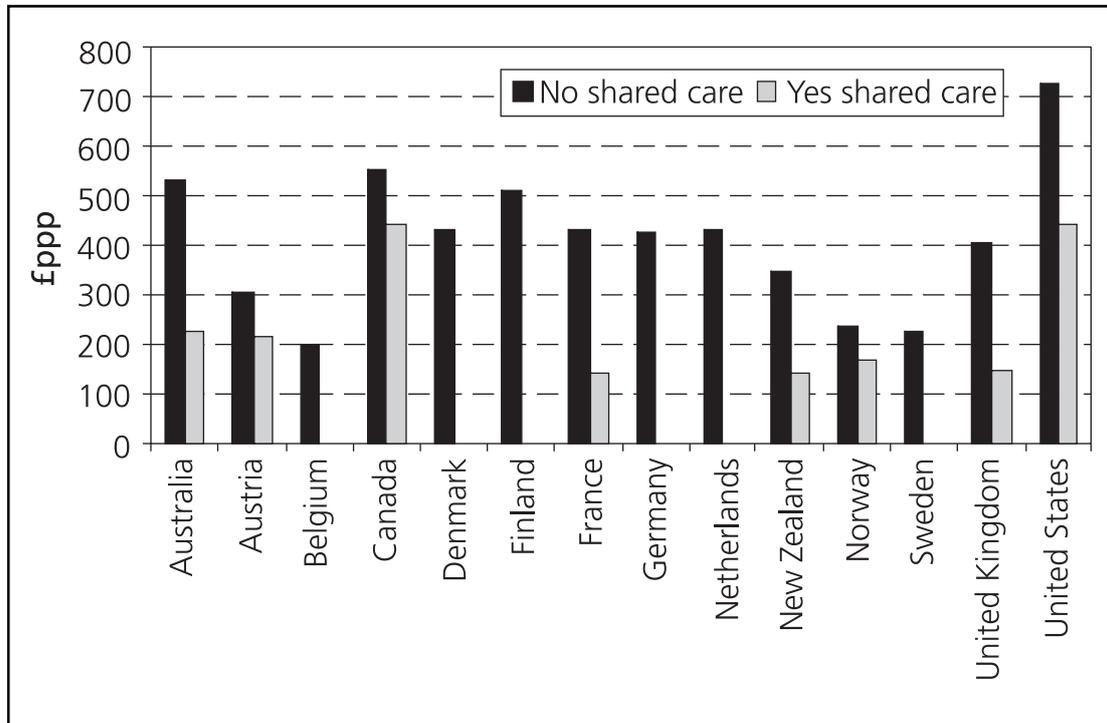
On reflection, the German informant added later that two different models for determining the amount of child maintenance obligations could be used. In the first model, the NRP would still be liable to contribute financially and the obligation could be reduced by 50 per cent if the children lived with the NRP for 50 per cent of the time. In the second model, both parents would be obliged to pay maintenance, which would be calculated using the sum of the incomes of both parents. The share each parent was obligated to pay would depend on the income share of the parent in question.

In the remaining eight countries, the NRP would still be expected to pay child maintenance – as the Figure shows, these obligations would be highest in Canada (Ontario) £446 and the USA £444. In some of the others, the obligation though reduced, remained relatively high because informants said he earned more money than the PWC (Norway (£170), New Zealand (£144) and France (£144)). Similarly, in Australia, both parents would be assessed for child maintenance, but still the NRP would be obligated to pay £224. The UK would only take account of the shared care arrangement and not the income of the PWC, reducing the amount to £148 per month.

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<sup>31</sup> The obligation can be annulled when the parents share care around 50-50 and have joint custody.

**Figure 5.4** Vignette two, scenario two; shared care of the children. The level of child maintenance award expected in £ppp per month for two children one aged six years and the other aged nine years



In the third scenario, the vignette returns to the situation presented in the base case, where the father lived 100km away and he spends time with the children every other weekend. The change that is explored in scenario three is the repartnering of the mother (see Box 5.6).

### **Box 5.6** Scenario three mother repartners – Mr and Mrs Coast

The parents have divorced and the mother has developed a new relationship. Her partner moves into the house to live with her and the children. This new partner earns the same as the father, one and a half median male full-time earnings.

The father, as in scenario one, lives 100km away and he has the children to stay with him every other weekend from Friday to Sunday evening.

The father knows the new partner and what he earns and he would like the formal child maintenance award to take account of this change in the mothers' personal and financial circumstances.

The re-partnership of the PWC had no effect on the amount of the child maintenance award in all countries; it remained the same as shown in Figure 5.3. Where reasons were given, informants reported that a PWC's new partner's resources was not taken into account (Finland, France and Sweden).

In the fourth scenario, the circumstances of the parents have changed again. This time it is the father rather than the mother who has repartnered, he also has a new biological child in this relationship (see Box 5.7).

**Box 5.7 Scenario four father has repartnered and new child – Mr and Mrs Coast**

The circumstances are the same as in the base case, where the father lives 100km away and he has the children to stay with him every other weekend from Friday to Sunday evening. The mother lives alone with the children. The employment and earning situation of the parents are the same as the base case.

The change is where the father has now developed a new relationship. His new partner lives with him in his rented flat and they also have a new child together aged ten months old. The new partner does not work as she looks after their child full-time.

The father would like the formal child maintenance award adjusted to take account of his new family responsibilities.

The change in family circumstances of the NRP in scenario four had very little impact in the maintenance awards in most countries, the picture remained very similar to the base case shown in scenario one, Figure 5.3.

A variety of reasons were given, either new obligations were not seen as relevant – USA, or because his income was too high (and thus even with meeting his new obligations was still considered eligible to pay the same amounts for his previous children) – Canada (Ontario), France, Germany, Norway, Finland and Sweden; or because he was not married to his new partner (Austria, Germany). A few countries might reduce the obligation slightly to take account of the new family. In Australia, for example, the obligation would fall by around \$50 to take account of the proportion of his income that should now be exempted and New Zealand would also give an automatic reduction in his obligation due to an increase in his living allowance. In Denmark and the UK his payments would be aligned with guidelines for relevant amounts in having three children. In the Netherlands, his obligation amount would be lowered to take account of his new child and partner.

It might have been expected that, in vignette two, the obligations of the NRP to a new biological child and new partner would have altered the award significantly; the analysis in Chapter 4 clearly demonstrated that these new obligations would be taken account of in most countries. This proved not to be the case, mainly because of the high income of the father rather than the change in his family circumstances. The re-partnership of the PWC made no difference to the level of the award in all countries. In contrast, having shared care arrangements for the children did significantly affect the child maintenance obligation in all countries. It was annulled completely in Belgium, Denmark, Finland, Netherlands and Sweden and reduced in amount in all the remaining countries.

### 5.3 Conclusion

In this chapter, the vignettes demonstrated that amounts of child maintenance expected from NRPs in the UK were neither much higher nor much lower than those expected in other countries. The UK was among the top four countries expecting the highest levels for the poorest family in vignette one and ranked around ninth for the richer two parent family in Vignette two.

In Vignette one, scenario one both parents were unemployed and receiving social benefits. The UK was one of eight countries that expected some payment of child maintenance (six countries expected a nil amount). Of the eight countries expecting a payment, it was £20 per month for one child in the UK and only Australia expected less at £10 per month and the USA (or more accurately the state of Wisconsin) expected the most at £120 per month. When circumstances changed and the mother (PWC) found part-time employment at median female earnings, this had no effect on the amount of child maintenance expected from the NRP in all countries. However, when the non-resident father found full-time employment at 75 per cent median earnings (and the mother was unemployed and on social benefits) all countries expected him to pay more, ranging between £52 a month in Belgium and £250 a month in Wisconsin, USA. The UK was ranked fourth highest expecting £150 per month, six other countries expected an amount between £100-£150 per month, and four countries were in the lower range expecting an amount between £50-£100 per month.

In Vignette two, the non-resident father earned 1.5 median male earnings and the PWC (mother) earned typical median female part-time earnings (they had two children). Again in Wisconsin, USA the amount expected was highest and the UK was ranked ninth from the top (at £400 per month for two children) in a range of £727 per month (Wisconsin, USA) and £200 per month in Belgium. Vignette two also explored the effect shared care arrangements might have on this hypothetical family (where children spend roughly equal time living with both parents). In five countries the maintenance obligation would be set at nil (Belgium, Denmark, Finland, the Netherlands and Sweden) and among the others all would expect a lesser amount than if there were no shared care. Among those expecting some payment, the UK was one of the more generous dropping the amount from £400 per month to £148 per month for two children. Vignette two also explored what might happen if both parents repartnered. When the mother repartnered, this had no effect on the amount of maintenance expected from the non-resident father. Similarly, when the father repartnered and had a new child this had little effect on what he was expected to pay in the majority of countries. This was contrary to expectations, as Chapter 4 showed that many regimes would take account of a new partner and a child and reduce the amount expected, but this vignette did not pick this up for all countries because of the relatively high earnings of both parents.

The new plans for the UK show that the basis of the calculation will change to gross income and this is more in line with what happens in other countries with agency based systems. It is implied in the White Paper that this will not produce much of a difference in outcomes than the current net income based formula given that the percentages expected are reduced from 15 to ten per cent for one child, from 20 to 15 per cent for two children and from 25 to 20 per cent for three or more children (DWP, 2006c: 64). It remains to be seen what might happen in practice.

The next chapter considers in more detail a range of other operational matters related to payment and enforcement methods.

# 6 Paying, guaranteeing, enforcing and revising child maintenance

## 6.1 Introduction

This chapter outlines a range of key operational arrangements in child maintenance systems including: payment methods, enforcement and revision of child maintenance obligations and guaranteed maintenance schemes as well as the interaction between child maintenance regimes and social security systems.

These operational arrangements raise important implications for the proposed reforms in the UK as the role of the administrative organisation will alter once the current Child Support Agency (CSA) is replaced by Child Maintenance Enforcement Commission (C-MEC). Enforcement has now become a key issue because to successfully encourage private agreements (and direct payments) parents must have faith that the system can ensure effective compliance if arrangements breakdown. To that end enforcement powers are being extended for C-MEC, which will mainly step in to make assessments in cases of non-compliance or disagreement, rather than at present where the CSA is responsible for assessment and collection in **all** social assistance cases and some private cases. It is argued that whilst the plans include very strong enforcement powers they are vital to breakdown what is perceived to be 'a culture of non-compliance' (DWP, 2006c: 72). The extended enforcement powers for C-MEC will include removal of passports (removal of driving licenses is already possible) and the imposition of curfews as well as naming and shaming parents who have been prosecuted for non-payment. Other ideas are also being explored including direct withdrawal from wages as the default method of collection even where parents are willing to pay, direct withdrawal from financial accounts and using data from credit reference agencies. In addition, to increase speediness the enforcement process will be streamlined to bring more of it within the auspices of the new administrative system and away from the courts. These plans will be reflected upon in the analysis of other regimes in this chapter.

## 6.2 Making payments

There are a number of possible ways that child maintenance payments could be transferred from non-resident parents (NRPs) to parents with care (PWCs). Broadly speaking, two main channels are identified – private transfers and mediated transfers.

### 6.2.1 Private transfers

In two countries, France and Belgium, all payments are direct between the parents as there is no collection agency (except where there is non-compliance). Also, some countries – the UK, the USA, the Netherlands, New Zealand and Canada (Ontario) – either do not allow or do not encourage private transfers (i.e. monies paid directly to the parent with care (PWC) from the NRP) where the PWC is on social benefits. For example, in New Zealand, while it is possible to make private transfers, in practise they are not taken out as all payments are made through the 'Inland Revenue Child Support (IRCS)' – including payments under registered private agreements. In Canada, or at least Ontario, once a court order was in existence child maintenance would automatically be paid through the Family Responsibility Office, unless the parents 'opted out' – a formal procedure.

This variation is reflected in the administrative data or survey estimates given by some countries in Table 6.1. It shows that in France and Belgium direct payments are 100 per cent and are also very high in the Netherlands (94 per cent), but reported to be very low in New Zealand and the USA, about 25 per cent in Denmark and Norway, and about 50 per cent in Australia, Canada and Sweden. In the UK, direct payments accounted for about 16 per cent of CSA cases.

On the whole, national informants considered that private transfers fostered (or at least reflected) harmonious relations between parents and that such arrangements were both flexible for parents and cost free to government. The biggest disadvantage however was associated with the difficulty in monitoring payment and receipt of financial obligations between NRPs and PWCs.

The UK's new plans to encourage private agreements and direct payments seem to place it more closely to a minority of countries – France and Belgium as it appears there will be no standalone collection service for private agreements under C-MEC, they will collect only if they also calculate the amount using the formula or in the event of non-compliance.

**Table 6.1 Direct payments**

Australia	In June 2005, 52 per cent of CSA cases were private collect.
Austria	No data.
Belgium	100 per cent direct payments. There are no mediating agencies for child maintenance in Belgium. The only agency is <i>Dienst voor Alimentatievordering</i> (DAVO). They will act only in the case of non-compliance.
Canada	It is informally estimated by knowledgeable officials that about 50 per cent of child maintenance is paid directly, rather than through an enforcement agency.
Denmark	About 25 per cent direct payments.
Finland	No data.
France	No collecting agency so in most cases, the payment – if made – is made directly to the PWC.
Germany	No data.
New Zealand	No data but all payments made under registered voluntary agreements and all formula assessments go through 'IRCS'.
Netherlands	94.4 per cent direct payments.
Norway	Estimates suggest that by January 2005, 25 per cent of all parents organised their child maintenance privately.
Sweden	According to a survey estimate by the Social Insurance Office for Kronobergs County, about 48 per cent NRPs paid directly to the other parent. (Social Insurance Office 2005:14).
UK	Maintenance direct accounts for 16 per cent of all CSA cases with a positive calculation or assessment. Sixty-two per cent of agreements are non-CSA cases (Lyon <i>et al.</i> 2006) and all will be direct payments if they are paid.
USA	Unknown nationally. Information from Wisconsin from the 1980s showed that fewer than five per cent of divorce cases had direct-pay agreements.

### 6.2.2 Mediated collection and forwarding

Most countries had some kind of mediated arrangement for the collection and forwarding of child maintenance obligations, most often involving a state agency. An important demarcation in this respect was the **scope** of the agency in collecting and forwarding child maintenance obligations.

Those agencies with relatively widest scope were those which were also responsible for the assessment, as well as the collection and forwarding of financial obligations – such was the case in New Zealand, Australia, the UK, Norway, Denmark and Finland. The scope of agency involvement was widest in New Zealand where 'IRCS' is responsible for collecting and forwarding child maintenance whether the obligation has been decided through formula assessment, registered private agreement, or overseas child maintenance orders. Its scope is therefore far reaching in terms of monitoring non-compliance.

Other countries had agencies which, whilst they were not responsible for the determination of child maintenance, did have a relatively wide scope in collecting and forwarding child maintenance: Canada (Ontario), the USA, the Netherlands

and Sweden. Finally, there were countries in which agencies played a marginal role in the collection and forwarding of child maintenance stepping in only where non-compliance occurred. This was the case in Belgium where DAVO is responsible for claiming maintenance and providing advance maintenance in the case of non-compliance. In Austria, in cases of non-compliance, the Higher Regional Court will advance maintenance for a limited time period and can pursue the debtor. The French *Caisse D'allocations Familiales* (social security family fund) might also step in at times of non-compliance – but not otherwise. And in Germany, *Unterhaltsvorschub* (guaranteed maintenance paid in times of non-compliance) may be claimed back from the non-compliant parent (arrangements for non-compliance is discussed further in the next section).

Overall, agencies had a diverse range of payment collection methods at their disposal; monies could be taken at source – for example, from the NRP's wages (an option in New Zealand and the USA) or social benefits. Other payment methods included NRPs posting cheques to the agency or paying monies into a central bank account.

From the diversity described above there are extremes in official monitoring of payments – evidenced on the one hand, by New Zealand (where all payments are through IRCS and hence all will be subject to monitoring) and on the other hand, France (where monitoring of payments is negligible). In some countries then, it is the PWC who will be solely responsible for monitoring obligations, and for taking action in times of non-payment. This is also likely to be the case under the new plans for the UK, as in the future most child maintenance obligations will be private agreements (and direct payments) primarily leaving only the harder non-complaint cases for C-MEC. However, the White Paper is not explicit about how a 'new' application to C-MEC will be opened (DWP, 2006c:71). It might rely mainly on the PWC reporting non-compliance in a private agreement or on one of the parent's approaching C-MEC in the event of non-agreement. There is a new 'cash transfer system' for parents with existing CSA agreements which they can move with them to the new scheme.

### 6.3 Enforcement

Non-payment of formal child maintenance obligations potentially<sup>32</sup> has implications for the wellbeing of children (and PWCs). Given this it is important to understand the steps taken across countries to deal with non-compliance.

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<sup>32</sup> The term potentially is used because parents may provide informal financial support even though they do not pay formal child maintenance (see Bradshaw *et al.*, 1999).

### 6.3.1 Non-compliance

Table 6.2 shows the point of contact for the PWC in instances of non-compliance; the national informants' considered opinion on the most likely initial response of the agency or other administrative body concerned and the steps taken for persistent non-compliance.

As Table 6.2 illustrates, in most of those countries that have agency involvement in the determination of child maintenance – Australia, New Zealand, Norway, UK, USA and Finland – it is with these bodies that the PWC needs to lodge cases of non-payment. An exception here is Denmark – whilst it has agency involvement in financial determinations, PWCs need to notify the municipality in times of non-compliance.

Several countries which have court determinations of maintenance obligations also require the PWC to notify an agency in times of non-compliance. In Germany and Austria, which also pursue claims through the court, PWCs can seek help from the Youth Welfare Office, whilst, Canada (more specifically Ontario) uses the Family Responsibility Office. Sweden has an Enforcement Service and Belgium and the Netherlands use collection agencies. In Belgium, the collection agency is DAVO (the agency started operating in 2004 and is a part of the Federal Public Service Finance). In the Netherlands, the collection agency is *Landelijk Bureau Inning Onderhoudsbijdrage* (LBIO) and it forms part of the hybrid regime in the Netherlands.

### 6.3.2 Enforcement actions

Several national informants reported that as a first step, the NRP would be contacted and a request would be made for back payment of debt and a continuance with the obligation. In non-payment scenarios however, some agencies had greater powers and more far reaching administrative structures than others. As outlined in Table 6.2, all countries could recover monies via an attachment of earnings (information on the relative frequency of such actions was not collected for this report). Examples of the ways in which child maintenance can be deducted directly at source are provided for Australia and the USA.

