



Department for Work and Pensions

Report on the child maintenance White Paper *A new system of child maintenance*

Reply by the Government to the Fourth Report of
the Work and Pensions Select Committee: Child
Support Reform: Session 2006-07 [HC 219-I]

Presented to Parliament by the Secretary of State for Work and
Pensions by Command of Her Majesty
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REPLY BY THE GOVERNMENT TO THE FOURTH REPORT OF THE WORK AND PENSIONS SELECT COMMITTEE: CHILD SUPPORT REFORM: SESSION 2006-07 [HC 219-I]

Introduction

The Government welcomes the Fourth Report of the Work and Pensions Select Committee Session 2006-07 which considered the proposals contained in the child maintenance White Paper.¹

The White Paper set out the Government's radical and far-reaching proposals for the wholesale reform of the child maintenance system so that much more money reaches the children who need it.

The proposals in the White Paper built on recommendations made by Sir David Henshaw in July 2006. He found that the system's existing failings reflected both policy and operational problems and recommended that an entirely new approach be put in place. Under the new system, parents would be encouraged and enabled to take responsibility for making their own child maintenance arrangements. Improved information and support would be put in place to help them do so, with firm and effective action to assess, collect and enforce payments where necessary.

The Government accepted Sir David's principal recommendations. Based on these it established four new principles for the reform of the child maintenance system. These are to:

- **help tackle child poverty** by ensuring that more parents take responsibility for paying for their children and that more children benefit from this;
- **promote parental responsibility** by encouraging and empowering parents to make their own maintenance arrangements wherever possible, but taking firm action – through a tough and effective enforcement regime – to enforce payment where necessary;
- **provide a cost-effective and professional service** that gets money flowing between parents in the most efficient way for the taxpayer; and
- **be simple and transparent**, providing an accessible, reliable and responsive service that is understood and accepted by parents and their advisers and is capable of being administered by staff.

These four principles refocus the child maintenance system on meeting the needs of children. They make tackling child poverty the first and most critical test for reform, and they establish and enforce clear rights and responsibilities – the right of a person to make a claim and the resulting responsibility of the non-resident parent to pay.

The Committee has acknowledged that the move to a system that encourages more parental responsibility is a bold step and, in recognising the challenges in this area, has put forward a number of recommendations for the Government to consider in developing its proposals.

¹ *A new system of child maintenance* (Cm 6979, December 2006).

The publication of the White Paper marked the start of a 13-week formal consultation exercise on the proposals it contained. Some of the issues raised by the Committee in its report have also been raised by members of the public and stakeholders as part of the consultation process. The Government has also published its summary of these responses alongside this report.² The report summarises how the comments and suggestions have influenced the Government's proposals and how they will be taken forward.

This paper focuses on responding to the specific conclusions and recommendations made by the Committee in its report.³

Conclusions and Recommendations

1. In light of the recommendations of our previous report, we are pleased to note that the Government's proposals to reform the CSA include its eventual wind-up (paragraph 9).

- 1.1 The Government welcomes the Committee's positive response to its proposal to establish a new and radically different organisation to administer child maintenance.
- 1.2 The Government is clear that the current system is not delivering what was expected of it and is not serving parents as well as it should be, despite the best efforts of Child Support Agency staff. Although the problems go much wider and deeper than the Child Support Agency itself, and while there have been welcome signs of improvement in its performance, the Child Support Agency will always suffer from the legacy of the past.
- 1.3 As a Non-Departmental Public Body, the new organisation (the Child Maintenance and Enforcement Commission (C-MEC)) will facilitate innovative approaches to delivery and will harness the expertise of the public, private and third sectors. It will have the flexibility to shape its services and adapt its policies in the light of experience. The independence afforded to C-MEC will also help to instil public confidence in the delivery of child maintenance services.
- 1.4 In the meantime, the Child Support Agency will continue to deliver its Operational Improvement Plan. This will provide a solid foundation on which to build and implement the radical changes to the child maintenance system outlined in the White Paper. The performance of the Child Support Agency has already started to improve in some areas. For instance, at the end of March 2007:
 - compared with a year earlier, 45,000 more children had maintenance collected by the Child Support Agency or had an amount arranged by the Child Support Agency which was then paid from one parent to the other. Chart 1 shows the number of children either receiving maintenance or with a Maintenance Direct agreement in place between March 2003 and March 2007;
 - compared with March 2006, the number of uncleared applications across both schemes was down by 31 per cent. Chart 2 shows new scheme intake, clearances and uncleared work between January 2006 and March 2007; and
 - client service had improved with the Child Support Agency answering 97 per cent of telephone calls available to answer in the previous year, up from 91 per cent between April 2005 and March 2006.

² *A new system of child maintenance – Summary of responses to the consultation* (Cm 7061, May 2007).