In Australia, if the NRP is not voluntarily paying child support, the CSA can take the following steps to recover payment:

- Salary deduction at source. This is the default method for the CSA to collect registered child support liabilities from the NRP where it is practicable to do so. However, CSA can accept a payer's election to make payments directly to CSA if it is satisfied the payments will be made on time, and then revoke this if the payments are not made.
- CSA can also deduct at source minimum liability directly from government income support payments, or in some circumstances reduce any Family Tax Benefit (FTB) due to the NRP in order to clear debt to the CSA.

- CSA can also deduct child support debts from any income tax refund due to the NRP.
- CSA can deduct child support debt from a third party, such as a superannuation fund.

In the USA, the informant reported that attachment of earnings is routine and is usually the first step in non-compliance. If bank accounts/savings/pensions or benefits are significant sources of NRP income, these would also be subject to an attachment for child maintenance relatively routinely, or relatively early in a period of delinquency. Recovery through the tax system is only done in terms of intercepting tax refunds. This would occur fairly routinely if an NRP was \$500 or more in arrears. In Wisconsin, no deductions can be made from means-tested benefits, but deductions can be made from non-means-tested benefits.

The new proposals for the UK state that they will 'test' whether deduction of earnings should be the automatic response in the event of non-compliance regardless of whether the NRP is willing to pay by other means (direct debit for example) (DWP, 2006c: para 5.12). It seems the UK will follow the USA more closely than Australia.

In cases of persistent non-compliance, Table 6.2 illustrates the range of powers held and actions possible. It is clear that there is a great deal of similarity in the powers available to both agencies and courts; attachment of earnings and seizing and selling assets being common. In 11 countries money could be deducted directly from bank accounts (not reported as an option in Belgium, Denmark or the Netherlands). Removal of passports **and/or** driving licences was another sanction used but mainly by the Anglophone countries (Australia has no power to confiscate passports but does have the power to prevent departure from the country via a Departure Prohibition Order), Canada (driving licences and passports), Norway (passports only), the UK (currently driving licences only) and the USA (driving licences and passports). In the majority of countries (Belgium, Canada, Denmark, France, Germany, New Zealand, Norway, UK and the USA) it was also possible to face imprisonment for persistent non-payment of child maintenance, although this was very rarely used in practice in some countries. Thus the new plans to extend enforcement powers in the UK under C-MEC are not particularly out of line with the powers used in many other countries (especially Anglophone countries), except the planned use of curfews. Curfews were not explicitly mentioned as an option in any country<sup>33</sup> and there appears to be no rationale for introducing this sanction in the White Paper. The CSA did however later explain in this report that the rationale for curfews is to extend the range of the most severe form of enforcement actions for the court that will not interfere with a NRP's ability to pursue employment and pay maintenance.

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<sup>33</sup> Informants were given a list of enforcement actions to choose from, curfews were not listed but there was an 'other' option that could have been used by informants to highlight curfews (see Appendix B Section 6.3.1).

**Table 6.2 Dealing with non-compliance in child maintenance obligations**

<b>Country</b>	<b>PWC complains about unpaid maintenance to</b>	<b>Routine actions for recovery of monies owed by NRP</b>	<b>Further actions for persistent non-payment</b>
Australia	CSA	As a first step the CSA will ask the NRP to: pay the amount outstanding and continue paying the regular amount.	Attachment of earnings; Deductions from bank accounts/savings/pensions (with some restrictions); Deductions from benefits; Recovery through tax (only tax rebates to the NRP); Passport confiscation (Departure Prohibition Order).
Austria	Court	Usually attachment of wages.	Deductions from bank accounts/savings/pensions; Deductions from benefits; Seizing and selling assets; Criminal prosecution; Interest charged on debt.
Belgium	Court; DAVO (Service for Maintenance Claiming).	Attachment of earnings.	Seizing and selling assets; Criminal prosecution; Imprisonment; Interest charged on debt.
Canada	Court; Family Responsibility Office (Ontario)	Attachment of earnings.	Deductions from bank accounts/savings/pensions; Deductions from benefits; Recovery through tax; Seizing and selling assets; Driving licenses revoked; Passport confiscation; Imprisonment; Interest charged on debt.
Denmark	Municipality	Deductions from benefits (automatic for those on social assistance); recovery through tax then attachment of earnings.	Seizing and selling assets; Criminal prosecution (not in practice); Imprisonment (never in practice).
Finland	Municipal Social Welfare Board	Deduction from Earnings Order (DEO) or deduction from benefits. Recovery through tax; distraint of assets.	Deductions from bank accounts/savings/pensions; Deductions from benefits; Interest charged on debt.

Continued

Table 6.2 Continued

Country	PWC complains about unpaid maintenance to	Routine actions for recovery of monies owed by NRP	Further actions for persistent non-payment
France	Court; <i>Caisses d'allocations familiales</i>	Attachment of earnings and deductions from bank are the most frequent.	Deductions from bank accounts/savings/pensions; Deductions from benefits; Recovery through tax (not directly, but possible action by Treasury-fiscal administration); Seizing and selling assets; Criminal prosecution (uncommon); Imprisonment (very uncommon); Interest charged on debt.
Germany	Court; Assisted by Youth Welfare Office	Attachment of earnings.	Seizing of assets, deductions from benefits and/or bank accounts, imprisonment (very rare).
Netherlands	LBIO	Attachment of earnings.	Seizing and selling assets.
New Zealand	IRCS	Attachment of earnings.	Deductions from bank accounts/savings/pensions; Deductions from benefits (only Accident Compensation payments, as deductions occur automatically from other benefits); Recovery through tax; Seizing and selling assets; Imprisonment; Interest charged on debt.
Norway	National Maintenance Collecting Payment Centre	Attachment of earnings.	Deductions from bank accounts/savings/pensions; Deductions from benefits; Recovery through tax; Seizing and selling assets; Passport confiscation; Criminal prosecution; Imprisonment.
Sweden	Enforcement Service	Attachment of tax returns; attachment of earnings.	Deductions from bank accounts/savings/pensions; Deductions from benefits; Recovery through tax; Seizing and selling assets; Interest charged on debt; Other, postponement and plan for payment.

Continued

**Table 6.2 Continued**

<b>Country</b>	<b>PWC complains about unpaid maintenance to</b>	<b>Routine actions for recovery of monies owed by NRP</b>	<b>Further actions for persistent non-payment</b>
United Kingdom	CSA	DEOs and deduction from benefits.	Deductions from bank accounts/savings (with debt order from county court)/pensions; Seizing and selling assets (Magistrates court); Driving licenses revoked (where NRP has demonstrated 'wilful refusal and culpable neglect'); Imprisonment (maximum six weeks); Other: Charging Order; Forced sale of the NRP's property (note it is only possible to pursue a criminal prosecution in cases where the NRP fails to provide information or knowingly provides false information – failure to pay child maintenance is not a criminal offence); County Court Judgements.
United States	Child Support Office	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.

## 6.4 Guaranteed maintenance schemes

This section considers systems of guaranteed maintenance<sup>34</sup> which could be accessed in times of non-compliance. Table 6.3 shows that eight countries – Austria,

<sup>34</sup> Some national informants differentiated between guaranteed maintenance and forwarded maintenance, with forwarded maintenance mostly being seen as maintenance first collected from the NRP and then advanced to the PWC. For example, Denmark is one of these. The municipalities advance maintenance at the normal rate only. They do not advance more. They will help to collect any additional sums owed (also alimony) and if collected, they will forward it.

Belgium, Denmark, Finland, France, Germany, Norway and Sweden – had arrangements for providing guaranteed maintenance (usually) where the NRP could not pay (or could not pay the full amount) or would not pay. Clearly, these schemes were common in the European countries in this study (only the Netherlands did not provide one) but were absent in all the Anglophone countries (Australia, Canada (Ontario), New Zealand, USA and the UK. Table 6.3 illustrates some of the major characteristics of these schemes, including who administered them, responsibility for recovery and rate of recovery.

Table 6.3 shows that the Danish system seems to be the most comprehensive as it is open to all PWCs. Most other countries limit their schemes to cases of non-compliance, and Germany also limits the scheme to **lone** parents whilst others – Belgium and Norway – operate an income test. Some national informants reported that in order to be eligible, PWCs must have an official child maintenance obligation in place and others operated certain conditions (such as obliging PWCs to divulge the whereabouts of the liable parent).

Some informants reported that their guaranteed schemes were restricted in some way. For example, in Austria payments were limited to three years and in Belgium advance maintenance is given for a set period (for example, six months or 12 months, which is renewable provided conditions have not changed (such as income)). Germany limits payments to a maximum duration of 72 months (or up to the age of 12 – whichever is soonest). The Belgian scheme also charges parents a percentage rate for administration which may be seen to restrict eligibility in some instances and the Netherlands' agency makes a small administration charge.

In Norway, France, Germany, Sweden and Finland, the receipt of guaranteed maintenance schemes could sometimes affect entitlement to means tested social assistance for the PWC, but this was not the case in Austria, Belgium or Denmark where social benefits were not affected by the receipt of guaranteed maintenance. This means that in some countries PWCs will receive guaranteed maintenance on top of their social assistance benefits, raising their incomes above social assistance levels, and in other countries it would affect entitlement to means tested benefit and could result in no increase above social assistance levels. Therefore, the provision of a guaranteed maintenance scheme need not always mean that parents on social assistance in those countries that provide one would receive more money overall.

#### **6.4.1 Advantages and disadvantages**

Several themes emerged in regards to the potential advantages of guaranteed maintenance schemes. Firstly, schemes were thought to be able to guarantee children (for those eligible) a minimum amount of financial support, regardless of the NRP's economic and social circumstances (Denmark, Finland, France and Norway).<sup>35</sup> Flat rate schemes were also considered to be more cost effective (Denmark and Finland) and relatively expedient (Finland) to administer. As the Norwegian informant further pointed out, the scheme can also function – in Norway at least – so as to provide a cushion between the NRP and the PWC in cases where

the PWC might otherwise be reticent to seek maintenance for fear of the ex-partner's reaction.

In regards to disadvantages, the national informant in Belgium considered the income test attached to the schemes as restrictive and the national informant in Norway thought that the means test (introduced in 2003 in Norway) may contribute to PWCs not participating in the labour market. As the informant commented:

*'The costs of the scheme could be seen as a disadvantage, yet these costs are peanuts in the overall budget of the National Insurance. I am more worried about the recently introduced income-testing: by now there is a lot of income-testing in benefits for lone parents. Taken together, this is bound to create work disincentives.'*

Time lags in payment were raised as a potential disadvantage in Denmark:

*Municipalities do their computer 'runs' once a month and if the PWC misses the run, she will not lose the right to the money but she will have to wait another month.<sup>36</sup>*

This is related to a point made by the Belgian informant – most schemes have to be applied for after default has occurred – which potentially increases the waiting times for payment. It can also be argued that such systems do not encourage shared care arrangements and may lessen incentives for NRPs to comply (Finland), and that they are prohibitive where they charge for their services (Belgium). In schemes with flat rate payments, PWCs may be losing out on the difference between what is guaranteed and what a court awarded (France) and some schemes are time limited in terms of durations of payments (for example in Germany).

In terms of recovering from liable parents the guaranteed maintenance paid by the state, countries varied widely on their rate of recovery. Of those that provided data, Belgium seemed the least successful with a low recovery rate of five per cent compared to Denmark reporting a rate of 88 per cent. The reasons for this variability are unknown.

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<sup>35</sup> This was also highlighted as an element of good performance by many more informants in Chapter 7.

<sup>36</sup> Maria Larsen, *Storstrøms Statsamt*, 28 July 2006, personal communication with national informant.

Table 6.3 Characteristics of guaranteed maintenance schemes

Country	Accessible to	Administered by	Funded by	Amount awarded	PWC means-test?	Responsibility for recovery	Rate of recovery?
Australia	No guaranteed scheme						
Austria	All PWCs after default	Higher Regional Court	Family burdens equalisation fund	If no other provisions are made the advances have to be granted in the applied amount and up to the amount of maintenance determined in the execution	No	Higher Regional Court	No data
Belgium	Parents below an income threshold after default	DAVO (Service for Maintenance Claiming)	Federal government; NRPs; PWCs	In relation to determined amount; upper limit	Yes	DAVO (Service for Maintenance Claiming)	5%
Canada (Ontario)	No guaranteed scheme						
Denmark	All PWCs	Municipality of PWC	Central government	Standard maintenance or amount agreed; which ever is lower	No	Municipality of NRP	88%
Finland	In cases of default or low payment or no NRP	Municipal Social Welfare Boards	Municipality	Standard amount; linked to cost of living index (£80 per month per child)	No	Municipal Social Welfare Boards	65%

Continued

**Table 6.3 Continued**

Country	Accessible to	Administered by	Funded by	Amount awarded	PWC means-test?	Responsibility for recovery	Rate of recovery?
France	All PWCs after a request to the court for non-payment	Caisse d'allocations familiales", the social security agency	From the budget of the family branch of the French social security system; financed by both the state and enterprises' contribution	Amount is around 82 euros per month and per child in 2006	No	Caisse d'allocations familiales", the social security agency	15%
Germany	Limited to lone parents in cases of default or low payment	Youth Welfare Office (Jugendamt)	Federal Government/ States/Local Municipalities	Based on the standard amount of child maintenance ('Regelbeträge'); some child maintenance is deducted	No	Youth Welfare Office (Jugendamt)	22% (approx)
The Netherlands	No guaranteed scheme						
New Zealand	No guaranteed scheme						
Norway	All PWCs, by request	National Maintenance Payment Collection Centre (an executive body of NAV)	National Insurance Agency	Paid at four rates (zero per cent; 50 per cent; 75 per cent and 100 per cent of flat rate amount)	Yes	National Maintenance Payment Collecting Centre	No data
Sweden	All PWCs after default	Regional Social Insurance Offices	General tax revenues	Flat amount	No	Social Insurance Office	49%
UK	No guaranteed scheme						
USA	No guaranteed scheme						

## 6.5 Interactions with the tax and benefit systems

The following section considers the extent to which child maintenance receipts and payments interact with the tax and benefit system for the child and PWC on the one hand and the NRP on the other. Tax and benefit systems are very complex in their own right and their interactions with child maintenance regimes can be even more intricate. Therefore only a broad overview is provided here.

### 6.5.1 Maintenance and taxation

Only France tended to routinely consider maintenance receipts among PWCs for taxation at local and national level. A few others did consider it as part of a child's tax liability (Belgium and Denmark) and in Austria if it was a high enough level it could attract capital transfer tax (same for the payment of maintenance by NRPs).

It was more common for maintenance payments made by NRPs to affect taxation. In Austria, Belgium, Finland, France and Denmark, (a portion of) child maintenance paid by NRPs could be deducted from taxation. In the Netherlands and the UK it was very rarely deductible from taxable income. In all other countries – Australia, Canada (Ontario), Germany, New Zealand, Norway, Sweden and the USA, maintenance paid was not a basis for tax relief.

### 6.5.2 Maintenance and social benefits

Child maintenance receipts were counted for benefit purposes for the PWC in all countries bar Austria and Denmark, whereas in Belgium it could affect certain children's benefits. In all remaining countries it was mainly counted in means-tested social assistance benefits, except in Australia where it may affect FTBs (i.e. not means-tested social assistance). In the USA, it affects the level of the food stamp benefits. For some countries it could also be considered in housing benefits.

Similarly, child maintenance payments made by NRPs were accounted for in the determination of social benefits in all countries bar Australia<sup>37</sup>, Austria, New Zealand and the UK. Certain benefits (social assistance or unemployment benefits) could be increased in recognition of maintenance payments in Belgium, Denmark, Finland, France, Germany and Norway, and in Sweden the costs of guaranteed maintenance payments could be reimbursed by the Social Welfare Office. In the USA, NRPs who do not pay court-ordered child maintenance are ineligible to receive food stamp benefits. In addition, those who do pay court-ordered child maintenance can deduct their payments from income in the food stamp programme, enabling them to receive a higher benefit.

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<sup>37</sup> Correspondence received from the Australian Government's Department of Families, Community Services and Indigenous Affairs (2 March 2007) stated that 'payers with second families can claim 100 per cent of any child support paid as a deduction from the household income used for determining their new family's entitlement to the FTB and Childcare Benefits.

## 6.6 Revisions

The final section of this chapter considers processes of uprating child maintenance amounts and approaches to dealing with changes in circumstances in the countries under study.

Table 6.4 illustrates that some countries automatically uprated amounts annually in line with inflation or price indexes – Belgium, France, Denmark, New Zealand, Norway – and in both Australia and New Zealand historic Income Tax data was used to uprate child maintenance obligations. In the Netherlands, amounts were uprated in line with increases in the index for the costs of raising a child – which did not necessarily rise annually. In Finland, amounts were similarly linked to the cost of living index, but had to hit a five percentage threshold before being raised (amounts also changed automatically in relation to the age of the child). In Sweden, only those agreements paid through the social insurance office were annually adjusted with inflation, whilst in the USA some states used the cost of living adjustments but parents were given the option to object to the uprates<sup>38</sup>.

There were no automatic adjustments in Austria or the UK, but in the UK routine reviews were supposed to take place every three years, however this rarely happened. In the USA, parents are reminded every 36 months by the CSA that they also have the right to a review. In Canada, procedures varied by jurisdiction and in Germany indexing had to be written into an agreement (also in the USA if the amount of the obligation was fixed, rather than expressed as a percentage).

All of the countries under study allowed an application for adjustment for parents, but most reported this would be unlikely in the absence of a significant change of circumstance (usually in income and/or living situations).

Under the new proposals in the UK, C-MEC will use historic Income Tax data, thus the assessment will automatically be revised every year in line with the tax information received from HM Revenue and Customs (HMRC) and this is close to the systems used in Australia and New Zealand.

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<sup>38</sup> In Wisconsin orders were still expressed as a percentage of income, and so changed automatically. However, this type of order is only made if both parents agree and neither is receiving benefits or is inclined to use the CSA.

Table 6.4 Revising child maintenance determinations

Country	Automatic adjustment of existing awards	Adjustment on request	Uprating of guaranteed scheme
Australia	Inputs to the formulae are adjusted annually and cases are reviewed at least every 15 months on issue of tax assessment	Application to CSA	No
Austria	No	Application to court	The advance may not exceed the standard rate for 'half-orphanans' who are entitled to a pension (as stated in the National Insurance Act) multiplied with the respective matching coefficient (also stated in the National Insurance Act and determined for each legal year) on a monthly basis
Belgium	Annual uprating in line with the consumption price index	Application to court	Annual uprating in line with the consumption price index
Canada	Varies by jurisdiction	Application to court	n/a
Denmark	Adjusted annually, index lined	Application to the <i>statsamt</i>	Adjusted annually in line with inflation
Finland	Uprated with a five per cent rise in the cost of living index and with age of child	Application to court	Uprated with a five per cent rise in the cost of living index and with age of child
France	No, but there can be indexing clauses in agreements	Application to court	Annually, usually in line with inflation
Germany	No, but with the child maintenance law the possibility of a dynamic maintenance amount means that it is possible to determine the amount of maintenance as percentages of the standard amounts – which get adjusted every two years	Application to court/new voluntary agreement/ adjustment with the advice and support of the <i>Jugendämter</i> (Youth Welfare Office)	Adjusted in line with pensions every two years
Netherlands	Indexed linked to the costs of raising a child	Application to court	n/a
New Zealand	Assessments are issued annually based on the previous year or two income and are uprated annually according to an inflation factor	Application to IRCS	n/a

Continued

**Table 6.4 Continued**

<b>Country</b>	<b>Automatic adjustment of existing awards</b>	<b>Adjustment on request</b>	<b>Uprating of guaranteed scheme</b>
Norway	Uprated annually in line with the consumer price index	Application to NAV	Annual uprating in line with the consumer price index
Sweden	Only for obligations paid through social insurance office: annually adjusted with inflation	Application to court	Not automatically adjusted
United Kingdom	No automatic adjustment; case reviewed every three years or so (not always, in practise)	Application to CSA	n/a
United States	Some states use cost of living adjustments, but parents are given the option to object, so not automatic	Application to CSA Application to Court	n/a

## 6.7 Conclusion

This chapter has provided an extensive range of information on important operational arrangements for child maintenance regimes including: direct payments of child maintenance, collection and enforcement processes, guaranteed maintenance schemes, interaction of payments and receipts of child maintenance in tax and social benefit systems and the uprating of child maintenance amounts. The conclusion focuses upon the main implications raised by these findings for the new child maintenance proposals in relation to direct payments, enforcement processes and guaranteed maintenance.

Direct payments between parents were possible in nearly all countries (some countries – the UK, the USA, the Netherlands, New Zealand and Canada (Ontario) – did not allow or discouraged direct payments where the PWC was on certain social benefits). Most countries had some agency involvement in the collection and forwarding of maintenance, but this differed in terms of scope with some agencies being involved in assessment, collection and forwarding amounts whilst others tended to operate dedicated agencies which functioned primarily to deal with collection and/or non-compliance. From national informant reports it seems that Belgium is a good example of a dedicated agency, here the Court makes a decision about child maintenance obligations and a collection agency (DAVO) comes into force in times of non-compliance. Similarly, the Netherlands operates a hybrid system involving the courts and municipal social assistance office alongside a dedicated collection agency (LBIO).

These various arrangements are interesting for the UK as in the future (2009-10) it seems that the new agency C-MEC will generally not get involved in routinely collecting maintenance for private<sup>39</sup> agreements, except in the event of non-compliance. In that regard it seems C-MEC will encourage direct payments for all (including social benefit cases) and this brings it more in line with other countries.

However, the proposed new regime tends to move out of alignment by having what is primarily a dedicated enforcement agency with new legal administrative powers that will primarily bypass the courts in applying legal orders. This appears to be a relatively uncommon approach among the countries in this study where C-MEC represents neither a predominately agency based regime nor a court based regime (in the sense of being mainly responsible for setting and/or collecting the majority of maintenance obligations). The existing smaller court system in the UK will carry on as before with parents able to turn to C-MEC after a court agreement is 12 months old in the event of non-compliance. It seems, therefore, that C-MEC will effectively act as an enforcement agency for the court cases and all other cases by providing an

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<sup>39</sup> The plan is for parents to register their private agreements via a national helpline or website, but it is not entirely clear whether this will be independent from C-MEC and these will be piloted prior to its establishment in 2008-09 (DWP, 2006c: 38).

administrative based enforcement solution. It will also be given the power to negotiate debt repayments and commission private debt collection services (and other services) where needed. Thus, it could not easily be regarded as hybrid system either, as is the case in the USA, the Netherlands and Finland (see Chapter 3). Nor is it like other countries with dedicated collection/enforcement agencies; in Belgium, for example, even though there is DAVO the courts still set the awards, similarly in the Netherlands with NBIO. Overall, from the current level of detail available in the White Paper, it seems that the new model for the child maintenance regime in the UK is quite unique compared to the other countries reported in this study.

In terms of the actual range of enforcement measures to be used in the future by C-MEC, it was shown that these were commonly available in other countries, except for the sanction of a curfew this was not mentioned as an option in any country, although the power to imprison was a common option (if rarely used in practice). What remains unknown from this study is the frequency and efficacy with which these strategies are applied and how they might act as incentives to improve compliance. This is a very important consideration in the UK and in Chapter 7 an assessment is made of the performance of other country systems in relation to case compliance. However, one possible measure to improve incentives, at least for PWCs to seek a maintenance agreement, is the provision of a guaranteed maintenance scheme; this is not being considered by the UK.

Guaranteed maintenance schemes are provided in all the European countries (bar the Netherlands) but in none of the Anglophone countries (Australia, Canada (Ontario), New Zealand, USA and the UK). Informants noted that there are advantages and disadvantages to these schemes. A main advantage was that in the event of non-compliance they guaranteed a minimal amount of maintenance for children regardless of the economic circumstances of the liable parent. This would seem an advantage worthy of serious consideration in the UK for their new regime, especially given that one of the guiding principles is to tackle child poverty. To that end however, there are plans to increase the amount at which child maintenance receipts are disregarded for calculating social assistance benefits (meaning that the poorest PWCs will keep more of the child maintenance when it is paid – currently they can keep only a maximum of £10 per week), but this is not the same as guaranteeing all children a payment even when their parent defaults. Perhaps the disinclination to introduce such a scheme in the UK relates to perceived disadvantages, such as the extra costs involved, but this was only explicitly highlighted as a possible disadvantage by the informant in Norway. The other disadvantages that were highlighted tended to relate to how the operational performance could affect PWCs rather than the principle of having this type of scheme in the first instance (Chapter 7 discusses principles further). However, the analysis shows there is a complex interaction between guaranteed schemes and the social benefit systems – so it does not always appear as a standalone option related solely to child maintenance regimes. Also, the rate of recovery of guaranteed maintenance across countries was generally not very good with only Finland and Denmark reporting a recovery rate of greater than 50 per cent and Belgium (despite having a dedicated collection agency)

reporting only a five per cent recovery rate. The reasons for this are not known. There is a lot to consider in terms of operational systems if a guaranteed scheme was to become a policy option in the UK (though it is not under consideration in the White Paper). This is explored further in the next chapter, which among other performance measures will discuss the advantages of having a guaranteed maintenance scheme in relation to informants' own assessments of performance and Chapter 8 will consider costs of regimes including running guaranteed maintenance schemes in more detail.

# 7 Assessing the effectiveness of child maintenance regimes

## 7.1 Introduction

When the Department for Work and Pensions (DWP) commissioned this project they were keen that it should collect information on the efficiency and costs of the child maintenance regimes in other countries. This chapter explores how effective the child maintenance regimes were in assessing and delivering child maintenance and Chapter 8 reviews the costs of the activity to the parents and to the agencies involved.

A rather narrow view of effectiveness is adopted in this chapter as parental behavioural responses to regimes are not included. These could be considered an important aspect of effectiveness particularly the impact of regimes on parents' employment decisions and the quality of their family relationships (Bradshaw, 2006; Hanewall and Lopo, forthcoming). Certainly, in the new White Paper (DWP, 2006c) the Government is concerned to ensure that the redesigned system does not negatively impact on labour market behaviour and returning responsibility to parents to reach private agreements is believed to help foster better relations between parents.

Three main elements of effectiveness are explored here:

- The proportion of parents with care (PWCs) with child maintenance agreements.
- The proportion of PWCs in receipt of child maintenance.
- National informants own judgments about the effectiveness of their regimes.

In all of these there are problems with the completeness and comparability of the information supplied. National informants had more difficulty with this part of the

questionnaire than any other element, possibly because child maintenance is not such a salient issue in some countries and therefore data was either not collected, missing or not presented in the way needed for a robust analysis. Consequently, the information in this chapter comes from a mix of administrative data, survey data and informants' own assessments and where possible these will be identified. Given this, the findings should be treated with considerable caution.

## 7.2 Estimated proportions with agreements

Most countries were not able to provide any administrative data on the proportion of PWCs with child maintenance agreements and for those that could (Canada, Denmark, Germany, UK and USA) it was inconsistent. This partly reflects differences in national accounting mechanisms and methods which, for purposes of cross national research, are not always comparable. It also highlights that, depending on the policy context in a country and the salience of child support as an issue, there may be little impetus to collect a broad range of data on the topic. The results are summarised in Table 7.1.

Among those countries which could not provide data, Australia reported research studies (Parkinson, 2005) which estimated that the majority (94 per cent) eligible to register with the Child Support Agency (CSA) do so. Of those countries that could provide data 100 per cent of PWCs in Denmark<sup>40</sup> were reported as having either an agency or private agreement and in Germany 91 per cent had an agreement. Canada had data indicating that 60 per cent of children of recently separated parents had an agreement. In the UK survey data from the Families and Children Survey (FACS) (Lyon *et al.*, 2006) demonstrated that 51 per cent had an agreement and the in the USA administrative data showed that 74 per cent had an agreement in 2004 (but higher in Wisconsin at 82 per cent). The range of data reported by countries was therefore varied, between 100 per cent in Denmark with agreements (but was not based on National Statistics) to 51 per cent in the UK (based on survey data from FACS, Lyon *et al.*, 2006<sup>41</sup>).

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<sup>40</sup> Information not based on National Statistics.

<sup>41</sup> The FACS contains detailed questions on child maintenance for PWCs. Its strength is that it differentiates between court orders, private (voluntary) agreements or CSA calculations. However, there are a number of drawbacks that affect confidence in the findings. Firstly, whilst FACS asks respondents to classify their child maintenance into court, voluntary or CSA, these distinctions may not be clear to them such that respondents using the CSA's maintenance direct may not consider themselves CSA clients and may give their response as having a voluntary arrangement. Additionally, those respondents who have made consent orders through a solicitor with their ex-partners may consider this arrangement to be voluntary rather than a court order. Secondly, the sample sizes are small, in particular for those with court based arrangements. Lastly, the figures on compliance for CSA cases are unreliable as only those respondents who receive maintenance payments directly are routed to the compliance question'.

Few countries were able to provide information on the reasons for not having agreements. However, Germany and the USA were able to provide a detailed breakdown using some data sources, and informants from Canada, Denmark, the Netherlands and New Zealand provided some suggestions.

Germany provided a breakdown as follows:

- 25 per cent the agreement not finalised yet;
- 16 per cent the non-resident parent (NRP) has no paying potential;
- 22 per cent parent with care (PWC) did not try/did not want an agreement;
- ten per cent had some kind of provisional agreement;
- 27 per cent other reasons.

The USA provided a breakdown from survey data:

In 2002, custodial parents without legal child maintenance orders were asked why they did not have one; multiple reasons are possible.

For custodial mothers, the most common reasons were:

- 32 per cent did not feel the need to have legal agreement;
- 25 per cent child's other parent provides what he/she can;
- 23 per cent child's other parent could not afford to pay;
- 20 per cent did not want the child to have contact with other parent;
- 20 per cent unable to locate other parent.

For custodial fathers, the most common reasons were:

- 35 per cent did not feel the need to have legal agreement;
- 31 per cent child's other parent provides what he/she can;
- 26 per cent child stays with other parent part of the time;
- 24 per cent child's other parent could not afford to pay;
- 22 per cent did not want other parent to pay child maintenance.

Canada reported that for children aged four to 15 whose parents had separated in the last two years, the most common reason for lack of agreement was inability to pay.

The Danish informant provided the following suggestions for no agreements (despite claiming that 100 per cent of PWCs had agreements):

*They might have an unregistered informal voluntary agreement, particularly if they were never married and living together. They might not know who the father was. Some mothers may not wish to have anything to do with the father and therefore refuse to reveal his identity because once paternity is established, he will be granted visitation rights and if the PWC gets advance maintenance from the municipality the father may retaliate against the mother when the municipality tries to collect arrears from him.*

The Netherlands informant gave the following suggestions for no agreements:

*The PWC wants to have no association with the NRP in any manner and so chooses not to enter into any agreement with them. It is not economically wise for the PWC to enter into an agreement. An example of this would be if both parents receive social assistance, in this case the NRP would not have the necessary income to make reasonable payments. And having a child maintenance agreement of this sort would reduce the PWC's social assistance. In this instance it would simply make more sense to try and come to an agreement on sharing care of the child evenly. The PWC feels they have the means to maintain the child on their own and the NRP does not have the means to make payments.*

The New Zealand informant suggested the following reasons for no agreements:

- PWC is not on the lone parent benefit – the DPB. If working, they may not have gone through any of the formal processes requiring either a voluntary or formula agreement.
- Naming or taking a formula agreement with NRP could raise other problems for the resident parent, e.g. rape, incest, violent relationships are all recognised as reasons why the NRP is not named, and thus an agreement is not reached.

### 7.3 Estimated proportions receiving or paying

Table 7.1 also summarises the information that was provided on the proportion of parents receiving or paying child maintenance. Seven countries including all the Nordic countries were unable to provide information, though Denmark could give the amount of money in child maintenance collected by municipalities and Finland could give data on the number of children receiving 'guaranteed' maintenance (not shown).

For those countries that could provide information on receipts or payments of maintenance, the data was inconsistent with some countries only able to provide case compliance details (Belgium and the Netherlands) some only able to provide cash compliance details (New Zealand and Germany) leaving only a few countries providing details on both case and cash compliance (Canada), the UK and the USA).

Thus, in Belgium case compliance was reported as 81 per cent paying child maintenance (only 60 per cent of those paid it 'regularly') but this was old 1995 data. The Netherlands provided two estimates of the levels of receipt of child maintenance

from 1998 data, the statistics of the *Scheiden in Nederland* (SIN): 57 per cent for divorced lone parents and statistics from the *WoningBehoeftenonderzoek* (WBO) as 35 per cent.

In New Zealand, cash compliance was 72.4 per cent of assessed child maintenance collected in 2005. In Germany an equivalent figure was 69 per cent of PWCs received all payments on time.

For Canada case compliance was reported as the percentage of children aged four to 15 years old whose parents had separated in the previous two years, in those cases 95 per cent of children received payments and of those 80 per cent received the whole amount in 1998/99. In the UK, administrative data from the CSA (Quarterly Summary of Statistics, September 2006) showed that 60 per cent of CSA assessments resulted in payments being made but of those only 59 per cent were fully cash compliant. From the FACS data (Lyon *et al.*, 2006), a broader picture is provided with 72 per cent of court agreements receiving some payment, 93 per cent of private agreements and only 51 per cent of CSA agreements. In the USA, administrative data for 2004 showed that the state average for case compliance was 69 per cent and for cash compliance it was 59 per cent.

**Table 7.1 Child maintenance agreements and payments/receipts of child maintenance**

Country	Percentage of child maintenance agreements	Percentage receiving or paying child maintenance
Australia	Studies (Parkinson, 2005) show that 94 per cent of those eligible to register with the CSA do so.	Sources give amounts from the start of the scheme until October 2000 as being 86.8 per cent of CSA collect liabilities having been paid. If private collect liabilities are added the compliance rate rises to 92.8 per cent. <sup>1</sup>
Austria	No data.	No data.
Belgium	No data.	Data circa 1995 says that 19 per cent of the NRPs do not pay child maintenance and 81 per cent do (of these 81 per cent, only 60 per cent pay regularly).

Continued

Table 7.1 Continued

Country	Percentage of child maintenance agreements	Percentage receiving or paying child maintenance
Canada	Of children aged four to 15 1998/99 whose parents separated in the last two years, 60 per cent had agreements and ten per cent were in progress.	Of children aged four to 15 1998/99 whose parents separated in the last two years 95 per cent made payments and five per cent made no payments in the last six months. Proportion of cash payments received: <ul style="list-style-type: none"> <li>• 80 per cent received whole amount</li> <li>• six per cent received half the amount or more</li> <li>• 12 per cent received under half the amount</li> <li>• two per cent received none of the amount.</li> </ul>
Denmark	100 per cent of PWCs have agreements (75 per cent agency agreements and 25 per cent private agreements). <sup>2</sup>	No data.
Finland	No data.	No data.
France	No data.	No data. <sup>3</sup>
Germany	91 per cent of PWCs have child maintenance agreements.	Of all PWCs, 69 per cent receive all payments on time.
New Zealand	No data.	In 2005, 72.4 per cent of assessed child maintenance was collected.
Netherlands	No data.	35 per cent (WBO'98) 57 per cent (SIN'98) divorced receive child maintenance <sup>4</sup> . Six per cent of never married lone parents receive child maintenance (WBO'98).
Norway	No data.	No data.
Sweden	No data.	No data.
UK	51 per cent have some kind of agreement either a court, CSA, private agreement or a mix of these (FACS survey data, Lyon <i>et al.</i> 2006).	From CSA Quarterly Summary of Statistics, September 2006; 60 per cent of CSA assessments/calculations have resulted in payments being made. Cases that are fully cash compliant make up 59 per cent of all cases where a payment was made. From FACS survey data (Lyon <i>et al.</i> , 2006) 72 per cent of those with court orders receive payments (of any sort) as do 93 per cent with private agreements and 51 per cent with CSA agreements.

Continued

**Table 7.1 Continued**

Country	Percentage of child maintenance agreements	Percentage receiving or paying child maintenance
USA	74 per cent in average state admin data 2004 and 82 per cent Wisconsin 2004. 2001 survey data include legal and private agreements. 63 per cent PWC mothers. 39 per cent PWC fathers.	Administrative data for 2004. Proportion of orders in which a payment was made: Wisconsin 80 per cent : average state 69 per cent; Proportion of total dollars ordered that is paid: Wisconsin 68 per cent; average state 59 per cent.

<sup>1</sup> The informant reported little data and this concurs with Ridge (2005: 122) who reported that although the CSA has been under continuous reform and review, there is little published data. Data given here is from the CSA in Australia Child Support Schemes: Australia and comparisons, March 2001.