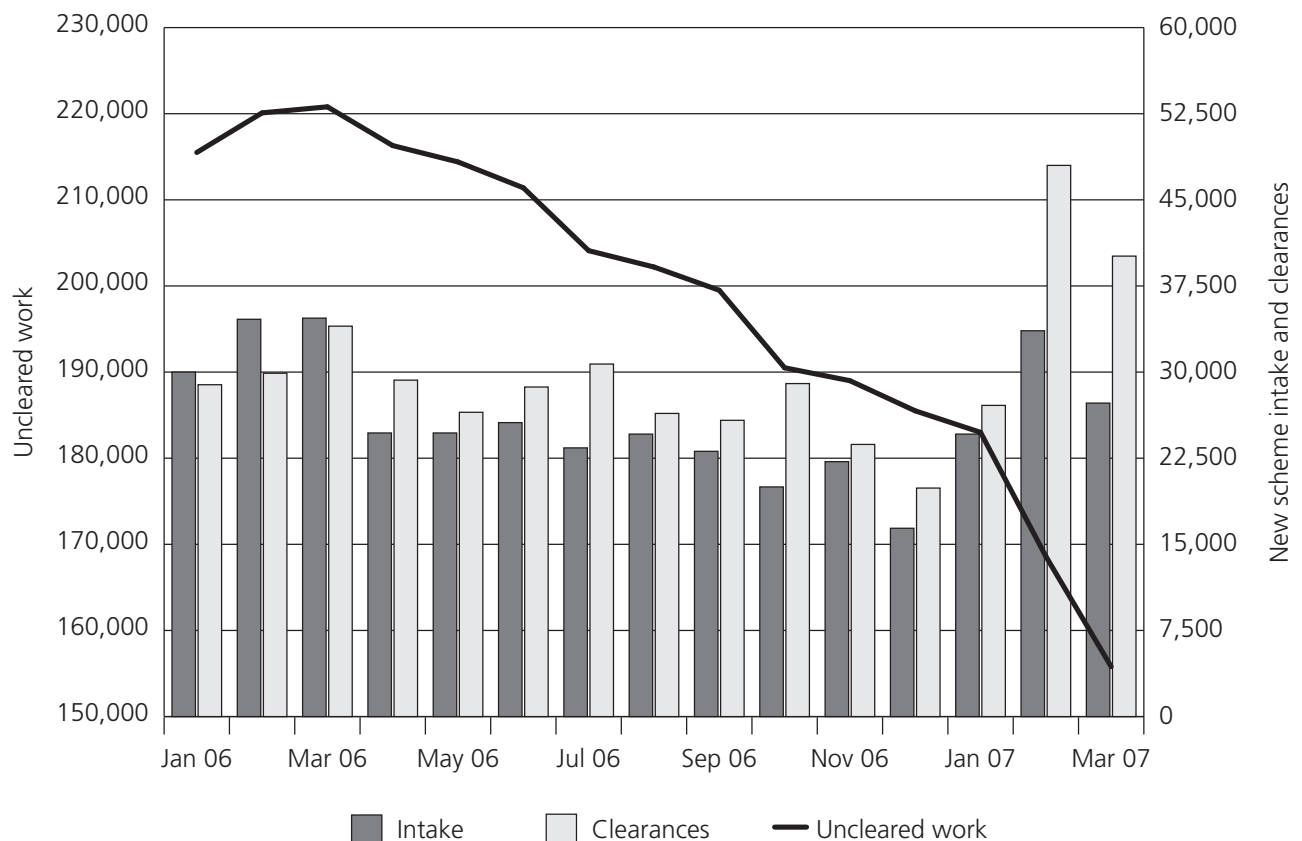
³ Fourth Report of the Work and Pensions Committee: Child Support Reform: Session 2006-07: HC 219-I.

Chart 1: Number of children either receiving maintenance or with a Maintenance Direct agreement in place



Data source: Child Support Agency Quarterly Summary of Statistics (QSS), March 2007.

Chart 2: New scheme intake, clearances and uncleared work



Data source: Child Support Agency, QSS – March 2007.

- 1.5 As the Operational Improvement Plan begins to move beyond the operational restructuring and training phase, further improvements will be evident. By the end of the Plan in 2009, over £200 million of additional arrears will have been collected from non-resident parents; 30–40,000 additional children will have been lifted out of poverty; there will be no backlog of new scheme cases; and an extra £250 million of maintenance will have been collected.

2. The Government needs to recognise, in planning the provision of advice services and ensuring that these meet the needs of both parents, that parents making private arrangements may well not enjoy equal bargaining power, with the potential for such power imbalances to be reflected in the terms of financial arrangements. We also ask the Department to explain how the problems associated with the child maintenance system before the Child Support Act 1991 will not simply recur with the increased emphasis on private arrangements (paragraph 23).

- 2.1 The Government welcomes the Committee's observations. The Government is clear that a movement to private arrangements will be a positive change for many parents and children, especially those who are not able currently to choose such an arrangement. However, it also recognises that this will not be suitable for everyone. Many parents will require help and support to make an informed choice about what arrangements suit them best, and many will need to take advantage of C-MEC services that pursue and enforce maintenance arrangements. It is certainly not the Government's intention to force anyone into a private arrangement or to deny access to other C-MEC services if a private arrangement does not work out.
- 2.2 The Government wants to design the new system so that it reduces potential power imbalances between parents. As a result, it will be imperative to establish an effective and efficient way of assessing, collecting and enforcing maintenance arrangements where it is not possible to arrange maintenance privately. Parents will be able to negotiate in the knowledge that, if they are unable to reach an agreement, there will be an effective statutory scheme to fall back on.
- 2.3 Together with this, the Government wants to encourage and incentivise parents to seek maintenance. The introduction of a significantly higher maintenance disregard will increase the incentive for parents with care on benefits to seek, and non-resident parents to pay, maintenance. The Government also intends to enhance the prospects of parents reaching fair and equitable settlements by placing a responsibility on C-MEC to provide necessary information and support. We would expect such support to include:
- providing high-quality information to parents to help them understand what options they have to arrange maintenance;
 - providing parents with the tools that will help them initiate discussions around maintenance and then negotiate with the other parent, and helping deal with difficulties that arise once payments are up and running; and
 - ensuring parents understand how much maintenance would need to be paid if they used C-MEC for assessment purposes.
- 2.4 The Committee also asks how the Government will avoid repeating the mistakes of the past. The Government's reform of child maintenance will ensure that there will be no return to the position before the Child Support Act 1991 came into force. The system that existed before 1993 did not effectively provide child maintenance for the vast majority of children for the following reasons:

- Firstly, in the past, the courts were only used by a minority of parents to arrange maintenance, primarily those who were divorcing. The increasing number of parents who had either cohabited or had never lived together did not use the courts. The 1990 White Paper that preceded the establishment of the Child Support Agency noted that the cumulative effect of the system at that time was ‘uncertainty and inconsistent decisions about how much maintenance should be paid’ and noted that this inconsistency occurred ‘even where the circumstances of the people involved appear to be very similar’.⁴
- Secondly, there was no formula underpinning child maintenance awards and the awards were often arbitrary and, as a result, difficult to enforce.⁵
- Thirdly, child maintenance had no disregard for benefit purposes, so if a parent with care was on relevant benefits, any money that was paid by the non-resident parent went straight to the State rather than to the child. Therefore, there was no incentive for either the court or parents to settle and pay regular amounts of child maintenance. In particular, the courts had an incentive to set low, ‘benefit-efficient’ amounts of maintenance that were not in the long-term interest of parents or their children.

2.5 Our client-focused proposals – a quick, effective assessment process with maintenance calculated by a simple and widely publicised formula; a service to inform and support parents to make suitable and sustainable maintenance provision; and a significantly higher disregard, which will make sure that more money goes to children – will all combine to ensure a new system of child maintenance that does not repeat the mistakes of the past in such cases.

3. The Committee agrees that Jobcentre Plus has an important role in signposting lone parents to child maintenance advice services. However, by definition Jobcentre Plus will predominantly be dealing with lone parents claiming benefits. There will be other separating parents on low incomes with a need to have a child maintenance arrangement in place who will not necessarily have contact with Jobcentre Plus. The Government needs to find ways of reaching these other groups, such as low income separating parents in paid employment, to ensure that they are not at risk of being left without adequate child maintenance arrangements (paragraph 31).

- 3.1 The Government welcomes the Committee’s support for Jobcentre Plus continuing to identify parents claiming income-related benefits with a child maintenance liability to encourage them to use the new information and support services. The Government agrees with the Committee that it needs to focus on ensuring that services reach the widest range of parents. To this end, Jobcentre Plus is closely involved in the development of the new system.
- 3.2 The Government has been considering a range of channels through which it could encourage harder to reach parents to access the information and support services to minimise the risk that they will end up with no maintenance arrangement at all. This includes work by HM Revenue & Customs with respect to parents on tax credits.

⁴ *Children Come First: The Government’s proposals on the maintenance of children* (Cm 1264, October 1990).

⁵ *Ibid.*

4. The Committee accepts that C-MEC should not be involved in questions of contact and support for parenting by separated couples, but believes that these issues are an inevitable and unavoidable part of many CSA clients' lives. Ensuring that there is sufficient high-quality, holistic, trusted and independent advice for both men and women in all areas of the country is therefore an essential precondition of success for the Government's proposals. It will be crucial for parents who have separated, for example, to receive timely advice on what is a reasonable settlement and how payments should be set up (paragraph 57).

- 4.1 The Government recognises that the information and support services will need to be, and be seen to be, as impartial as possible, and both parents may need separate support through this process. The service will need to have a strong focus on options for different types of maintenance arrangements, support to help people set up their chosen arrangement, and promote an understanding of the level of maintenance arrangement that would be payable if someone had an assessment made by C-MEC.
- 4.2 The Government does want the information and support services, provided by C-MEC, to remain focused on helping parents put in place reliable child maintenance arrangements.
- 4.3 However, on a wider front, the Department for Work and Pensions is working with other government departments to see how best to disseminate the messages about the importance of child maintenance and how best to make arrangements through other associated literature and alternative outlets such as Children's Centres, Sure Start and local authority offices.
- 4.4 The Government knows that many of the issues around separation are bundled together in both parents' minds at the point of separation and that contact is one of those issues. The Government will expect C-MEC to recognise this in providing its information and support services and to offer signposted help where possible. The Government recently made clear its commitment to create a new universal and integrated system of help and support for parents by 2010-11.⁶

5. The Committee recommends that whether the advice is provided by a single source or separate organisations signposted from a central body, the availability should be well known, and that the advice itself should be delivered sympathetically. We are not convinced that C-MEC will be the right organisation to deliver this advice (paragraph 57).

- 5.1 The Government sees the information and support services that will be commissioned by C-MEC as a significant and important broadening of responsibilities compared with those of the Child Support Agency. C-MEC will take wider responsibility for underpinning the efficacy of the entire maintenance system rather than solely the assessment, collection or enforcement of maintenance. It will need to focus on ensuring that as many parents as possible make effective child maintenance arrangements.
- 5.2 The Government fully agrees with the Committee that information and support services need to be delivered as sympathetically as possible. It is for exactly this reason we are working extensively with third sector organisations to ensure that services are designed in an inclusive, holistic and responsive way. We believe the engagement by C-MEC of wider third/private sector partnerships to deliver these services will be important in

⁶ *Aiming high for children: supporting families* (March 2007).

embedding the reputation of impartiality that will be so important for this service. Clearly branding and communication will be critical too.

6. The Committee recommends that the Government ensures advice for separating parents is adequately funded to provide both a telephone service and face-to-face meetings. We recommend that the Government sets out its detailed plans in this area at the very latest before the Second Reading debate on the proposed Bill bringing in the child maintenance reforms (paragraph 61).

- 6.1 The Government notes the Committee's request for detailed plans on the information and support services. The Government also recognises that there is a real shortage of capacity to provide such services. The Government recognises that additional funding will be necessary for it to deliver the information and support services it requires.
- 6.2 Stakeholders will play an important role in the design and development of the services. The Government will continue to work with stakeholders that have extensive expertise in this area, such as One Parent Families, Gingerbread, Relate, Parentline Plus and Citizens Advice.
- 6.3 In the first instance, the Government wishes to test out some of these services on a small scale starting from spring 2008 onwards prior to transfer to C-MEC, and to work towards a national service from that point. It is envisaged that C-MEC will offer a web-based service from the end of 2008 and that it will revisit the client service offer on a regular basis to ensure that parents are getting the right information and support in a way best suited to them that delivers the objectives the Government seeks. This will be an ongoing process.
- 6.4 The Government needs to ensure that C-MEC provides services accessible to both parents in various different forms – research shows that helplines and face-to-face support are particularly favoured by this client group. C-MEC will have to provide the information and support that parents need. We anticipate that to do this C-MEC will establish new services, working with the third sector, to help deliver this objective.

7. In our opinion, it seems that if the Government is intent on moving clients towards private agreements and away from using C-MEC then its decision not to explore the use of the courts is inconsistent. The Committee recommends that the Government reconsider the decision not to allow courts to make a maintenance order unless both parties consent (paragraph 67).

- 7.1 The Government has listened to representations that the courts should be allowed to determine and impose child maintenance. The Government wants to give parents the choice of resolving child maintenance either by a private agreement, or by recourse to a straightforward and transparent administrative process. It is the Government's view that providing a further parallel State child maintenance system operating on very different principles and with the ability to set very different levels of child maintenance would add a further level of complexity that would not, for the vast majority of clients, lead to a better service.
- 7.2 The Government understands the real difficulties that can arise for some people who, on separation, use the courts to settle a wide range of issues including child maintenance. As a result, the Government is keen to work with relevant stakeholders to explore ways to improve the interface between the administrative system and the court system so that settlements for parents who are using the court system to settle a range of issues can progress as quickly and smoothly as possible.

8. The Committee is concerned that the 12 month rule may not be working as intended and recommends that if the Government keeps the rule then it needs to find a way of addressing the weaknesses identified by Sir David Henshaw and highlighted in the evidence we received, in particular the confusion over the powers of the CSA to make maintenance assessments even after a “clean break” settlement and the potential manipulation of the 12 month rule by some self-employed non-resident parents to lower their child maintenance payments (paragraph 76).

- 8.1 The Government notes the Committee’s concerns about the 12-month rule. The 12-month rule ensures that Consent Orders contain fair and consistent levels of child maintenance and provides parents with a route back into the assessment, collection and enforcement services of C-MEC if their order breaks down. Removal of the 12-month rule would keep parents locked into the court system and would enable the courts to make awards that were not consistent with the formula.
- 8.2 We want parents to agree fair and sustainable child maintenance arrangements, and to ensure that, if agreements do break down or circumstances change, children can continue to receive maintenance because their parents will still have the opportunity to access the services provided by C-MEC.
- 8.3 One of the faults of the past was that courts authorised clean-break settlements leaving children stranded in poverty without any ongoing child maintenance. The Government does not want to return to this past scenario and the 12-month rule appears to be effectively discouraging this type of settlement.
- 8.4 We recognise that there may be some difficulty in assessing some people’s income, which can make it difficult for the courts to deal with a range of issues on divorce. We will be working with stakeholders to explore ways in which the administrative system can try to address this issue.

9. The Committee believes that without any powers to set standards, monitor or enforce it is unclear what would motivate people to register private agreements and particularly how the Government would encourage separating parents, and especially those on low incomes, to do so. Parents must have confidence that C-MEC will enforce any child maintenance agreement which has been registered with it, if asked by either parent. Past experience indicates that the only way these arrangements can work is if both the parent with care and the non-resident parent believe that C-MEC will take on their case and process it speedily and efficiently if the arrangement breaks down (paragraph 86).

- 9.1 A register of private agreements needs to be seen as an additional, complementary element of the overall information and support service. The potential value of a register is in the extent to which it supports greater numbers of parents to feel comfortable enough to try a private maintenance agreement (and support compliance in those arrangements).
- 9.2 To try and address some of the key concerns about private arrangements, the register would need to let parents know what level their C-MEC assessment could be, provide copies of completed maintenance forms and support parents to regularise maintenance payments for their children. Registered agreements would not become enforceable if that arrangement subsequently broke down. Rather parents would be supported and, wherever necessary, referred across quickly to the relevant part of C-MEC for arrangements to be put on a more robust footing.

- 9.3 The Government thinks the arguments for and against a register are fairly well balanced. Some consultation respondents to the White Paper believed a register would be well used, offer further help rebalancing the negotiating power between parents and have a wider symbolic importance for parents by formally recording their financial commitment to their children. Other respondents thought very few would use the register and suggest it could be confusing and complex for parents.
- 9.4 Since no parallel register exists elsewhere at present there is little definitive evidence that a register would prove cost-effective and would be sufficiently well utilised. To this end, the Government believes that C-MEC should form a view as to whether it should run a register, potentially on a test basis first, to assess take-up, its cost-effectiveness and the relative stability of the agreements reached.

10. The Committee is concerned that, whatever the merits of joint birth registration, this highly sensitive matter is being tagged onto child maintenance legislation when it potentially has wider ramifications through the family law system (paragraph 95).