<sup>2</sup> Not based on National Statistics.

<sup>3</sup> Some very old data for 1985 was reported.

<sup>4</sup> The statistics of the SIN and WBO.

There was very little data provided by informants on the reasons for non-payment; but from six countries (Denmark, Germany, Finland, France, the Netherlands and the USA) some of the suggested reasons were:

- capacity to pay problems (unemployment, debts);
- poor relations with the PWCs;
- loss of contact with children/loss of custody;
- parents were a young age;
- no formal agreement in place;
- unwillingness to pay child maintenance/accept responsibility for children.

Other evidence from the USA suggests that their enforcement procedures are effective (Cassetty and Hutson, 2005).

Because of the missing data and the inconsistent estimates of payments or receipts and the range of different data sources used (administrative data or survey estimates) only tentative comparisons can be made across countries. It appears that comparatively the UK is not performing well in cash or case compliance according to the data presented here in Table 7.1. The Luxembourg Income Study (LIS) analysis in Chapter 2 provides a more consistent estimate of performance, although this remains out of date (2000 data). Informants were however also asked to provide their own judgements about how their regimes were performing against key criteria and this offers an alternative picture of effectiveness, albeit not based on administrative or survey data.

## 7.4 National informants' assessment of their child maintenance regime

The national informants were invited to consider a list of criteria, which might be used to evaluate their child maintenance regimes as a whole. These were:

A	Regularity of provision	Maintenance is regularly provided to children and/or PWCs.
B	Child entitlement	Children who need (or desire) maintenance have a formal entitlement.
C	Impact on relationships	Maintenance policies do not negatively influence relationships between children and their NRPs.
D	Equal treatment of similar cases	Those in similar circumstances are treated similarly.
E	Receive more when needed	Those who need more child maintenance, receive more.
F	Transparency of calculation	Parents easily understand how amounts of maintenance are calculated.
G	Promptness of assessment	Child maintenance obligations are determined promptly.
H	Adequacy of maintenance	PWCs feel the amount of maintenance is adequate.
I	Fair to NRPs	NRPs feel the amount of obligation is affordable given their costs of living.
J	Efficient and effective	The child maintenance regime is administered efficiently and effectively.
K	Non-compliance costs	Non-compliance with maintenance obligations does not add a substantial amount to governmental costs.

Informants were then asked to select one or two of these criterion against which, in their assessment, their country's regime was performing well and one or two in which they thought their country was not performing well. The results are summarised in Table 7.2.

**Table 7.2 National informants' assessment of child maintenance regimes**

	Working well	Not working well
A. Regularity of provision	Australia Austria Denmark Finland France Norway Sweden	Canada Netherlands USA
B. Child entitlement	Australia Belgium Denmark Finland Germany Netherlands Norway Sweden	New Zealand
C. Impact on relationships	No country chose this	Austria Norway
D. Equal treatment of similar cases	Canada Germany UK USA	Belgium Finland
E. Receive more when needed	No country chose this	Australia Denmark Finland New Zealand USA
F. Transparency of calculation	Austria UK USA	Australia Belgium Germany Norway
G. Promptness of assessment	Australia New Zealand	France Sweden (for a minority of court cases)
H. Adequacy of maintenance	Canada	France Netherlands
I. Fair to NRPs	Netherlands	Australia Sweden
J. Efficient and effective	Australia New Zealand Norway Sweden	Canada UK
K. Non-compliance costs	France	Sweden UK

### 7.4.1 Informants' assessment of what worked well in their regimes

#### *Regularity of provision (A) and child entitlement (B):*

Overall, Table 7.2 shows that regimes were commonly believed to perform well in ensuring a child has a formal entitlement (Australia, Belgium, Denmark, Finland, Germany, the Netherlands, Norway and Sweden) and providing regular maintenance (Australia, Austria, Denmark, Finland, France, Norway and Sweden). There was a general confidence that where countries performed well in ensuring regular maintenance partly because all seven (apart from France) provided guaranteed maintenance. For example in Denmark:

*Denmark performs very well on almost all criteria. Denmark performs especially well on A and B. All children who need maintenance can have a formal entitlement and the system of advance maintenance ensures that all PWCs and children can receive some maintenance.*

And Norway:

*I think the current regime is working reasonably well on most of these criteria. I am particularly happy about the system's performance on a), regular provision – this is in large part thanks to the forwarding arrangement.*

Whereas the French national informant was more tentative:

*As a whole, 'Maintenance is regularly provided to children and/or PWCs': the level of non-payment (around one third according to available studies) is considered as acceptable. (It is smaller than in UK.) Failures in enforcement are not generally considered as a major issue, because most are thought to come from parents with low incomes.*

#### *Equal treatment of similar cases (D) and efficient and effectiveness (J):*

The next two criteria in which countries were believed to perform well were providing equal treatment of cases in similar circumstances (four countries) and providing an efficient and effective service (four countries). Canada, Germany, the UK and the USA believed they performed well in providing equal treatment to similar cases and this seemed to be related to their use of child maintenance formulae or guidelines.

Germany reported:

*Those in similar circumstances are treated similarly. Given the guidelines and 'support tables' from the courts there is not much arbitrariness involved, decisions and assessments are calculable – at least if one has understood how the system works.*

Canada reported:

*The guidelines also seem to have improved the consistency of treatment of parents across Canada (excepting Quebec), although this may be eroding as judicial cases providing for 'exceptions' build up.*

Australia, Sweden, Norway and New Zealand were the four countries in which national informants felt that their regime performed well in administrative efficiency and effectiveness (all bar Sweden were agency based systems).

As the national informant in New Zealand commented:

*Whilst administrative costs are high as a percentage of revenue collected, especially when compared with other activities of Inland Revenue, the system itself is very streamlined, as many decisions are taken automatically rather than requiring individual discretion. [ ] Many reviews of the level of assessment can be done quickly if circumstances alter, on provision of the relevant information to IRCS. The proportion of assessments collected is high by international standards, again indicating efficiency in operation.*

*Transparency of calculation (F):*

The next most popular criterion for good performance was the transparency of calculation; this was chosen by Austria, the UK and the USA.

The USA informant said:

*In Wisconsin, I think criterion F (transparency) is strength: the formula is relatively straightforward and can be easily understood.*

The UK informant thought that the formula for the new scheme was simpler than the old scheme and in Austria the informant commented that:

*Parents easily understand how amounts of maintenance are calculated. Even laymen are able to find out an approximate value as a result of the calculation of percentage of net income.*

*Promptness (G), adequacy (H), fairness (I) and the costs of non-compliance (K):*

Only a few informants chose to describe good performance in promptness of the determination of maintenance (Australia and New Zealand), the adequacy of amounts (Canada) the fairness of assessments to NRPs (the Netherlands) and the costs of non-compliance (France).

Regarding promptness the New Zealand informant said:

*There is usually a fairly quick determination of obligations, once the assessment procedure has started, most cases are resolved quickly – 75 per cent of assessments are made within two weeks and 95 per cent within six weeks from application. Almost all (97 per cent) assessments are correct when made based on information received.*

In relation to adequacy, the Canadian informant said:

*My subjective judgement is that Canada's regime works best with respect to 'H' – PWCs feel the amount of maintenance is adequate – although the word 'fair' might be more suitable than 'adequate,' since the amount of support only reflects the income of the NRP and if that is inadequate so will be the support. In other words, poor children will not become non-poor children after their parents separate.*

Regarding the costs of non-compliance, the French informant commented that the cost of the system for supporting lone parents and advanced maintenance was not perceived as adding a substantial amount to governmental (or social security) costs. This is in line with rates of lone parenthood in the countries included in the LIS analysis in this study – France has one of the lowest (see Chapter 1).

*Impact on relationships (C) and receive more when needed (E):*

No country chose to describe their regimes as performing well in relation to avoiding negative influences on relationships between children and NRPs (criterion C) or in relation to providing more maintenance when it was needed (criterion E). Importantly, two countries explicitly selected criterion C as one in which they did **not** perform well and five did for criterion E (see Section 7.4.2).

*Other perceived advantages of regimes:*

National informants were also given the opportunity to provide additional comments on perceived advantages of their regimes. Belgium commented on its discretionary based system, which would allow for flexibility and the tailoring of child support to individual circumstances.

The Norwegian informant commented on the legitimacy of their regimes' principles:

*I think we finally have a child maintenance regime in which the basic principles are legitimate to most people, as evidenced in the fact that the debate has calmed down and even the pressure groups are not really campaigning that hard anymore. That is a big advantage over the 'old' system, which was frequently described as 'old-fashioned' and 'unfair'.*

Denmark's national informant considered that their regime did particularly well on ensuring that children received a minimum level of support – regardless of adult behaviour. Finally, the Australian national informant perceived that:

*The most positive points about the Australian CS system relate to its efficiency. It is clearly effective in persuading NRPs to pay, and in transferring payments to PWC. This is a very positive point, and research suggests that the CS system in Australia has had a notable impact on child poverty.*

There was little information provided by the Australian informant on cash or case compliance (Table 7.1) and as confirmed by Ridge in 2005, little published administrative data was available. Whiteford (2006) presents 2005 data on compliance

rates for Australia – cash compliance (CSA collect) was 63.5 per cent and 100 per cent (Private). He tempers these figures however by adding that there is no data available on direct payment cases. Kunz *et al.* (2001) note that the percentage of parents who are eligible to receive child support in Australia who did actually receive payment has risen from 24.3 per cent in 1981 to 41.0 per cent in 1994.

With regards to child poverty, data suggest that in 1982, 12 per cent of children living in sole parent families received child support but this rose to 31 per cent in 1997/08. Estimates suggest that child poverty (half average income) would have been 15.4 per cent rather than 14.2 per cent in 1997/08 if amounts had stayed at pre-reform levels (Whiteford 2006).

#### **7.4.2 Informants' assessment of what did not work well in their regimes**

*Receive more when needed (E):*

Most commonly regimes were thought not to work well in relation to taking account of children's actual needs. Five countries chose this criterion E; Australia, Denmark, Finland, New Zealand and the USA and the informants described several ways in which their regimes failed in this regard.

Firstly, the New Zealand informant focused on cases where the PWC was on particular (means tested) social benefits and how child maintenance payments were mostly retained by the state and not passed to the PWC:

*There is no relationship between need for child maintenance and the amount received. For a start, if the custodial parent is receiving an income-tested benefit, then generally all of the money will go to the state, and none to offset the cost of the child. In general, women on the DPB with dependent children have the highest poverty rates in the country, and thus perceived to have the highest level of need. Custodial parents who are in the workforce generally have lower poverty rates.*

Several informants – in Australia, Denmark and New Zealand (three of the five agency based systems), commented that the way obligations were determined in regards to how, and if, parents' resources were taken account of was also important in being able to meet the needs of children. Thus the Danish informant commented:

*The simplicity and effectiveness of the system derive in part from the fact that no consideration is taken of PWC's or child's circumstances.*

Whilst the New Zealand informant said that:

*The amount of child support received depends upon the level of the NRP's income and living arrangements, rather than the needs of the child and custodial parent. It is likely that the amount that is paid to custodians will be going to those in work, and especially to those on higher income, given a degree of assortative mating where custodial and non-custodial parents have similar education levels and wage rates.*

One further issue raised in respect of criterion E was the rate at which child support obligations were paid – with levels that were low and/or flat rate being seen as potentially difficult. Thus the Danish informant commented:

*At the same time, the amounts awarded are low and bear little relation to the actual cost of living or of raising a child. At ppp, Denmark scores 1.31 for living costs in the EU-15, the highest in Europe. However, parents seem to be largely satisfied and there is a system of social benefits that compensate for low support levels.*

And the Finnish informant felt that:

*Those who need more child maintenance do not always receive more. Guaranteed maintenance is a flat rate sum. Child poverty has increased dramatically in Finland, especially among single parent families. There is an urgent need to support children in single parent families.*

*Transparency of calculation (F):*

In four countries – Australia, Belgium, Germany and Norway – national informants reported that parents would not easily understand the way that amounts of maintenance were calculated (criterion F). Thus the Belgian informant commented:

*It is not clear to parents how child maintenance is determined. There are some methods (like Renard or the one from Gezinsbond), but there are no formal, fixed rules. Judges decide with discretion and use these methods as a reference point.*

*Regularity of provision (A):*

In three countries, Canada, the Netherlands, and the USA, informants considered that their regime performed poorly in regard to criterion A – the regular provision of maintenance to children and PWCs. The national informant in the USA saw this issue as being primarily a problem for people in particular sectors of the labour market:

*The USA also has some problems with regularity (criterion A). Because the system is closely tied to the NRP's employment, and because the labour market in the USA for those with low skill levels is particularly insecure, payments tend to be irregular among cases in which the NRP has low skill.*

The other two national informants however, saw this problem as more widespread. In the Netherlands:

*The statistics of the SIN and WBO show the enforcement of child maintenance obligations leaves much to be desired, a high percentage of PWCs in all situations receive no maintenance from the NRP despite the LBIO being in place as a means to collect on unpaid payments.*

And in Canada:

*The regime fails to provide regular maintenance payments to children and parents. In every province the majority of maintenance payments are in arrears, with the exception of Quebec. In Ontario 77 per cent of cases were in arrears in 2005. Nor, with the exception of Quebec and Alberta, does the arrears situation appear to be improving over time.*

*Criteria B, C, D, G, H, I, J, K*

For the remaining eight criteria, two countries chose each of these as reasons for not performing well, apart from criterion B child entitlement; only one country (New Zealand) chose this criterion as not performing well.

Austria and Norway's informants perceived that maintenance policies had the potential to negatively influence relationships between children and NRPs (criterion C). The Norwegian informant reported anecdotal evidence from family councillors that parents are fighting more over money than they used to because having contact impacts with child maintenance obligations.

Belgium and Finland's informants felt that their regimes could create instances where those in similar circumstances were not treated similarly (criterion D). Two reasons were given for the resulting inconsistency. Firstly, in Belgium because of individual judicial discretion and second in Finland because of discretion exercised by local authorities at municipal level (though things were expected to improve in the near future with reforms to reduce local discretion).

The French and Swedish informants reported that criterion G – the prompt determination of obligations was an issue in their regimes. This related to delays in court proceedings and for France this was tied particularly to divorce proceedings rather than child maintenance proceedings *per se*, as never married parents received prompt determinations in one or two months compared to 9-18 months for divorce cases.

In France and the Netherlands, informants considered that their regimes did not perform well in relation to criterion H, that PWCs feel the amount of maintenance is adequate. In France there were complaints from family associations that amounts were too low and in the Netherlands amounts were seen as too low because payments were limited to 70 per cent of the NRPs 'expendable income' which could be insufficient.

In the UK and Australia, criterion I ('NRPs feel the amount of obligation is affordable given their costs of living') was thought by the informants to be an issue. In Australia, research by Smyth and Weston (2005) illustrated that 'most NRPs (two thirds) believed that the current system is unfair'.

The UK informant flagged up criterion J as an issue, in that the CSA was not felt to be administered efficiently or effectively, further evidence of which is provided in the introduction of this report.

The Swedish informant considered, in relation to criterion K that the state has substantial expenses in the form of 'advance maintenance' and it is well known that in the UK non-compliance is a major issue (see other disadvantages below).

Only the New Zealand informant chose criterion B as an issue of poor performance – the formal entitlement of children who need (or desire) maintenance. This was because the entitlement was due to the custodial parents' and not the child and because some of what is paid goes to the Crown and not the parent or child and research indicated that there is little income redistribution through the scheme and the impact on poverty is likely to be very small (Chapple and Cronin, 2006).

*Other perceived disadvantages of regimes:*

In addition to the above criteria, national informants also raised a number of issues in relation to perceived disadvantages of their regimes. The Belgian informant, who had previously noted the advantages (see above) of a discretionary regime also noted the associated disadvantage in relation to inconsistent decisions for similar cases.

Two informants – in New Zealand and the USA – raised concerns about the financial impact on NRPs. The informant in New Zealand commented on the growing amount of debt being incurred and its (negative) impact on NRPs' living standards such that some penalties for debts may be abolished if they caused hardship.<sup>42</sup> The informant in the USA thought that it was harsh on low income NRPs:

*The USA system seems particularly onerous to low-income NRPs. These parents can have paternity declared by default even if they are not present at a hearing, they tend to have orders based on imputed earnings, rather than actual earnings, and penalties for non-payment can be, in my view, excessive and counter-productive.*

Conversely, the Danish informant perceived that a criticism of their regime was that it protected the economic interests of NRP.

In the UK, the informant outlined the issues which, in their opinion, saw the CSA performing poorly on all of the indicators outlined above.

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<sup>42</sup> On 13 September 2006 it was announced by the New Zealand Minister of Inland Revenue that if lapsed payers of child support 'agree to start making regular payments again and keep to the agreement, some of the late payment penalties they owe will be written off, though they will still have to pay all the child support they owe.' 'The latest figures for child support debt nationally show that the total is just over \$1 billion, with unpaid penalties making up about \$640 million of that.' (Scoop, Independent News <http://www.scoop.co.nz/stories/PA0609/S00285.htm> (accessed 7 March 2007)).

*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 have 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.*

The Finnish informant perceived that their regime did not actively encourage 'shared care' arrangements. The Canadian informant mentioned that the evidence base for policy making in Canada was poor and further, that policy making needed to take a more integrated approach and the system for updating orders was 'seriously flawed'. Similarly, the USA informant noted that their agency was slow in changing orders as a result of changes in circumstances.

## 7.5 Conclusion

This chapter assessed the effectiveness of child maintenance regimes using three main elements; the proportion of PWCs who have child maintenance agreements, the proportion of PWCs in receipt of child maintenance and national informants' own judgements about the performance of their regimes against set criteria. However, it was difficult to get comparable data for a robust analysis and also many national informants were unable to provide any information on the proportions with agreements (eight countries) or the proportions in receipt of maintenance (seven countries). The most complete information was informants' own judgements about performance, but this was generally not based on administrative data or survey research. The results are, therefore, tentative and should be treated with caution.