- 10.1 The Government agrees with the Committee's view that joint birth registration is a sensitive matter. Sir David Henshaw recognised, as the Government does, that this is an issue of child welfare which has wider ramifications, not only for the family law system, but also across government. That is why it will be treated as an issue distinct from child maintenance.
- 10.2 The Government will come forward with proposals on the joint registration of births in England, Wales and Northern Ireland. Work on this issue is being taken forward by a cross-departmental group chaired by the Cabinet Office. The group includes representatives from the Department for Constitutional Affairs, the Department for Education and Skills and the Office for National Statistics, as well as the Department for Work and Pensions and the devolved administrations. Any Government proposals in this area will be published and subject to further consultation and debate. In legislative terms, this will not be included in the proposals to be laid before Parliament with respect to child maintenance reform.

11. The Committee is not convinced by the Government's argument that it is inappropriate for C-MEC to collect maintenance calculated through voluntary arrangements. The Committee believes that Government should be doing all it can to facilitate private arrangements. In appropriate cases this will mean enabling parents to come to private agreements but providing an official collection service which provides both payer and payee with an authoritative account of payments of child maintenance made and received (paragraph 102).

- 11.1 The Government welcomes the Committee's support for its position on private agreements. However, the Government does not believe that the assessment, collection and enforcement functions of C-MEC should include responsibility for collecting any maintenance payable under voluntary agreements which could be set at any level and reflect any number of individual tailored aspects. Rather, if someone is dissatisfied with their private arrangement, they would be encouraged and supported to claim maintenance through C-MEC.

12. The Committee recognise that Deduction from Earnings Orders are a useful tool to receive payments from non compliant non-resident parents. We note that the DWP intends to test them as a first means of collecting maintenance, even if the non-resident parent would be willing to pay by another method. Although this proposal could have merits, it would be a significant step and we ask the Department

to set out when and where it will “test” this and what steps it will take to avoid antagonising non-resident parents with good payment records who are asked to participate. We ask that the lessons learned from this exercise be reported to the Committee (paragraph 107).

- 12.1 The Government welcomes the Committee’s views on Deduction from Earnings Orders. The Government has received a number of positive responses to its proposal in the White Paper. Before taking this proposal forward, the Government will carry out research later this year, working with businesses and others, to determine the most effective way to pilot this approach. This research will inform an impact assessment to quantify more clearly the costs for employers and to ensure this approach is feasible. Legislation is needed before the pilot can start.
- 12.2 The Government does not envisage including non-resident parents who are already paying maintenance in the pilot: the intention is to include only new cases. It has not yet been decided how pilot cases will be selected, but it is important to ensure that the pilot captures a true representation of the caseload and that it takes into account the impact on non-resident parents who are willing to pay by other means. In particular, the Government is considering an exemption for those cases where the non-resident parent can show good reason for not being subject to a Deduction from Earnings Order. The Government will share the impact assessment and lessons learned from this exercise to the Committee.

13. We request further statistical information on the likely actual impact of the move from net to gross income on different categories of parents (paragraph 114).

- 13.1 The Government notes the Committee’s request for more information on the likely impact of the move from net to gross income on different categories of parents.
- 13.2 Some stakeholders were concerned about the impact of the move to gross income on calculations for non-resident parents in the higher tax bracket. The Government agrees that it would not be right, to either parent, if there were to be a substantial change in liability at the point at which using gross income as a basis of assessment starts. It is our intention that the shift from net to gross income should be broadly neutral across the income range. As such, the Government has decided that the structure of the basic rate in the new child maintenance scheme should be:
- (a) for those non-resident parents earning between £200 and £800 a week, liability is 12 per cent of gross income for one child, 16 per cent for two children and 19 per cent for three or more, across the whole of the income; and
 - (b) for those non-resident parents earning over £800 a week, for income up to £800 a week, as in (a) above, and for the income above £800 a week, the respective rates for one, two and three or more children should be 9 per cent, 12 per cent and 15 per cent.
- 13.3 Where a non-resident parent has a child living with them in their current family, their gross income will be reduced, using the same percentages as in (a), and liability assessed on the remaining income.
- 13.4 Table 1 shows the result of this structure compared with that produced in the post-2003 scheme. It should be explained that the table compares the effect only of a move from one system of calculation of liability to another. It does not take account of any

other changes that might apply at the point of change, such as taking account of a different income as the basis of liability.

Table 1: Post-2003 scheme liabilities and the proposed liabilities at different levels of gross weekly income

Weekly gross income (£)	One qualifying child		Two qualifying children		Three qualifying children	
	2003 rules (£)	Proposed rules (£)	2003 rules (£)	Proposed rules (£)	2003 rules (£)	Proposed rules (£)
50	5	7	5	7	5	7
150	14	16	17	20	21	23
250	31	30	41	40	51	48
350	41	42	55	56	68	67
450	51	54	68	72	86	86
550	62	66	82	88	103	105
650	72	78	96	104	120	124
750	82	90	110	120	137	143
1,000	106	114	141	152	172	182
3,000	283	294	377	392	471	482

Note: To calculate the 2003 rules liabilities, net weekly income has been calculated using the proposed 2008/09 tax rates and thresholds.

14. The Committee recommends that legislation should continue to provide for the Secretary of State to have the power to make regulations, subject to parliamentary approval, to adjust the standard percentage rates in the new formula; and in addition that the rates should be reviewed every five years. The Committee recognises that taking account of the income of the parent with care would introduce unwanted complexity into a child support system that is trying to be simpler (paragraph 117).

14.1 The Government agrees with the Committee's recommendation that legislation should provide for the Secretary of State to have the power to adjust the standard percentage rates in the new formula. The Government proposes that the existing powers⁷ that allow for this should be applicable in the future child maintenance scheme. Hence it will, as the Committee recommends, be possible to change the standard percentage rates by secondary legislation. As set out in the White Paper, these rates will be reviewed during the course of each Parliament.

14.2 The Government strongly agrees with the Committee that taking account in the formula of the income of the parent with care would cause unwanted complexity, rendering the results of the formula more opaque.

15. We agree with the Government's intention to reverse the decision in the Smith case and define gross income as being total income after the deduction of capital allowances. However, we note this will leave the issue open of how the parent with

⁷ Paragraph 10A of Schedule 1 to the Child Support Act 1991 (as introduced in the Child Support, Pensions and Social Security Act 2000).

care can obtain sufficient information to challenge low assessments, and ask the Government to set out how it will address this problem (paragraph 124).

- 15.1 The Government has considered the details of the regime which it wishes to introduce to determine the liabilities payable by self-employed non-resident parents. In particular, the Government has decided that capital allowances should be deducted when calculating income for child maintenance purposes.
- 15.2 As currently happens, when a decision on the amount of maintenance is made, the parent with care is given information on the level of income of the non-resident parent on which the decision is based. If the parent with care has evidence suggesting that the income figure is false, then that evidence will be evaluated. If the parent with care believes that evidence supports an application for variation of the calculation on the grounds that it is inconsistent with the lifestyle of the non-resident parent, the parent with care can make an application for a variation.⁸
- 15.3 Going forward, the Government and C-MEC will continue to review and develop the exceptional cases regime and act, as necessary, to ensure that child maintenance liabilities are based on as fair an assessment of a person's income as possible.

16. We recommend that more research should be carried out into the appropriate level of income variation to balance operational efficiency and responsiveness to individual hardship. There should be a legal duty placed upon those non-resident parents who are involved in C-MEC cases to report to C-MEC any change in income greater than or equal to the set proportion. The Department should closely monitor how effective C-MEC is in dealing with these cases promptly (paragraph 134).

- 16.1 The Government notes the Committee's concerns around the 25 per cent tolerance level. The Government notes that, among respondents to the consultation, there has been a very widespread level of disagreement with the Government's proposal in the White Paper that the figure be set at 25 per cent.
- 16.2 The experience of operating two child maintenance schemes, particularly the simpler second scheme, suggests that a level of 5 per cent 'tolerance' is simply too low, with far too many changes of income to be dealt with. The information published by the Committee in Figure 6 (at paragraph 133 of its Report) indicates that, with a level of 10 per cent, almost half of cases would be eligible for adjustment; the Government remains concerned that such a number might affect C-MEC's ability to deliver the quality of service the Government believes it should achieve.
- 16.3 The Government does not plan to require non-resident parents to report changes in income as a matter of routine. The Government considers this unnecessary and likely to lead to significant administrative costs for little benefit. There will be an annual review of the case, when income from one tax year will be replaced by income from the next tax year. Some changes, particularly moves into and from employment, will be given immediate effect. Either parent will be able to seek a review of the liability because current income differs from the historic income by 25 per cent.

17. The success of the new assessment system will depend, in considerable part, on the operational system for the transfer of information between HMRC and C-MEC. We ask the Government to make it clear how the process of data sharing will work

⁸ Paragraph 20 of the Child Support (Variations) Regulations 2000.

in practice and to report the evidence from any pilots that have taken place in testing the systems to exchange information (paragraph 139).

17.1 The Government notes the concerns of the Committee regarding the importance of the transfer of information between HM Revenue & Customs and C-MEC. Under existing legislative gateways,⁹ HM Revenue & Customs shares data with the Department for Work and Pensions. The Government intends to bring forward legislation that will enable the transfer of information between HM Revenue & Customs and C-MEC and the Department for Work and Pensions and C-MEC.

17.2 The Government envisages that C-MEC will obtain all the information it requires from the data passed to the Department. Hence, an effective conduit will be needed to pass this information from the Department to C-MEC. A thorough testing programme, including any necessary piloting, will form part of the IT programme, subject to parliamentary approval of the legislation to establish C-MEC.

18. The Committee recommends that there should be a clear, robust process of dealing with well-founded applications for variations and appeals against maintenance calculations where the parent with care believes that the non-resident parent's maintenance assessment is based on incorrect or misleading income data (paragraph 145).

18.1 The Government agrees with the Committee's recommendation and made clear in the White Paper the importance of having a clear and robust process in place for handling exceptions from the basic regime.

18.2 Going forward, the Government and C-MEC will continue to review and develop the exceptional cases regime and act as necessary, to ensure that child maintenance liabilities are based on as fair an assessment of a person's income as possible.

19. The Committee recommends that the statutory child support system moves away from the current system of overnight liabilities which causes day counting and diary keeping by parents and constant readjustments. In the Committee's view the ideal solution is that there should be an initial agreement between the parents and C-MEC on the approximate amount of time the children spend between the two households. This should govern the assessment for the remainder of the year and not be adjusted unless there are major contact changes. For arrangements with close to 50:50 shared care the Government should consider the case put by Sir David Henshaw for having no child support liability at all between parents (paragraph 162).

19.1 The Government notes the Committee's recommendation regarding the current system for overnight liabilities but believes that shared care should continue to be determined according to the number of nights a child spends with each parent. Although this approach causes difficulties, it provides a rule that is simple for parents to understand. Basing shared care on the proportion of time spent caring for the child would be more complex and would increase the scope for disagreements between parents.