Of the six countries that provided some information on the proportions of PWCs with agreements (either administrative data or survey estimates), the UK seemed the least successful. Agreements were reportedly reached in all cases or nearly all cases in Australia, Denmark and Germany and well over half in Canada and the USA, whereas it was estimated to be only around half (51 per cent) in the UK from FACS survey data (Lyon et al., 2006). Only seven countries provided information on either case or cash compliance, and the data was patchy and inconsistent. With this caveat, the UK seemed to be comparatively unsuccessful in relation to CSA agreements; data from FACS survey (Lyon et al., 2006) estimated that UK case compliance was at 72 per cent for court agreements, 93 per cent for private agreements and 51 per cent for CSA agreements. CSA administrative data reported a slightly higher level for CSA cases at 60 per cent case compliance (September 2006). Among those countries reporting case compliance, the UK CSA rates were the lowest apart from in the Netherlands (two separate estimates of 35 per cent and 57 per cent from 1998 data), with Belgium, Canada and the USA all reporting higher rates (respectively 81 per cent from 1995 data; 95 per cent for parents who separated in the last two years; 69 per cent from 2004 data).

From informants' own assessments of their regimes, the most effective elements of performance were reported as regularity of provision (Australia, Austria, Denmark, Finland, France, Norway and Sweden) and ensuring a child's entitlement (Australia, Belgium, Denmark, Finland, Germany, the Netherlands, Norway and Sweden). Informants were confident about this performance because in all these countries (bar Australia and the Netherlands) guaranteed maintenance schemes were provided and seen as an asset. The next most popular elements of good performance were equal treatment of similar cases apparently attributed to the use of formula or standard guidelines (Canada, Germany, the UK and the USA), and efficient and effective administration (Australia, New Zealand, Norway and Sweden). On the other hand, the most common criticism of regimes was that they did not take enough account of the actual needs of children, a lack of transparency over how maintenance amounts were calculated and no regularity of provision. The UK regime was thought to be good at treating children in similar circumstances similarly and being transparent, but bad on efficiency and effectiveness and had high costs in dealing with compliance. However, it was considered not to perform well on all the criteria – with a flawed computer system, two systems running in parallel, a failure in enforcement and the build up of enormous arrears.

Overall, the UK did not appear to perform well compared to other countries, it seemed to be less successful in making agreements and it reported the second lowest levels of case compliance in its CSA system. The national informant judged the performance of the UK to be poor on all criteria, apart from the use of a formula which provided consistent treatment of cases and transparency over amounts. Under the new proposals in the White Paper, formal agreements will still be calculated by the new Child Maintenance Enforcement Commission (C-MEC) using a formula. This will provide ongoing consistency of treatment and transparency, but only for those where C-MEC is involved and not in private agreements which will presumably be highly variable. What is not being considered in the White Paper is the provision of guaranteed maintenance, yet this is highlighted here as one of the key elements of good performance as it ensured a child's entitlement and regular provision.

# 8 The costs of child support

## 8.1 Introduction

One of the motives for setting up the Henshaw review was that the UK child support system was failing to meet its objectives despite costing a great deal. The headline figure was that the Child Support Agency (CSA) was costing £400 million to collect £600 million. The Department for Work and Pensions (DWP) was, therefore, interested in learning about the administrative costs of the schemes of child support in other countries. It has proven very difficult to get satisfactory comparable data on costs but this chapter reviews what was obtained. The study attempted to collect costs under a number of headings – costs to agencies, costs to individuals, costs to advanced maintenance schemes, costs to courts and any help available with those costs.

Table 8.1 provides some of the detail obtained. Four countries provided data that enables us to estimate an administrative cost per unit transferred: Australia = 12 per cent; New Zealand = 21 per cent; UK = 68 per cent; USA = 23 per cent. Two countries provided data on the administrative cost per case: £160 in Australia and £93-96 in Canada.

There are no costs to individual users of the system in Australia (unless they involve lawyers) or the UK (though there is provision in the law for late payment penalties). In Belgium non-resident parents (NRPs) and PWCs both pay a standard fee based on a proportion of the maintenance paid and received; Canada has a raft of administrative charges; New Zealand has no charges but there are some indirect costs and penalties for late payments. In the Netherlands there are lawyers' fees and court costs. Norway has fixed fees for each determination and the only costs after that are if parents decide to involve a solicitor but there are no penalties for late payments. Finally, the USA has user charges for assessment and transfer of payments.

**Table 8.1 Costs to agencies and individuals**

	<b>Costs to agencies</b>	<b>Cost to individuals</b>
Australia	Total estimated administrative costs of the CSA in 2005/06 were \$286.4m (Department of Human Services, 2005). In 2005/06 the CSA was expected to oversee the transfer of \$2.4b between parents for the benefit of 1.1 million children. The cost per case administered was estimated at \$352, and the cost per dollar transferred was estimated at 12 cents. These amounts of money should not include any fines collected by the CSA from NRPs for the late payment of child support, since any income from fines goes direct to the Commonwealth government.	The CSA itself does not charge either NRP or parent with care (PWC) for its services. The transfer of funds should also be cost free (whether conducted through the CSA or privately) except for any applicable bank fees.
Austria	n/a.	
Belgium	<i>Dienst voor Alimentatievordering (DAVO)</i> is responsible for claiming maintenance and providing advance maintenance in the case of non-compliance. The agency started operating in 2004. <i>DAVO</i> is a part of the Federal Public Service Finance. The budget for 2006 is 15 Million Euro for advance payments (excluding personnel costs).	At this moment the parents that make use of <i>DAVO</i> have to pay the costs. The PWC has to pay five per cent of the maintenance and the NRP has to pay ten per cent.
Canada	Number of active cases was around 185,000 in March of 2006. The higher FRO case estimate may be due to the inclusion of reciprocal enforcement orders with other provinces that are not included in the Statistics Canada data. The administrative costs (operating only – not including capital) of the Ontario Family Responsibility Office are estimated to be C\$34,166,000 for the fiscal year 1 April 2006 to 31 March 2007. The courts do not keep any financial data broken down by function. There are no data on costs per case reported but a simplistic division would give an administrative cost per case of C\$185 to C\$192 per case in 2006 assuming that the number of cases remained roughly the same as in 2005, with the Ontario FRO figures or the Statistics Canada figures respectively.	The FRO charges administrative fees. e.g., Fees for payers: \$100 for each account adjustment; \$400 if the payer's account is not being paid regularly and on time. Fees for payers or recipients, \$25 for a statement of your account with the FRO. To re-open a closed case, a fee of \$50 each. \$150 is payable when the FRO provides a letter, usually on the request of a lawyer involved in a real estate transaction, confirming that an individual does not have a case with the Family Responsibility Office.

Continued

Table 8.1 Continued

	Costs to agencies	Cost to individuals
Denmark	The total administrative costs of the municipalities are aggregated and it is not possible to break down the amount used to enforce or administer maintenance.	
Finland	No data available. Each municipality has its own Social Welfare Board which has a number of functions besides maintenance. It is impossible to distinguish the administrative costs of maintenance administration.	
France	No agency no data.	
Germany	No useful data.	Legal advice and support from the <i>Jugendamt</i> is free of charge.
New Zealand	For 2004/05, administration costs for the assessment and collection of child support were calculated at NZ\$59m, or 14 per cent of administration costs of Inland Revenue Department. This expenditure was broken down by: in NZ\$000 Customer information services – \$6,182 Registration and assessment – \$14,625 Collection of payments – \$10,445 Disbursement to custodians – \$1,995 Management of debt – \$23,914 Child support administrative reviews – \$2,147 IRCS collected \$317.654M during the 2005 year – this works out at a collection cost of 21.3 cents per dollar or alternatively IRCS collected \$4.69 for every \$1 spent.	There is no direct cost to either parent in regard to child support, with the services of officers of Inland Revenue Child Support (IRCS) provided free of charge. Most of the services of the Family Court are also free at point of usage, though there is a charge of \$175 for dissolution of marriage. However, there are indirect charges – proof of birth, which may require a birth certificate (cost \$26) or proof of (non-)paternity. Lawyers can be involved in the process, and their charge-out rate varies by lawyer and location. There are penalties for getting behind in payments. The penalty is \$5 or ten per cent of the outstanding amount, whichever is greater, and a further penalty of two per cent of the total overdue amount, including penalties, will be added each month that the amount is overdue.
Netherlands	The <i>Landelijk Bureau Inning Onderhoudsbijdragen</i> (LBIO) states that half of its K3 million a year government budget is spent on enforcing child maintenance agreements, bringing the costs associated with child maintenance for the LBIO to K1.5 million. Number of cases is not known.	Fees that both parents will generally be subjected to in the course of child maintenance proceedings include lawyers fees as well as court fees for establishing a binding voluntary (or court prescribed) child maintenance obligation and acting as mediators.

Continued

**Table 8.1 Continued**

	<b>Costs to agencies</b>	<b>Cost to individuals</b>
Norway	No data. I only found data on administrative costs for the entire National Insurance: NOK 5.124 millions. An estimated 477 of the National Insurance's 7,600 man-years are devoted to child maintenance issues. This is about six per cent of the total activity within the service. It is, however, not possible to estimate a price tag, since the total budget obviously includes more than wage costs.	There is a fee to parents on determination by the National Insurance (currently NOK 860 per parent). Parents may incur costs if they choose to pursue an agreement through a solicitor.
Sweden	No agency no data.	
UK	The Agency's administrative costs were £409m in 2005/06. This includes expenditure on Child Support Reform and the Operational Improvement Plan which totalled £95 million.	The CSA has legislative power to levy penalties upon parents who make late payments (late payment penalties). The amount should not exceed 25 per cent of the due payment. Where the NRP does not comply with the payments, the Agency can employ enforcement measures.
USA	US total administrative expenditures: \$5,322,260,723 in 2004. Wisconsin: \$103,405,275 in 2004. These are gross administrative expenditures (that is not net of amounts retained or fees). US gathers data on collections per dollar of administrative expenditures. In 2004 this was \$4.38 for the US as a whole and \$5.91 for Wisconsin.	New legislation, effective October 2006 'requires states to impose an annual fee of \$25 on families who have never received Temporary Assistance for Needy Families (TANF) assistance in child support cases with collections of at least \$500'. Wisconsin already charges \$35/year to families who use the state collection/disbursement service. Currently, in Wisconsin, non-benefit cases pay a one-time \$20 application fee. Beyond this fee and the fee for using the collection/disbursement service, there are no other costs to parents to use the agency.

The information that was obtained on the costs of guaranteed maintenance is summarised in Table 8.2. Only Sweden was able to supply the administrative costs of their scheme – administrative costs were 11.7 per cent of the amount disbursed or £0.11 for every £1.00 disbursed. Sweden was also able to give the net cost of the scheme, that is the amount disbursed that was not paid by NRPs, £130 million per annum (£14 per capita). From the figures given by Denmark it is possible to calculate that the equivalent figure is £273 million (£50 per capita). In Finland the net costs of advanced maintenance was £52 million (£10 per capita). Norway was not able to provide either administrative costs or net exchequer costs of their scheme but £86 million (£19 per capita) was the total amount distributed in advanced maintenance in 2004 and non-resident fathers owed £144 million (£31 per capita). These are small countries and large sums of revenue.

However it should be remembered that guaranteed maintenance can be offset against social assistance payments in Norway, France, Germany, Sweden, and Finland.

**Table 8.2 The costs of advanced (guaranteed) maintenance**

Australia	n/a.
Austria	No info.
Belgium	<i>DAVO</i> only advances maintenance in cases of non-compliance. The maximum amount of advance given per child is €175.00. There is no minimum.
Canada	n/a.
Denmark	Data exist for monies collected and disbursed as part of the advance maintenance system; Number of PWCs entitled to advance maintenance was 113,539. Advanced by the municipalities DKK180,698,5026. Paid in by NRPs DKK1,584,514,562. Total owed by NRP's to the municipalities at the end of the year 3,627,495,230.
Finland	The net costs of guaranteed maintenance for 2005 (i.e. Guaranteed payments minus collected payments) were 78.9 million Euros.
France	n/a.
Germany	It is difficult to get useful quantitative data on the advance maintenance program. The financing for this scheme comes from a complicated mix of local, state, and federal funds. In 2005 about 800 million Euro was paid out in guaranteed maintenance.
New Zealand	n/a.
Netherlands	n/a.
Norway	It was not possible to obtain administrative costs for the National Maintenance Payment Collecting Centre. However the forwarding arrangements cost 1,131 million kroner in 2004 – this is the gross amount, not costs after reclaiming. NRPs owe 2,200 million kroner in unpaid maintenance. In 1999 about 87 per cent of the total debt was debt to the state, while the remaining 13 per cent was debt to the children (or PWCs). Most of the NRPs who have unpaid maintenance owe relatively small amounts (less than NOK 10,000), while 9,600 NRPs owed more than NOK 100,000 by June 2006.
Sweden	Administrative costs for Advance Maintenance in 2002 were 445 Million SEK. In 2005 paid amount was SEK 3811 million, reimbursed amount SEK 2109 million and actual state costs SEK 1875 million.
UK	n/a.
USA	n/a.

Table 8.3 summarises the data that we were able to collect on the costs of court involvement in child support. The agency countries (Australia, New Zealand and the UK) involve court costs if parents choose to use the courts or lawyers. Assessment and enforcement costs are within the court system in the USA and if lawyers are involved so are costs, though mediation (at least in Wisconsin) is generally free. There are also court costs in Finland if parents choose to use them. Denmark and Norway have no court costs for parents in settling child maintenance. In Sweden a minority of cases are dealt with through the courts and these may involve costs, which are mitigated for social assistance recipients.

In the countries where child maintenance is assessed by courts there are generally fees but these are not really separable from the fees charged for the divorce process. France was unable to provide any detail. The scheme in Belgium involves court fees and can involve mediation fees though there are complicated means tested arrangements to mitigate these. The Canadian scheme involves court costs with mitigation for low income parents. In Germany the services of the Youth Welfare Office are free. In the Netherlands there are substantial public costs in dealing with maintenance agreements, 2.3-5 million euros per year and in addition parents have to pay lawyers and court fees.

**Table 8.3 Court costs and legal aid**

	<b>Court costs</b>	<b>Legal aid</b>
Australia	In theory, it should be possible to make an agreement without the involvement of lawyers or mediators, although the CSA does advise parents to draw up agreements with the advice of a lawyer. Where an agreement is not working satisfactorily for the NRP or the PWC, legal action can be necessary to alter it.	Legal Aid is available in all states and territories. However, it is means tested. A senate inquiry in 2004 into legal aid in Australia noted a gap in the means test ceiling of \$25,000 and the level of income needed to hire a lawyer privately \$45,000 (after tax).
Austria	It is not possible to give exact information about the court costs, because they depend on the duration of the proceeding.	If the child is not able to cover the expenses of the proceeding, it can apply for payment on account of costs. This advance covers the court fees. Lawyer's fees are only refunded in case of particular difficulties. Due to the fact that assertion of child maintenance is an <i>außerstreitiges</i> proceeding each party has to pay for its own expenses. Lawyers are subject to a fee structure for lawyers; the client can conclude on a differing agreement. The fee depends on the amount involved in the case and the submitted amount. The legal advice and support of the local Youth Welfare Office is free of charge.

Continued

Table 8.3 Continued

	Court costs	Legal aid
Belgium	<p>If parents are divorcing, child maintenance will be part of the agreements made at that time. These costs are difficult to separate from the divorce costs. It is only when parents have to go to the Juvenile Court after the divorce, costs could be separated from the divorce costs. Legal costs can vary. An appeal in family law costs about € 25. Juvenile Court costs about € 52. A writ (for compelling provisional measures, and with divorce) can cost up to € 300. Lawyer prices will vary from € 75 to € 200/per hour. The fees for mediators vary. It is around € 35/hour for an individual conversation to € 60/hour for mediation. Many mediation-organisations point out that it is cheaper than a normal procedure in Court.</p>	<p><i>Wetswinkels</i> (Law Shops) are places where people can go for judicial advice. A consultation costs 12 Euros. Professional jurists help the parents. Some courts of justice also organise free information sessions. At the <i>Centrum voor Algemeen Welzijnswerk (CAW)</i> the cost is calculated on the basis of the income. There are no programs in meeting the costs of <i>DAVO</i>. For meeting the legal costs there are two 'Bureau's'. On the one hand there is the <i>Bureau voor Juridisch Bijstand</i> (= Office of Juridic Aid). This Bureau is a part of the lawyers. Single persons have to have a net income below €780 for free help, and between €780 and €1,004 to be partially free of charge. Fifteen per cent of € 834.14 is added for every person (child) on his account. This help will come from a Pro Deo Lawyer. There is also the <i>Bureau voor Rechtsbijstand</i> (Office of Legal Aid). This aid is for everyone and is given by the Justice of The Peace. It is calculated on the basis of the total legal costs. For the Juvenile Court it goes from € 36.44 (costs below € 250) to € 218.64 (costs above € 2500). For the Justice of the Peace the sum sets between € 60.73 (costs &lt; € 250) and € 364. 40 (costs &gt; € 2500). For the Justice of First Instance there is a range of Aid from € 121.47 (costs &lt; € 2500) to € 242. 94 (costs &gt; € 2500). A supplementary aid can be asked of € 60.73.</p>
Canada	<p>There are no data on costs per case reported but a simplistic division would give an administrative cost per case of \$185 to \$192 per case in 2006 assuming that the number of cases remained roughly the same as in 2005.</p>	<p>Legal aid may be available on an income tested basis, but the legal aid program does not break down its costs by function. If the custodial parent is on social assistance, the Ontario Works delivery agency will assist her in applying for a court order and, presumably, pay some of her costs.</p>
Denmark	<p>Not applicable.</p>	<p>No costs to parents.</p>

Continued

Table 8.3 Continued

	Court costs	Legal aid
Finland	<p>A minor percentage of child support issues are dealt with through court proceedings. There is no information available on average costs of child support case in the court. The municipal Social Welfare Boards do not charge fees. 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 assessed because individual fees are between the solicitor and their client.</p> <p>On the question of interest for late payments, the legislative power exists to levy penalties upon parents who make late payments. The same rules apply to unpaid maintenance and unpaid tax.</p>	<p>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.</p>
France	No data available.	<p>There exists a means-tested scheme for covering the costs of justice (fees) or a part of them, that is for paying a lawyer. This scheme is called '<i>aide juridictionnelle</i>'.</p> <p>Conditions of eligibility:</p> <ul style="list-style-type: none"> <li>• being accepted by the tribunal (the procedure must be considered as not abusive or unfounded)</li> <li>• be French or legally resident.</li> <li>• there are two levels: fees are paid totally (full aid) or partially (partial aid) depending on average resources of the previous civil year.</li> </ul>
Germany	Could not find useful data.	<p>The legal advice and support of the local Youth Welfare Office is free of charge.</p>
New Zealand	<p>A small proportion of administrative reviews of child support are challenged, and then go the Family Court. The Family Court does not seem to allocate its budget by work function, but the expenditure is probably fairly small. In 2005, the CSA took 127 cases to the Family Court over non-payment of debt, resulting in \$2.6m being received – again the administration costs are unknown.</p>	<p>As most of the programmes and services operate without direct user charge, there is no specific programme set up to assist parents in meeting costs. Legal Aid is available for legal fees for Court related events, and these are income-tested as well as being based on merit. Community Law Centres offer advice free, and some law firms provide a basic service cheaply for these items.</p>

Continued

**Table 8.3 Continued**

	<b>Court costs</b>	<b>Legal aid</b>
Netherlands	<p>Courts: 4.5 million Euros per year is the most recent (2002) estimate by the ministry of justice for the costs incurred by the courts when dealing purely with maintenance arrangements. In the report the assumption is made that approximately 50 per cent of these cases have to do with child maintenance, bringing the court costs for child maintenance to 2.3 million per year, additionally if ten per cent of the time spent on divorce cases is spent on child maintenance agreements, another 2.3 million Euros is spent. The ministry of justice lists these total costs as 2.3-5 million a year.</p> <p>Parents: Fees that both parents will generally be subjected to in the course of child maintenance proceedings include lawyers fees as well as court fees for establishing a binding voluntary (or court prescribed) child maintenance obligation and acting as mediators. Voluntary and Court agreements (no agency in Netherlands) interact by way of judges needing to approve voluntary agreements to ensure the welfare of the child. If at any time a voluntary agreement breaks down or circumstances surrounding the agreement change then either parent can try to make a new voluntary agreement or bring the case before a judge to determine child maintenance if no agreement can be reached.</p>	<p>There are no programs designed to specifically aid parents with the costs of assessing, collecting or enforcing child maintenance payments.</p>
Norway	Not applicable.	No such costs.

Continued

Table 8.3 Continued

	Court costs	Legal aid
Sweden	<p>No such statistics available in Sweden. This is, for example, reflected in the low number of cases in courts, which also have decreased in recent years. Among women receiving Child Maintenance on behalf of their child, about 20 per cent have got the amount settled in court. Among men, the corresponding percentage is zero (Social Insurance Office, 2006:7).</p>	<p>No fees for parents concerning administration of payments, except potential bank transfer costs. There was a discussion about introducing a users fee of 50 SEK to partly cover the administration of the Social Insurance Office. But this was never implemented.</p> <p>Seeking advice from lawyers costs money. If lawyers hired for certain duration, people may receive assistance toward the financing of juridical consultation. This also applies to costs associated with the court process. Generally, the losing parent (or child) has to pay costs associated with the court process. For the child (as well as the parent) assistance toward these costs may be given through the social assistance system. Assistance for parents concerning Child Maintenance is probably very low.</p>
UK	<p>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 £3,000 per case. The total cost of the legal aid bill on financial provision in family proceedings is around £78, 500 000 per annum. The figures exclude follow up costs of enforcement of non-payment of child support. Lawyer's fees for parents will vary.</p>	<p>Legal fees that parents are charged when settling child maintenance will vary depending on who they engage, so can not be costed. To make a Financial Provision Application, the current fee is £175. £35 is charged for the Registration of Maintenance Orders. With respect to court fee charges – 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 demonstrating financial hardship. Legal aid: 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.</p>
USA	<p>Assessment and some enforcement costs are within the court system. There are few estimates of administrative costs related to child support in the court system.</p>	<p>The costs of lawyers outside the agency are generally borne by the individuals involved. Mediators assigned by the court generally do not cost the parents; however, the courts can order parents to pay the cost of mediation.</p>

There are some other costs involved in processing child maintenance. For example:

- In the UK 'Jobcentre Plus' provides a range of services in relation to child maintenance for social assistance cases only. It is mainly responsible for the 'front-end' of the process – which involves completing a maintenance application form with the PWC and interviewing PWCs on social assistance benefits when they claim 'good cause' (such as fear of violence) to opt out of the CSA and the subsequent decision-making – this includes administering any associated reduced benefit decisions. Data on costs are not available.
- In the USA some child support functions are within law enforcement, including costs of arresting those who are delinquent. Moreover, there are costs due to jailing those who are delinquent. Finally, there are some costs in the tax system associated with intercepting refunds.
- In New Zealand there will be a small cost to Work and Income New Zealand for administering the penalty for non-reporting of paternity. More than 19,000 sole parents are currently subject to this penalty, or just under 20 per cent of those receiving the sole parent benefit. The administrative cost of this has not been calculated separately.

## 8.2 Conclusion

The information that national informants were able to provide on costs was not very satisfactory. But it appears that among those countries using agencies the UK is by far the most costly per £ transferred to PWCs. The costs of guaranteed maintenance arrangements in those countries which have such schemes appear to be substantial – both the costs of administration and the costs of unrecouped payments from NRPs – but some of those costs are offset against social assistance. It was also shown in Chapter 6 that recovery rates of guaranteed maintenance payments from the NRP varied enormously across countries; Denmark reportedly achieved an 88 per cent recovery rate and Belgium just five per cent. On the other hand, from informants' own assessments of their regimes (Chapter 7) the most effective elements of performance were reported as regularity of provision (Australia, Austria, Denmark, Finland, France, Norway and Sweden) and ensuring a child's entitlement (Australia, Belgium, Denmark, Finland, Germany, the Netherlands, Norway and Sweden) and it was recognised that guaranteed schemes were an important asset in this respect. Court costs were particularly salient for the non-agency countries and where parents chose to use the courts rather than the agency. Generally there were schemes to mitigate these costs on a means tested basis.



## 9 The policy environment

This chapter reviews the policy environment surrounding child maintenance in the countries included in the study. It starts by outlining the main research issues in child maintenance policy before moving on to review the information collected on public attitudes to child maintenance. Finally it summarises the policy changes that have been made in the recent period.

### 9.1 Research issues

There were stark differences in the level of research activity in the countries included in this study. In some countries this might be because this policy area is not (currently) constructed as a social problem. National informants' responses then ranged from little or no research activity at all in Austria and Canada to a flurry of research activity in the UK. Also reported was a general (but not a complete – see below) lack of research in Finland and Germany, with the German national informant reporting that this may be due to the regulated nature of the system and the general absence of micro data which could be used for useful analysis. Similar comments were made from national informants in Norway, the Netherlands, Belgium and New Zealand, with the Australian informant identifying a number of gaps in the available literature. Such research as was identified by informants (who were asked to report on a number of specific topics – see questionnaire in Appendix B) is presented thematically below.

Research on the impact of the child maintenance system on the relationship between the non-resident parent (NRP) and the child and *vice versa* has been carried out in the UK: 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 (MacLean and Eekelaar, 1997; Bradshaw *et al.*, 1999; Atkinson and McKay, 2005). In work based on the BHPS (2000), Ermisch (2006) suggests that should the reform of the system in the UK succeed in a better enforcement of (increased amounts of) payment orders then this might lower the frequency of contact between middle income fathers and their children. In Germany a recent (representative) study (Forsa, 2002) indicates that the probability of regular,

full child maintenance payments increases with the frequency of visits with the NRP. In the USA evidence also suggests that NRPs who pay child maintenance are more likely to have contact with their children, but again, the direction of the relationship is not clear (Pirog and Ziol-Guest, 2006). Australia reported no established relationship between contact and payment, but also noted considerable gaps in knowledge about contact between NRPs and their children. In Norway research has concentrated on the levels of contact and determinants for contact (Jensen and Clausen, 1997; Skevik and Hyggen, 2002; Thuen, 2004; Kitterød, 2004; Skevik, 2006a). In Sweden there is a marginal concern that advance maintenance, in some instances, may have negative consequences for the relationship between the NRP and the child (SOU, 2003: 42).

Research into the effect of the child maintenance regime on parents' relationships in Denmark concludes that the payment of maintenance – in that country at least – is conflict free. Only six per cent reported payment of child maintenance as a source of tension and conflict and 75 per cent of parents chose to have maintenance set by the *statsamt*. This sits with findings that the Danish regime is conflict free; simple to administer; uniform and predictable, and that awards are well suited to the ability of NRPs to pay. Award levels are notably low (around three to six per cent of NRP incomes as opposed to levels of 11 to 36 per cent elsewhere) when compared to other countries including Sweden and Norway. Parental relationships have also been considered in the UK (Bell *et al.*, 2006; Atkinson and McKay, 2005) and research in Norway included some questions about non-resident fathers' norms and ideals for a reasonable child maintenance system<sup>43</sup> (Skevik and Hyggen, 2002; Skevik, 2006b).

Studies on the labour market behaviour of parents have also been undertaken in several countries. In Finland, single parents were reported to engage in the labour market even when their income from benefits would have been higher (Forssén and Hakovirta, 1998). In the Netherlands there is reportedly a premise that the lack of enforcement of child maintenance leads to increased poverty in women as well as decreased labour market participation and increased dependence on social assistance (*Het kind centraal verantwoordelijkheid blijft* 2002). An exploratory research project in New Zealand (Chapple and Cronin, 2006) on the impact of child maintenance on labour supply and poverty reported that: the amount transferred to PWCs is comparatively small and makes little impact on poverty alleviation; marginal incentives to work are changed. The labour supply of PWCs is probably increased, especially for existing beneficiaries (minimal income effect, positive substitution effect), while non-beneficiaries have ambiguous effects (positive income effect, negative substitution effect). The impact on NRPs is ambiguous (positive income effect, negative substitution effect). The USA reported mixed research evidence on this topic. However, other USA evidence showed that a USA dollar of child

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<sup>43</sup> NOVA project: 'the Situation of Non-resident Fathers: Financial and Normative Issues'. It was funded by the Ministry for Children and Family Affairs in the period 2001-2004.

maintenance increases child wellbeing beyond that of a dollar of other income sources; that child maintenance decreases poverty among PWCs and that paying maintenance did not cause many NRPs to become poor. Australia has produced some research illustrating that NRPs have very low incentive to increase earnings. In Sweden, again, there is a minor concern that Advance Maintenance may imply marginal effects for the NRP and negatively influence labour market behaviour especially where households have very low incomes.

Decision making procedures for child maintenance have been a topic of research in France and evidence suggests that judges do not take account of the age of children; that boys are awarded more than girls and that awards decrease with the number of children. Concomitantly, French researchers have recently looked at the possibility of introducing a '*barème*' (formal guidelines or formulae) for the determination of child maintenance obligations. The arguments in favour of such a system are justice and efficiency. In the same vein, in New Zealand there has been some research by lawyers exploring how the Family Court considers 'departures' from the formula.

As we would expect, there were no identifiable impending policy changes in a number of countries, most notably Austria and France (where the national informant stressed that child maintenance was not a topic of debate *per se*).

## 9.2 Public attitudes and interest groups

Some countries reported that there was no data available on public attitudes towards their child maintenance system – this was so in France, Austria and Germany. Neither was any recent data from the USA available. In other countries – Norway and New Zealand – national informants could not find any data on the subject but provided their personal perceptions and impressions.

The Danish national informant considered that the system was perceived in a positive light and that there was no opposition to it, similarly the Swedish informant reported that most parents paying child maintenance seem to be more positive than negative towards the system of child maintenance and Advance Maintenance, and that the most negative aspect revealed by parents paying child maintenance is a lack of information about the system. Other countries however, seemed to have at least some issues and interest groups. Mainly, this concerned opposition from NRPs and fathers' rights groups in relation to child maintenance, but also wider family policy.

In Australia, current reforms around earnings disregards for NRPs' obligations (see below) have been attributed to lobbying from such groups. Research shows that non-resident fathers tend to be more dissatisfied (33 per cent agree, 62 per cent disagree) (Smyth and Weston, 2005) with the system and three quarters of non-resident fathers thought the scheme unfair. Despite a high level of public dissatisfaction with the scheme (difficulty in communications, delays in passing payments, low enforcement rates) a joint select committee which reported in the first five years of the operation of the Child Support Agency (CSA) concluded that the scheme 'had been a qualified success' in changing social attitudes regarding child support (Wikeley 2006:174).

Organised father's groups in Canada also considered the current guidelines as unfair because they do not take account of the income of the PWC – also an issue in public opinion in the UK – or the needs of the NRP (including the continuing expense of parenting where the father is not a shared custodian). Many fathers also object to child maintenance not being deductible for tax purposes, and not being taxable as income in the hands of the ex-partner. Father's rights groups in the UK have also argued that the system should recognise the responsibility of both parents to support their children financially. In New Zealand the national informant perceives that there is probably acceptance of a rule based system, but there are debates from those affected as to whether the rules are fair. The most common complaint in the Netherlands was perceived to be that not enough NRPs were fulfilling their child maintenance obligations. Studies conducted in 1998 indicated that 43 to 65 per cent of single divorced PWCs did not receive any child maintenance payments from the NRP; that 56 to 76 per cent of PWCs who lived with a new partner received no maintenance and that 94 to 96 per cent of PWCs who had never lived with the NRP received no child maintenance payment.

Several countries: the USA, the UK, Canada, the Netherlands, Germany, Finland, France and Norway reported evidence of father's rights groups in relation to issues of care and custody. The main argument of German fathers' organisations is that there is some kind of imbalance in the rights and the (financial) obligations of fathers. In Finland, the main argument has been that, when disputed, the municipal social welfare board and the court tend to award custody of the children to the mother. Father's groups argue that statements made by mothers are considered more reliable by social welfare officials than statements made by fathers. In Norway, similarly, the informant reports that 'a lot of people question the normal practice, that mothers almost always 'get the children' after a break-up'. There seemed to be a strong image that fathers were 'practically without rights'. Quite a lot was written about this in the late 1990s (the media made it seem far worse than it was). A few legal changes were made, most importantly perhaps the simplified procedure for acknowledging paternity for cohabiting fathers'. Men's groups in New Zealand were opposed to the child support agency, mainly because the money goes to the state to offset the cost of social benefits rather than to the children (this was also an issue in the UK). Mostly however, as in the countries above, arguments are against the Family Court concerning its decisions on access to children. Belgium also has debates from various quarters concerning the 'assignment of the children (almost always) to the mother'. Finally, in France, fathers' rights groups propose some formulae for the evaluation of child maintenance obligations.

Just as groups in the countries whose regimes rely on systems employing rigid formulae can be seen to contest the inflexibility which rules sometimes bring with them, so it is that in the countries which rely heavily on discretionary decision making – Belgium, for example – there are calls for standardisation in child maintenance determinations from lawyers, civil servants and groups of divorced parents. The Netherlands' hybrid system is also seen by some as confusing and overly bureaucratic, with the courts, social assistance and the *Landelijk Bureau Inning*

*Onderhoudsbijdragen* (LBIO) each filling a different function. There are consequently calls for a more streamlined Dutch system to make it easier for parents to navigate through the issues concerned with determining and receiving child maintenance.

In Belgium '*Platform Alimentatiefonds/Plate-forme Créances Alimentaires*' groups want some changes to *Dienst voor Alimentatievordering* (DAVO) – the (marginal) agency that can be used in cases of non-compliance – so that more people know about it and more people can use it. In Canada the national informant considers that there can be little doubt that the failure of the Family Responsibility Office (FRO) (in respect of 'enforcement of maintenance' orders) to forward money to the PWCs from the NRPs brought disrepute on the FRO. Since then however, the FRO has recovered and there is now little or no negative media attention.

### 9.3 Policy changes

Policy changes, where they have occurred, mostly reflect common concerns in countries – which are presented thematically in this section of the chapter. Firstly, there is a concern with standardisation: Germany abolished the distinction between children born within and outside of marriage (all biological children now have the same inheritance rights) and divorcing parents do not any longer have to go to court to settle child maintenance. In Canada, relatively recent changes were intended to ensure that levels of maintenance for children were consistent with the means of their parents in order to achieve greater consistency and fairness in child maintenance awards. In Finland, there are discussions about providing guidelines for discretionary decision makers.

Transparency and simplification have been concerns in the UK: new legislation in 2000 aimed to simplify the formula for calculating child maintenance making it more transparent to parents and easier to administer. The '*Kindesunterhaltsgesetz*' (1998) in Germany (child maintenance law) allowed for a simplified procedure for child maintenance claims below 1.5 times the standard amount.

We can also detect a concern with the rights of the child in policy making – not only to financial maintenance, but also to maintaining a relationship with their NRP. For example, this is evident in France with the promotion of the principle of '*coparentalité*' (co-parenthood) implying obligations such as: 'each mother and father must maintain personal relations with the child and respect its own links with the other parent'. Germany also introduced the principle of co-parenting and joint custody is now seen as the norm, sole custody as the exception. In Wisconsin, USA, the agency formula was adjusted to encourage 'shared care' – previously an adjustment to the formula occurred when a child lived with both parents for at least 30 per cent of the time; under the change the new formula occurs at 25 per cent.

In Finland, a concern about the PWC's relationships with a new partner has also been legislated for in the child maintenance system with the abolition of the 'reduced guaranteed maintenance' for cohabiting PWCs. The national informant

reported that reduced guaranteed maintenance had led some PWCs to neglect informing officials about a new relationship, and the implicit assumption that a new partner should contribute to children who were not their own, complicated the relationship. Citizens' organisations thus urged abolition of reduced guaranteed maintenance. In line with NRPs in the USA who thought that orders were too high in high-income cases, and from advocates for low-income individuals, who thought orders were unrealistic in these cases, the Wisconsin formula was changed in 2003: both groups were then given lower orders.

Concerns to foster better relations between parents and encourage private agreements are also evident in France and Australia: adjustment of formulae and the approach of the CSA has become more one of encouraging private agreements and private payments between parents, and relying less on its legal powers of enforcement.

## 9.4 Recent and impending policy changes

Other countries had just very recently undergone a policy change. This was the case in Canada, for example, where a recent Supreme Court decision is expected by the national informant to set in motion a 'series of reactions that will eventually require all provinces to set up administrative mechanisms to revise maintenance agreements on a regular basis' (national informant). According to our national informant Norway had just undergone its 'biggest administrative reform in recent Norwegian social political history' when the National Insurance agency ceased to exist as from 1 July 2006. The National Insurance and the employment agencies have been merged under a new 'super-service' (*Ny Arbeids- og Velferdsetat (NAV)*) New Work and Welfare Agency which will be responsible for NAV child maintenance, as the National Insurance was until very recently. As of now, however, no real changes have been made – with respect to child maintenance administrative reform only means that letters will be sent out to recipients with a new logo.