19.2 However, the Government has come forward with proposals to ensure that, wherever parents agree between themselves a degree of shared care, the maintenance calculation takes account of that agreement. Where the parents have agreed in

⁹ There are a range of legal powers which enable the supply of information between HM Revenue & Customs and the Department for Work and Pensions: Sections 121E, 122, 122ZA, 122B and 122D of the Social Security Administration Act 1992 and Schedule 5 of the Tax Credit Act 2000; Section 3 of the Social Security Act 1998 and Paragraph 1A of Schedule 2 of the Child Support Act 1991.

principle that there should be shared care but are discussing the amount of the sharing, then C-MEC will be given the power to presume that an amount of care exists; after a period not exceeding six months, this interim decision will be reviewed. In cases where parents do not agree the position in relation to shared care, C-MEC will have to base its decision on the actual evidence relating to the existence of a degree of shared care.

20. The Committee recommends that informal payments should not be included in any C-MEC maintenance calculations. However, if, as the Government has stated, they are to be taken into account then there should be clear advice on procedural matters and an unambiguous list, prescribed in legislation, defining what counts as an informal payment (paragraph 167).

- 20.1 The Government notes the Committee's recommendation to exclude informal payments from any C-MEC maintenance calculations. This provision is intended to cater for very limited circumstances where both parties agree that payments were made to a third party. It is intended that this will only operate where a maintenance calculation has already been made and the parents are using C-MEC's collection service.
- 20.2 The Government intends to seek a power to off-set one parent's on-going maintenance or arrears against the other parent's where the liability to pay child maintenance changes between parents. Also, the power would off-set certain payments which are made by a non-resident parent to third parties on behalf of the parent with care to be off-set against the non-resident parents' liability. The type of payments that can be off-set will be prescribed in regulations. This will sometimes reduce the non-resident parent's arrears and is part of our strategy to manage down debt.
- 20.3 It is not the Government's intention to allow these payments to be a routine way to pay maintenance. If it starts to happen regularly and by agreement in an individual case, C-MEC may suggest a switch to Maintenance Direct or a private agreement. Circumstances where off-setting is to be allowed will be prescribed in secondary legislation and clear guidance will be made available to staff.

21. The Committee recommends that the Department does not introduce a charging scheme for applications to C-MEC (paragraph 174).

- 21.1 The Government notes the Committee's views on a charging scheme. The Government believes that giving C-MEC the power to charge for its services is important. Charging has a role to play in incentivising non-resident parents to meet their responsibilities.
- 21.2 The Secretary of State will be responsible for laying regulations on the specific arrangements for any charging scheme and will rely on advice from C-MEC. When providing such advice, C-MEC must be mindful of its statutory objective – to maximise the number of effective maintenance arrangements – and of any targets set by the Secretary of State. The Government is confident that this will ensure any charging scheme will not dissuade vulnerable or low-income parents with care from seeking maintenance.

22. The Committee is very concerned about the moral hazard which may be created if section 6 is abolished, by allowing non-resident parents to avoid their parenting responsibilities and by leaving parents with care on benefits. We would urge the Government to research whether similar simplification and operational savings could be achieved, and the moral hazard avoided, through a minimum lower limit where maintenance amounts below a very low level are not pursued because the benefits are too small and the costs too great. We also recommend piloting the

removal of the requirement for parents with care on benefit to use C-MEC in order to analyse the effect it will have on them and on C-MEC's caseload and resources. If the Government does remove compulsion nationally in 2008, appropriate safeguards must be installed to protect vulnerable parents with care on benefit. The Government should also be prepared for the effect such a move will have in the short term on increasing the burden on C-MEC's resources as parents with care look for advice on their child support options (paragraph 179).

- 22.1 The Government notes the Committee's concerns about ending the requirement that parents with care claiming benefit be treated as applying to the Child Support Agency (Section 6). The Government is convinced that the abolition of Section 6, if implemented alongside wider changes, would be beneficial for parents and their children. Under existing rules, the requirements of Section 6 mean any agreement already in place is automatically overturned. This is not what parents want from the child maintenance system and it frequently is not in the best interests of the child. Our reforms are about supporting as many parents as possible to make a more informed choice about their options and helping them establish their own stable arrangements.
- 22.2 The Government fully recognises that it will only secure better outcomes for children if it puts in place an effective assessment, collection and enforcement service via C-MEC backed up by an impartial information and support service that is actively used by (particularly low-income) families, and has sufficient capacity. The Department for Work and Pensions has undertaken analysis on the potential caseload impacts of the removal of Section 6 and will continue to refine this further over the course of the next year.

23. The Committee welcomes the Government's commitment to increase "significantly" the maintenance disregard for parents with care on benefit. On the basis of the evidence we have seen, we believe that a full disregard would be a desirable, but bold, step, especially in relation to the achievement of the Government's child poverty targets. However, given the potential cost to the taxpayer, any action should be preceded by a thorough assessment of the potential positive and negative impact on work incentives of different levels and types of benefit disregard, including percentage withdrawals instead of fixed £ amounts and the effects of annual uprating in line with prices or earnings. It should also include a proper cost-benefit analysis, and we call on the Government to publish and act on its results promptly (paragraph 197).

- 23.1 The Government welcomes the Committee's positive response to our proposals to increase significantly the maintenance disregard. This is an important change in terms of the effective delivery of the new system and, because of the positive impact on the number of low-income families who want to make a maintenance arrangement for their children, tackling child poverty.
- 23.2 The Government also believes that a significant disregard would encourage compliance by non-resident parents, since they would become increasingly reassured that most, if not all, of their financial contribution flows directly to their children.
- 23.3 The White Paper set out that, in setting the level of the disregard, the balance between the effects on incentives to work will need to be considered alongside the impact on administrative burdens and the potential contributions of different rates to addressing poverty directly. In February 2007, the Department for Work and Pensions published a review of international evidence on the effects that a higher child maintenance

¹⁰ Ridge M, Deasley S and O'Flaherty D, 2007, *Child support and work incentives: A literature review*, Department for Work and Pensions Research Report No. 402.

disregard may have on work incentives and employment rates.¹⁰ The research, while informative, did not provide conclusive evidence on the impact of a higher disregard in a UK context. The Department therefore wants to take forward more work in this area and it is commissioning further research which it will report on in the autumn.