In New Zealand, a recent amendment to the Child Support Act (1991) (enacted 14 September 2006) amongst other things would provide relief from penalties previously incurred when the NRP makes and complies with a payment arrangement. The bill would also legislate for an extension of administrative review provisions to allow the Commissioner of Inland Revenue to initiate a review in limited circumstances (at present only a custodian or NRP may initiate a review). In Finland, guidelines for the standardised determination of maintenance obligations were under review by officials.

In Denmark, the existing *statsamter* will be merged into five new regional *statsforvaltninger* in connection with major municipal reform which will see the creation of 'greater municipalities' (*storekommuner*). The national informant considers that 'no policy changes are likely to affect the system although a commission on family and work life has been recently established. Its commission is carefully formulated to stress parental responsibility and labour market flexibility'.

In Australia, Wikeley (2006: 175) argues that there is now a 'culture of constant change' in relation to the child support agency and, indeed, the system is currently in the process of phased reform in three stages. The first stage of reform occurred in July 2006 and was concerned with changes to the formula to make it less onerous for NRPs; the introduction of a lower income ceiling for NRPs above which income does not count for the calculation of child maintenance, and the discounting of income from second jobs and altering the thresholds for shared care and benefit receipt. This means that, now, parents who cared for their children for one night a week and over (14 per cent of the time) are able to claim the higher 'with child' rate of Newstart Allowance (Australian unemployment assistance) (prior to this, the care threshold was 30 per cent). The cap on maximum NRPs income above which no additional child support payable is reduced from \$139,347 to \$104,702 and the percentage of child support that NRPs can nominate to pay for particular items (for example, school fees) has been increased from 25 per cent to 30 per cent.

Following the Report of the Ministerial Task force on Child Support (Parkinson, 2005), further reforms are planned for 2007 and 2008. In stage two (2007), legislative reform will: give parents more time to reach parenting arrangements before their Family Tax Benefits (FTB) are affected; broaden the powers of the courts in enforcing child support obligations and introduce independent reviews for CSA decisions.

Planned changes in stage three of the reforms to the Australian system in 2008 include the introduction of a new formula based on the principle of apportionment of costs between parents. Shared care arrangements will also be revised (and, it is hoped, encouraged), so that care for a child for one night a week is recognised in terms of reduced child maintenance obligations. Income from second jobs and overtime will, where recognised in cases of re-establishment after separation, be treated more fairly. Rules concerning changing the amount of child support payable will be simplified, the arrangements for agreeing ongoing or lump sum payments will be improved and rules will be more conducive to parents getting back together after a break up (<http://www.facs.gov.au/internet/facsinternet.nsf/family/childsupport.htm>).

In Germany, the *Bundesregierung* (Federal Government) has presented a draft of a new maintenance law (planned for April 2007 implementation). The national informant predicts that one of the most important changes would probably be that the maintenance entitlements of minor children will get a higher priority (over spousal maintenance). This would reduce the number of cases where the NRP can not fully fulfil their maintenance obligations to their minor children because there are also conflicting spousal maintenance obligations ('*Mangelfall*'). The maintenance law would also be simplified – especially concerning minimum amounts of maintenance payments and the old system of '*Regelbeträge*' (standard amounts) and '*Regelbetragsverordnung*' would be abolished. There will probably also be a new definition of the minimum amount that is in line with the according tax (tax-free minimum income) and social security (minimum income) laws. Maintenance

entitlements for formerly married and never married parents will be brought into line (currently unmarried PWCs are entitled to about three years' spousal maintenance whilst formerly married can get up to eight years' maintenance).

In Belgium, there are argued to be two topics that could influence child maintenance policy. The first being that politicians and the judiciary want co-parenting to become the standard situation after divorce/separation, and the second being the potential expansion of *DAVOs*' remit.

In the Netherlands, the informant reported that likely changes include the creation of a single agency to handle all issues dealing with child maintenance; a set minimum amount of child maintenance that is not dependant on the NRP's income; a more transparent system allowing for better access for parents and more accountability on the part of the NRP; an increase in the minimum amount of maintenance and a revision to the way the obligation is reviewed.

In the USA, recent changes to Temporary Assistance for Needy Families (TANF) make it easier for states to increase the level of child maintenance disregarded for families receiving benefits, but as yet it is unclear as to how many states might do this.

The national informant for New Zealand commented that the 2005 Australian review had led to some non-government discussion as to whether the formula should be altered to take account of both partners' income and degree of custody.

## 9.5 Conclusion

This chapter has reviewed the policy environment surrounding child maintenance in the countries included in the study. Firstly, the chapter began by illustrating differences in relation to research activity reported by national informants – ranging from no recent research activity having been undertaken in Austria and Canada to a flurry in the UK.

Such differences perhaps partly reflect the different socio-political contexts for child maintenance policy in countries. Such research as had been undertaken in countries could be themed as being concerned with the impact of the child maintenance system on the relationship between the NRP and the child(ren); the effect of maintenance regimes on parents' relationships; the labour market behaviour of parents and an ever existent concern to move (either one way or the other) between discretion and rules for deciding upon child maintenance obligations.

Public attitudes were then discussed in the second part of the chapter. Informants reported no data for France, Austria, Germany and the USA. Both the Danish and the Swedish informant perceived that their systems were viewed by the public positively, whilst in other countries regimes faced public opposition from fathers' rights groups: Canada, UK and New Zealand in terms of the 'fairness' of decision making criteria and processes and such groups also raised related issues in terms of custody of children in Finland, Norway and Belgium.

Of those countries which are engaged in policy reform there are some similarities and differences with the UK's approach to reform under Henshaw's proposals. The similarities are the concern about the quality of relationships between the parents and the effect that might have on children and about upholding the right of the child to receive child maintenance and to maintain an ongoing relationship with both parents. The UK's current level of reform is more radical than that reported as happening in other countries such as in Australia.

Chapter 10 presents the summary and conclusion of this report.



# 10 Conclusion

The conclusion to the report draws out policy implications from the findings presented in the study under five headings: demographic and policy context, private agreements, formal agreements, enforcement and, benefit disregard and guaranteed maintenance.

## 10.1 Demographic and policy context

From the Luxembourg Income Study (LIS) analysis in Chapter 2, the UK in comparative perspective in 2000 had a high prevalence of lone parents and a low labour supply of lone parents, which is partly explained by their characteristics (though their labour supply has increased between circa 2000 and 2006). In 2000, a smaller proportion of non-widowed lone parents received child maintenance in the UK than in any other country. However, for those receiving child maintenance the level of payment was comparatively high, this was in relation to the formula designed under the first Child Support Act of 1991 (i.e. before the formula changed under the second Act implemented in 2003). This has two main implications.

First, most of the countries in this study are smaller than the UK, with fewer lone parents and fewer lone parents on benefit. Some 45 per cent of lone parents were in receipt of social assistance benefits in 2004 in the UK (Lyon *et al.*, 2006: 131) and thus in the automatic purview of the Child Support Agency (CSA). The scale of the task in dealing with child maintenance in other countries could, therefore, be much more manageable.

Second, there are implications for the relief of poverty. The LIS analysis showed that child maintenance made a comparatively small contribution to the relief of child poverty overall, but if lone parents actually received child maintenance the poverty reduction achieved was much more significant, producing child poverty rates which were less than half what they would have been without child maintenance. The impact of child maintenance also varied according to whether the lone parent was or was not in employment. For UK lone parents in employment, the LIS analysis showed that child maintenance could reduce child poverty by over two thirds – more than

any other country except Austria, France and the Netherlands. However, it is not more effective overall because comparatively few non-widowed lone parents had employment and child maintenance.

## 10.2 Private agreements

Child maintenance regimes are very diverse. In every country some effort is made through public policy to ensure that PWCs and children are paid child maintenance by non-resident parents (NRPs). In most countries, PWCs in receipt of social assistance are compelled to pursue child maintenance irrespective of whether it is a court or agency based system; it appears that it is only in Denmark and Belgium that the parent with care (PWC) on social assistance has a choice not to pursue it. All other parents not on social assistance have a choice to use the formal system or to make private agreements. Sometimes parents might choose to use formal assessment methods if they cannot agree an amount between them, but otherwise private agreements are encouraged. All countries appear to have a system for ratifying private agreements, but the place in which this can happen varies and does not directly correspond to a difference between agency and court based formal systems. In some countries parents routinely have access to mediation and support services in making these private agreements that may or may not be formally ratified.

The plans for the UK to allow all PWCs on social assistance a choice to make private agreements will make it unusual. The rationale as set out in the White Paper seems to be that private agreements will be beneficial to parental relations and thereby potentially improve compliance rates. This accords with the advantages of private agreements identified by the national informants – they were seen as being more consensual, non-adversarial, relatively quick and inexpensive, and could be tailored to family circumstances. There are however also disadvantages, national informants noted that private arrangements in some countries had no legal standing – could be precarious unless ratified and could exacerbate any power imbalance between parents with the weaker party potentially being pressured into an agreement that was not in their or their children's best interests. Additionally, they could produce inequitable outcomes where children in different families with similar circumstances/ characteristics could receive differing amounts. The UK does not explicitly address these matters in the White Paper, there are as yet no details on advice and guidance services and whether they might work to provide mediation to help safeguard against inadequate agreements and/or help with conflict resolution where there are disputes over the amounts (mediation is provided in other countries to support private agreements). However, it is recognised in the White Paper that the advice needs of separating parents is a complex matter and the nature of advice and guidance services, how they would be provided and by whom are currently under consideration.

### 10.3 Formal agreements

The UK mostly moved away from discretionary (court based) decisions for formal child maintenance agreements when the CSA was established in 1993. The new plans are not a return to the pre 1993 discretionary system. There will continue to be an administrative system using a broadly similar formula for calculating amounts for formal agreements (albeit possibly restricted to cases of non-compliance) implying that the new Child Maintenance Enforcement Commission (C-MEC) will be rigid in determining amounts. However, the analysis in Chapter 4 shows that there are different layers of discretion operating in regimes at a wider level (Figure 4.1). A much more sophisticated judgement about discretion is therefore required that can consider the regime as a whole – that is whether parents have the choice to enter into the formal system in the first instance and how discretion works in relation to whether the calculation methods are ever applied to all cases or are departed from, and under what circumstances this might happen. The findings therefore show that it cannot be assumed that court based systems are always more discretionary than agency based system, even though there is a tendency for agency based systems to apply formula and rules, courts are equally able to do so – as in the case of Germany. Considering the UK regime as a whole it would therefore appear that it will be more discretionary (via the encouragement of more private agreements) even though the formal system will still apply a formula.

In relation to the amounts of child maintenance determined by formal systems, the vignettes demonstrated that comparatively the UK was among the top four countries expecting the highest levels for the poorest family in Vignette one and ranked around ninth for the richer two parent family in Vignette two (Chapter 5). The results are based exclusively on the CSA formula used post 2003, not the original complex formula applied to applications made between 1993 and 2003. The new plan to use gross income in the UK is more in line with what happens in other countries with agency based systems. It is implied that this will not produce much of a difference in outcomes compared to the current net income based formula introduced in 2003. This is because the percentages expected of gross income will be reduced from 15 per cent for net income to ten per cent for gross income for one child, from 20 to 15 per cent for two children and from 25 to 20 per cent for three or more children (DWP, 2006c: 64). It remains to be seen what might happen in practice. More, specifically, the factors that were taken into account in deciding the level of formal obligations in real life cases (not vignettes) differed across countries and broadly the UK was out of line with the majority. There was no account taken of NRP's obligations to new partners (though there was for children in second families), in the event of 'roughly equal shared care' maintenance payments were still expected though reduced, (ten other countries could make a nil assessment). The White Paper is silent on what will happen in formal agreements where there is shared care and as this is dealt with in many other countries, it is worthy of further consideration.

## 10.4 Benefit disregard and guaranteed maintenance

Guaranteed maintenance schemes are provided in all the European countries (bar the Netherlands) but in none of the Anglophone countries (Australia, Canada (Ontario), New Zealand, USA and the UK). Guaranteed maintenance payments were usually only provided in the event of non-compliance and they could interact with the benefit system to produce different outcomes. This means that in some countries PWCs will receive guaranteed maintenance on top of their social assistance benefits raising their incomes above social assistance levels, whereas in other countries it would affect entitlement to social assistance and would not result in more money above social assistance levels. Therefore, the provision of a guaranteed maintenance scheme would not always mean that parents on social assistance benefits would receive more money overall.

Informants noted that there are advantages and disadvantages to these schemes. A main advantage was that in the event of non-compliance they guaranteed a minimal amount of maintenance for children regardless of the economic circumstances of the liable parent (though as described, in some countries the interaction with social assistance benefits would not necessarily mean the PWC and/or child would be better off). Guaranteed payments were rejected by Henshaw on three main grounds: the increased costs it would introduce; the potentially negative impact on compliance (liable parents would know that the state was paying it anyway); and the inequity it would introduce such that low income families with separated parents would receive more state support than other equally low income families (Henshaw, 2006: 58). Later in the regulatory impact statement to the White Paper (DWP, 2006d: 4) it was recognised that a 'guaranteed scheme' would potentially lift more children out of poverty, but was dismissed mainly on the grounds of cost. However, it is not clear what kind of 'guaranteed scheme' was being considered, it states:

*'Guaranteed maintenance operates with the State paying maintenance to all PWCs and reclaiming it from NRPs.'*

(DWP, 2006d: 4)

This is not how it appeared to operate in most of the countries in this study – guaranteed maintenance schemes mainly operated in the event of non-compliance. Even so, the evidence on disadvantages provided by national informants tends to accord with some of the reasons given for rejecting it in the UK. Such schemes are costly to administer and the rate of recovery from NRPs was generally poor with only Finland and Denmark reporting a rate greater than 50 per cent (65 and 88 per cent respectively).

In tackling child poverty in relation to child maintenance obligations, the UK's preferred option is to increase the amount at which child maintenance receipts are 'disregarded' for calculating social assistance benefits. This means that the poorest PWCs who claim social assistance benefits will keep some of the child maintenance as an addition to their benefits, currently up to a maximum of £10 per week, but only

if it is paid by the NRP (if it is not paid the PWC would not receive an extra amount above the social assistance level). This so called 'benefit disregard'<sup>44</sup> is currently under discussion and the plan is to increase it above the £10 level, but as before parents will only receive it if and when it is paid by the NRP.

## 10.5 Compliance and enforcement

In terms of measures for non-compliance, all of the countries used some kind of attachment of earnings as a first step in enforcement, (Australia, Austria, Canada (Ontario), Norway and the USA and all had powers to confiscate the NRP's passport – except Australia<sup>45</sup>). The current powers of the CSA, therefore, seem to be very similar to those in other countries and it does not look as though the penalties for non-compliance are the factors that make the difference in performance across countries (though data on case or cash compliance was patchy and inconsistent and these findings should be treated with caution). The White Paper proposals plan to extend the enforcement actions to include passport withdrawal and introduce curfews. None of the informants reported curfews as an option and it is not made clear in the White Paper why this option is needed for the UK.

In regards to infrastructure for implementing enforcement measures, C-MEC is not simply a dedicated collection/enforcement agency as used in Belgium or in the Netherlands. Rather it represents a mainly administrative solution to child maintenance enforcement as the intention is to streamline legal enforcement powers and bypass the court system in applying them. Yet, whilst accorded this central position of enforcement, there is very little clarity over collection methods, and what will happen in partial compliance arrangements.

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<sup>44</sup> Previously known as the maintenance premium.

<sup>45</sup> Australia has no power to confiscate passports but does have the power to prevent departure from the country via a Departure Prohibition Order.



# Appendix A

## List of national informants

### **Australia**

Gerry Redmond  
The Social Policy Research Centre  
University of New South Wales

### **Austria**

Professor Dr. Helmut Ofner  
Mag. Marieluise Palzer  
Mag. Reinhard Pröbsting  
Inst for European Law, International and Comparative Law  
University of Vienna

### **Belgium**

Dr Karel Vanden Bosch  
Centre for Social Policy  
University of Antwerp

### **Canada**

Michael Mendelson  
Caledon Institute of Social Policy  
Ontario

### **Denmark**

Jessica Gress-Wright  
Department of Sociology  
University of Copenhagen

**Finland**

Dr Heikki Hiilamo  
Church Council and Diaconia  
Finland

**France**

Dr Antoine Math  
Institut de Recherches Economiques et Sociales

**and**

Dr Claude Martin  
CNRS  
University of Rennes  
France

**Germany**

Christoph Schmitt Dipl-Soz  
Professor Dr Ilona Ostner  
Institute of Sociology  
University of Gottingen  
with the assistance of  
Cornelia Kraus, Dipl-Jur  
Gottingen

**The Netherlands**

Professor Trudie Knijn

**and**

Karel de Bakker  
Department of Interdisciplinary Social Science  
University of Utrecht

**New Zealand**

Dr Robert Stephens  
School of Government  
Victoria University of Wellington

**Norway**

Dr Anne Grødem  
NOVA – Norwegian Social Research  
Oslo

**Sweden**

Dr Kenneth Nelson  
SOFI – Swedish institute for social research  
Stockholm

**USA**

Professor Dan Meyer  
School of Social Work  
University of Wisconsin

**UK**

Dr Christine Skinner  
University of York

**and**

Dr Jacqueline Davidson  
University of York



# Appendix B

## Questionnaire for national informants

## 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 cohabitantes;
- 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 non-marital 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.

**TERMS AND DEFINITIONS**

Advance maintenance	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.
Child	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.
Child maintenance	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.
Child maintenance regime	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.
Cohabitees	We use this to refer to unmarried parents who live together
Guaranteed maintenance	Same as 'Advanced Maintenance' (see above)
New child or children	Where parents move on after separation or divorce and produce another child/children with a new partner.
New family	Where parents move on after separation or divorce and develop family relationships with a new partner. This may or may not also include children.
New partner	Where parents move on after separation or divorce and develop an intimate relationship with a new adult.
Non-resident parent	Refers to the parent with whom the children do not live a majority of the time. In many countries this is commonly the father.

Non-marital child or children	Refers to a child or children from a relationship in which the parents are not married.
Obligation or 'child maintenance obligation'	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.
Prior child or children	Some parents have children from more than one relationship. We use 'prior children' to refer to children from a previous relationship.
Parent with Care	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.
Social assistance	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.
Social benefit	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.
Step-child	Where a parent has responsibility for a child living in their household who is not related to them biologically.
Tax benefit	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.

## SUMMARY OF CONTENTS

Content Areas and Question Numbers

### **Part One Development of Child Maintenance Regime (Questions 1.1-1.4)**

### **Part Two Entering the Child Maintenance System**

- 2.1 Child maintenance arrangements for couples who have been married (Questions 2.1.1-2.1.3)
- 2.2 Child maintenance arrangements for couples who have lived together without being married (Questions 2.2.1-2.2.3)
- 2.3 Child maintenance arrangements for those who have never lived together (Questions 2.3.1-2.3.3)

### **Part Three The Determination of Child Maintenance Due**

- 3.1 Overview (Questions 3.1.1-3.1.5)
- 3.2 Private agreements about child maintenance (Questions 3.2.1-3.2.2)
- 3.3 Court determination of child maintenance (Questions 3.3.1-3.3.10)
- 3.4 Problems and revisions for court determinations (Questions 3.4.1-3.4.4)
- 3.5 Agency determination of child maintenance (Questions 3.5.1-3.5.10)
- 3.6 Problems and revisions for agency determinations (Questions 3.6.1-3.6.5)
- 3.7 Review and summary (Questions 3.7.1-3.7.5)

### **Part Four Collection, Payment, and Enforcement of Child Maintenance**

- 4.1 Direct arrangements for collecting maintenance (Questions 4.1.1-4.1.4)
- 4.2 Mediated arrangements for collecting maintenance (Questions 4.2.1-4.2.5)
- 4.3 Non-compliance (Questions 4.3.1-4.3.3)
- 4.4 Guaranteed maintenance programs (Questions 4.4.1-4.4.6)

### **Part Five Financial Interactions**

- 5.1 Treatment of maintenance received (Questions 5.1.1-5.1.3)
- 5.2 Treatment of maintenance paid (Questions 5.2.1-5.2.3)

**Part Six      Costs and Quantitative Data on Outcomes**

6.1            Costs of the child maintenance regime (Questions 6.1.1-6.1.6)

6.2            Quantitative data on child maintenance (Questions 6.2.1-6.2.6)

**Part Seven    The Overall Context**

7.1            Topics of debate and research (Questions 7.1.1-7.1.5)

7.2            Your evaluation of the child maintenance regime (Questions  
7.2.1-7.2.3)

**Part Eight    Two Vignettes (Questions 8.1.1-8.8.3)**

## 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 cohabitantes;
- 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.

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

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)

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)

## **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.

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?

### **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.

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?

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

### **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?

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.)

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

## **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 cohabitees;
- 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 cohabitees? 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.

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 cohabitees, and those who have never lived together.)

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.

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.

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 cohabitantes 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?

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?

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

### 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?

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

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 it 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.

#### **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 cohabitees, 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 cohabitees, and parents who have never lived together?

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.

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

3.5.3 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.

3.5.4 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 3.5.4 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?

3.5.5 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?
- 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?

3.5.6 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 it 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?

3.5.7 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?
- 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?

3.5.8 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?
- 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?

3.5.9 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?
- B. Does the number of children affect the amount of 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.)

3.5.10 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.
- 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.

### 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.

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

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

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;
- 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.

3.6.5 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.)
- 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?

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.

### **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?

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?

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?

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?

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?

## **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.

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

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

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

### **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.

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 cohabitantes 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.

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).

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?

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

### 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

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.)

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.)

#### **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).

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.

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?

### 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).

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

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

## 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.

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.

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.

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.

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.)

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.

## 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 cohabitantes, and parents who have never lived together, please do so.

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

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.

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?

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?

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)?

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

## 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:

- the impact of your child maintenance regime on relationships between the parents, and relationships of the parents with their children;
- the impact of your child maintenance regime on 'new' relationships or marriages, or step-children;
- the impact of child maintenance on the labour market behaviour of parents with care;
- the impact of child maintenance on the labour market behaviour of non-resident parents;
- (if there is a guaranteed maintenance program) the effect of guaranteed maintenance on non-resident parents payment of child maintenance;
- (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?

On which of these topics has there been research? What are the main conclusions of this research? Are there any other main areas of research on child maintenance in your country? Please provide citations of what you view as the 2-5 most important pieces of published research.

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

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.

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

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

## 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.

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.

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.

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?
- 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.

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

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

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

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.

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)?

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

## **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 per cent of median full time male earnings.

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

8.2.2 Would any other outcomes likely differ? Please explain.

### **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 per cent 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.

8.3.2 Would any other outcomes likely differ? Please explain.

### **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.

8.4.2 Would any other circumstances likely differ? Please explain

## 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.

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

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

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

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.

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?

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

## 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.

8.6.2 Would any other outcomes likely differ? Please explain.

## 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?

8.7.2 What would result — is it likely the obligation would change? To what? Please explain.

8.7.3 Would any other outcomes likely differ? Please explain.

### **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?

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

8.8.3 Would any other outcomes likely differ? Please explain.

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

# Appendix C

## Summary of regimes

### Australia

#### **Principles**

The principal explicit policy objective (as written into the Child Support Act, 1989) of the Child Support system in Australia is to ensure that children receive an adequate level of financial support from their parents. The policy goals of child support in Australia include reducing child poverty, encouraging parents to take financial responsibility for their children, and reducing financial dependence of families with children on the state.

Explicit objectives (as written into the Child Support Act, 1989) include:

- that the level of financial support to be provided by parents for their children is determined according to their capacity to provide financial support and, in particular, that parents with a like capacity to provide financial support for their children should provide like amounts of financial support;
- that the level of financial support to be provided by parents for their children should be determined in accordance with the legislatively fixed standards;
- that persons who provide ongoing daily care for children should be able to have the level of financial support to be provided for the children readily determined without the need to resort to court proceedings;
- that children share in changes in the standard of living of both their parents, whether or not they are living with both or either of them;
- that Australia is in a position to give effect to its obligations under international agreements or arrangements relating to maintenance obligations arising from family relationship, parentage or marriage.

### **Process of entering formal system**

Where the parent with care is not dependent on government income support payments above the basic Family Tax Benefit (FTB), parents are free to make private agreements among themselves about child support. If parents choose to put an agreement in writing, they can register it with the Child Support Agency (CSA), without the involvement of lawyers (although lawyers and mediators can help parents draw up an agreement). The CSA issues informal guidelines for private agreements but does not attempt to impose its own formula.

Private agreements registered with the CSA attain the force of a court order and cannot be varied except by:

- a subsequent agreement between the parents that is accepted by CSA;
- a court.

If a private agreement breaks down, a parent can seek the assistance of the CSA in enforcing that agreement. However, the CSA cannot recalculate the amount of obligation unless the agreement is superseded by another agreement or otherwise ended through legal action.

The CSA strongly supports private agreements between non-resident parents and parents with care as a means of fostering individuals' responsibility for their children.

If parents are unable to agree, even after the intervention of mediators or lawyers then either parent can apply to the CSA. The CSA will then assess according to its own formula.

## Austria

### **Principles**

In Austria child maintenance is regulated in § 140 ff. The ABGB is the codification of the Austrian civil law and its legal supervision and development is the competence of the ministry of justice. The rules concerning child maintenance do not differ whether the parents are married or cohabitants, are separated or divorced or have never lived together. In addition several public law rules exist which arrange for social assistance, social benefits and tax benefits.

The parents are free to make private agreements concerning child maintenance. However, these agreements need the approval of the court in order to be effective.

### **Process of entering formal system**

Parents are free to make private agreements. However, this agreement always needs the approval of the court in order to be effective. The court usually denies its approval if the agreed child maintenance is lower than the legal one. If a private agreement cannot be reached the only possibility left is to seek a judicial decision

about the amount of child maintenance on behalf of the child (the child – represented by the parent with care sues for child maintenance). Court rules regarding calculation of obligations will then apply.

A decision of the court concerning the amount of child maintenance is necessary in all those cases where no agreement was made or where it was not approved by the court.

## Belgium

### Principles

In the Belgium system, the obligation of a parent to maintain his/her child is fixed on the basis descent between parent and child rather than any situation between parents. Furthermore this obligation is a matter of public order and cannot be renounced by mutual agreement.

Explicit objectives of the child maintenance regime in Belgium have been described as being to:

- diminish poverty;
- guarantee a larger social security;
- preserve family solidarity.

Important implicit objectives include, to:

- guarantee a certain minimum standard of living;
- maintain the previous standard of living of the child.

### Process of entering formal system

Parents can make private agreements about amounts of child maintenance which do not have to be approved in court. However, private agreements not approved in court have no legal value. Furthermore, without a legally approved agreement, a parent cannot claim guaranteed maintenance or maintenance due (because there is no legal or authentic deed). If parents cannot agree about child maintenance amounts they can request assistance from mediators (such as the *Centrum voor Algemeen Welzijnswerk (CAW)*) or lawyers and notaries to help them come to an agreement. When approved by the Court, judges or lawyers will check that the amount (and other regulations made about) the child maintenance are correct.

Where parents cannot agree on amounts of child maintenance, the Juvenile Court will determine the amount and enforce the child maintenance to one of the parents (for which they can use a calculation method(s) as a reference point).

## Canada (Ontario)

### Principles

With respect to determining the amount of child support, Federal Child Support Guidelines objectives as stated in law are:

- to establish a fair standard of support for children that ensures they continue to benefit from the financial means of both spouses after separation;
- to reduce conflict and tension between spouses by making the calculation of child support orders more objective;
- to improve the efficiency of the legal process by giving courts and spouses guidance in setting the levels of child support orders and by encouraging settlement;
- to ensure consistent treatment of spouses and children who are in similar circumstances.

### Process of entering formal system

All couples, whether married or not married, are allowed to arrive at a private child maintenance agreement. An exception is when the custodial parent is on social assistance, in which case a private agreement must conform to the Ontario (federal) guidelines. Where parents cannot agree (even with the assistance of mediators) then they can go to court to have the decision made for them.

The court will use the Canadian child support guidelines which calculate amounts by reference to a complicated formula.

## Denmark

### Principles

The primary explicit policy objective of the Danish child maintenance regime is to ensure that, where an application for child maintenance has been made:

- parents who live apart contribute financially for their children.

The primary implicit objective is to ensure that:

- parents (both fathers and mothers) take responsibility to support all marital and non-marital biological children until age 18 whether they live with the parent or not.

Other implicit objectives include:

- to ensure that all children, regardless of their parents' economic circumstances, have a minimal subsistence level through the provision of advance maintenance and other social benefits for single parents;
- to have a system which is simple and inexpensive to administer.

### **Process of entering formal system**

All parents are able to make private agreements about child maintenance amounts. Where parents cannot agree, the *statsamt* determines the amount of maintenance (by reference to formal guidelines).

In issuing child maintenance orders, the *statsamt* makes agreements enforceable by the municipalities and makes it possible for parents with care to get advance maintenance.

## Finland

### **Principles**

Fundamentally, the core of the Finnish maintenance arrangements is that the need for maintenance does not arise from the need to compensate the parent with care for the loss of the absent parent's income. Rather, the need lies in compensation for the loss of the non-resident parent's contribution towards the support of the child.

The main principle of the child maintenance act is that:

- parents are responsible for the maintenance of their child(ren) according to their ability.

### **Process of entering formal system**

All parents would be allowed to make private agreements as to the amount of the child maintenance obligation. However, where the parents have been married either the municipal social welfare board or the court must approve the agreement (and other parents are also encouraged to get their agreements approved. Only agreements approved by the municipal social welfare board can be considered for guaranteed maintenance).

If parents cannot reach a private agreement, then they may wish to seek advice from the municipal social welfare board to help them reach one. Alternatively, they can turn to private solicitors who would then mediate between them – or let the court (using guidelines) decide the matter.

## France

### **Principles**

The main explicit objective in the child maintenance legislation is:

- to enforce parental liability (but note that, in France, there has not been any objective of reducing possible costs to the state due to children not living with both parents).

An implicit objective may be to promote negotiation between both parents so that they reach an arrangement, thus making the arrangement more acceptable and stable. The reference point is 'to stay parents even after separation', in a situation of what is called '*co-parentalité*' or co-parenthood.

### **Process of entering formal system**

Private agreements regarding the amounts of child maintenance are possible in all cases. For separating married parents, private agreements will be ratified by the judge in any decision concerning divorce or legal separation. For never married parents (whether or not they have cohabited), there is no formal acknowledgement, ratification or approval of private agreements. Never married parents, and also those who have been married, can ask the judge to determine (using discretion) the level of child maintenance when they do not agree or when there is a conflict between them about the child maintenance obligation.

## Germany

### **Principles**

The broad policy objectives of the German child maintenance regime are:

- to secure the maintenance of children and to prevent child poverty;
- to strengthen parental obligations to their children.

### **Process of entering formal system**

All parents are allowed to make private agreements about the amount of child maintenance. However, they are not allowed to make agreements that are against the interest of the child in question. An agreement that renounces future obligations or which stipulates maintenance payments more than 20 per cent below the 'support tables' used by the courts would be considered as against the interest of the child. Parents can seek the authentication of a private agreement (especially with regard to the non-resident parents commitment to pay maintenance), either through a notary or the Youth Welfare Office (*Jugendamt*).

If parents cannot reach a private agreement, then they may wish to seek help from a lawyer or from the Youth Welfare Office. If such courses of action also fail then one parent (usually the parent with care) can seek a court decision. The court will use their 'support tables' for the calculation/determination of child maintenance (these are also used as a reference point for lawyers, the Youth Welfare Office and parents making private agreements).

## Netherlands

### Principles

The explicit goals of child maintenance policy in the Netherlands are:

- to ensure the payment of child maintenance by non-resident parents (NRP's) to parent with care (PWC) through mutual consent, or if necessary via the *Landelijk Bureau Inning Onderhoudsbijdragen* (LBIO) collection agency; as well as
- to ensure the child receives an equal amount of support care from both parents.

The implicit objective of this policy area is:

- to create a situation where parents with care can enter or re-enter the workforce thus lessening the financial burden on the social welfare system. Numerous changes have been suggested to create a single national agency to deal with child maintenance and streamline the process to remove the burden on the court system as well as the social welfare system.

### Process of entering formal system

All parents are allowed to make private agreements regarding child maintenance obligations which must then be approved by a judge using the NIBUD (national index on the cost of raising a child) guidelines. However if one of the parents is on social assistance and/or is not able to sustain themselves and the child financially then it is the judge who makes the decision regarding the amount of child maintenance due - using the guidelines mentioned above.

If the parents are unable to reach a private agreement then the case is brought before a judge who will then decide what the child maintenance obligation is.

## New Zealand

### Principles

The New Zealand Child Support Act 1991 has eleven objectives, the main ones being:

- the legislative determination of the level of child support (and so the avoidance of Court proceedings);
- the dedicated role of the State in collecting (and paying) child support;
- 'to ensure that the costs to the State of providing an adequate level of financial support for children and their custodians is offset by the collection of a fair contribution from non-custodial parents'.

Other objectives include:

- ensuring that non-resident parents contribute towards the cost of their children (though the majority of the collected money offsets the costs of the Domestic Purposes Benefit);
- ensuring that non-resident parents in similar circumstances pay similar amounts of child support.

### **Process of entering formal system**

All parents, regardless of marital status, can (but do not have to) register a private agreement with Inland Revenue Child Support (IRCS) as to the amount of child maintenance, subject to a minimum payment of \$10 per week (if the custodian is in receipt of a sole parent social security benefit, the agreement must be for payments equivalent to or more than the amount which would be payable under a formula assessment).

If parents are unable to reach a private agreement either party may apply for an IRCS formula assessment of child support.

## Norway

### **Principles**

The broadest child maintenance policy objective in Norway is:

- to share the costs of children between both biological parents.

It can be argued that the emphasis of child support policies has changed since the first (reasonably efficient) scheme in 1915. Initially, the main policy goal was to combat child poverty and to encourage responsibility in non-resident fathers. In recent debates however, the emphasis on child poverty – or indeed on the duty to provide for children at all – was almost completely absent. Rather, the arguments focused on continuous care from both parents. The main concern was no longer to **force** fathers to take financial responsibility, but rather to **encourage** them to care for their children after the break-up.

### **Process of entering formal system**

All parents are encouraged to make private agreements concerning child maintenance obligations. The only circumstance in which public authorities would intervene is where the parent with care receives forwarded maintenance and the parents have agreed on a sum smaller than the forwarded amount. Where the National Insurance suspects the non-resident parent could afford to pay more it can raise the amount that is to be reclaimed.

If parents cannot reach a private agreement, either party can ask the National Insurance to make the decision for them (using rules/rigid formula).

## Sweden

### Principles

Parents have primary responsibility to come to an agreement on how to support their children, that is, how much each parent should pay for the caring of their children. This responsibility is regulated by law (The Children and Parents Code). Non-resident parents are obliged to contribute towards the support of their child(ren).

### Process of entering formal system

All parents can make a private agreement as to the amount of child maintenance.

Parents who cannot come to an agreement have to seek legal counselling from lawyers and other juridical representatives. The decision is then settled in legal courts (with the aid of guidelines).

## United Kingdom

### Principles

The primary child maintenance system in the **UK** is the 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 non-resident parents (mainly fathers) accept that they have a responsibility to 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 non-resident parents take on more financial responsibility than in the past.

### Process of entering formal system

Parents can make private 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 parent with care claims social assistance any private agreements are overturned.

If parents cannot reach an agreement then they can apply to the CSA who would then decide the amount of child maintenance due using rigid formulae.

## United States of America (Wisconsin)

### Principles

For the USA and Wisconsin generally the policy objectives are:

- to increase the incomes of lone-parent families;
- to require parental financial responsibility for biological children;
- to limit public expenditures;
- to ensure at least a 'rough justice' in the way children are treated who do not live with both parents.

Further, Wisconsin does explicitly state in the preface to their child support administrative code that:

- 'The [child support assessment] standard is based on the principle that a child's standard of living should, to the degree possible, not be adversely affected because his or her parents are not living together.'

### Process of entering formal system

In regard to private agreements, the significant distinction in both the **USA** and Wisconsin is whether the family is receiving income-tested Transitional Aid for Needy Families or food stamp benefits – parents who are receiving these benefits are required to use the child support agency. Parents not receiving benefits are allowed to make a private agreement (however, divorcing couples will have to come before a court to get the divorce, and thus any private agreement would be reviewed).

In Wisconsin the courts play a primary role in determining maintenance amounts and, where parents cannot agree, either one of them can request the help of the child support agency, which would bring the case to court (who would make their decision according to a formulae). Even without assistance of the child support agency, either party could appeal to the court for resolution (and a court-ordered agreement).

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