24. The Committee recommends that the Government should reassess the increase in the size of the flat rate payment for non-resident parents on benefit and it should instead be index-linked to inflation. The Committee also recommend further research is carried out into the effect this payment has on poverty among non-resident parents and their families and indeed on the work load of CSA and C-MEC; if there is found to be a significant negative impact, the Government should consider abolishing this payment and introducing nil assessments for non-resident parents on prescribed benefits (paragraph 205).

24.1 The Government notes the Committee's recommendation about the size of the flat-rate payment for non-resident parents on benefit. The Government anticipates that the new child maintenance assessment scheme will be introduced in the financial year 2010-11. Based on the Gross Domestic Product deflator, the general price level in that year will be 30 per cent higher than in 2000/01, the year in which the flat rate was set at £5 a week. The Government therefore believes that an increase in the flat rate to £7 a week is justified by the actual and expected rise in prices over the ten-year period.

24.2 In paragraph 4.21 of the White Paper, the Government committed itself to review the flat rate, along with other rates in the child maintenance system, during the course of each Parliament.

24.3 The Government continues to believe that it is right that only exceptional circumstances (such as a non-resident parent being in prison) should be sufficient to remove liability to pay child maintenance entirely; those in receipt of prescribed benefits should, as a general rule, be expected to pay an appropriate amount from the benefit they receive, so that the need to pay child maintenance is established as the default principle.

25. The Committee recommends that if C-MEC is granted powers to make administrative orders then these should be accompanied by safeguards to ensure against inaccuracy and to provide a swift, effective and independent process for a right of appeal. The Government should therefore set out what appeal methods it intends to introduce for C-MEC customers (paragraph 225).

25.1 The Government agrees with the Committee's recommendation that administrative orders should be accompanied by safeguards to ensure against inaccuracy and to provide a swift, effective and independent process for appeals.

25.2 The client's right of appeal will vary according to the administrative order in question. In the case of administrative passport surrender, it is intended that the non-resident parent will be able to appeal (on fact and/or law) to the Magistrates' Court, or the Sheriff in Scotland. The non-resident parent will have 28 days from the making of the order in which to lodge such an appeal. The administrative decision will be 'stayed' pending the expiration of the time period for the filing of an appeal and, if an appeal is filed, 'stayed' until the time at which the appeal is determined, withdrawn or discontinued.

26. The Committee notes that section 2 of the Child Support Act 1991 already provides that the Secretary of State must have regard to the welfare of any child likely to be affected by any decision involving the exercise of a discretionary power

(e.g. such as whether to, and how to, effect enforcement against a non-compliant, non-resident parent). The Committee recommends that the Government reaffirm that this requirement will still apply in the new scheme of enforcement powers. Furthermore, the Committee has serious reservations as to how far the proposal to publish on the web the names of non-resident parents who have been successfully prosecuted, or non-resident parents who have substantial arrears, is consistent with this principle, given the potentially seriously detrimental effect on individual children's welfare (paragraph 229).

26.1 The Government agrees with the Committee's view that the Secretary of State must have regard for the welfare of the child when exercising discretionary powers and confirms that this will continue to apply when C-MEC takes over responsibility for the child maintenance system.

27. If C-MEC is to concentrate on compliance and enforcement with severe sanctions for non-resident parents who fail to pay their child support, then the Committee recommends that another organisation provide the advice services on levels of maintenance and shared care at the point when parents separate. Such advice should be part of a more holistic approach to relationship breakdown when children are involved (paragraph 234).

27.1 The Government notes the Committee's recommendation that another organisation should provide information and support services. It is right that we would want C-MEC to concentrate on activities such as compliance and enforcement. However, it will also be C-MEC's overall responsibility to commission and deliver an effective information and support service that can help the maximum number of separating/separated parents to make an informed choice about their child maintenance arrangements.

27.2 The Government is working closely with third sector organisations to help develop the information and support services so that they are attractive, effective and proactive services that parents will feel are reliable but, most importantly, impartial.

27.3 The Government recognises that this issue is pertinent to wider parenting issues, and wishes to increase parents' awareness of the information and support services that will become available to them.

27.4 The Government knows that many of the issues around separation are bundled together in both parents' minds at the point of separation. The Government will expect C-MEC to recognise this in providing its information and support services and to offer signposted help where possible. The Government recently made clear its commitment to create a new universal and integrated system of help and support for parents by 2010-11.¹¹

28. The Committee doubts that many parents with care would wish to use the court system to enforce child support liabilities. However, where there are substantial arrears, and the CSA has failed to take effective action to enforce those debts, then the Committee believes that it would be consistent with the overall policy thrust of the Government's reforms to allow parents with care the option to enforce such debts through the courts in their children's name (paragraph 240).

28.1 The Government disagrees with the Committee's views that parents with care should have the option to enforce child maintenance arrears through the courts. If the Child Support Agency (and in the future C-MEC) and the parent with care had concurrent or

¹¹ *Aiming high for children: supporting families* (March 2007).

interchangeable abilities to enforce child maintenance arrears, there would be a risk of overlap and duplication which would cause confusion and increase costs.

28.2 From a practical point of view, the move to administrative powers does not fit with parents with care taking over an enforcement role. Introducing a parallel set of provisions could be seen as C-MEC divesting itself of difficult cases, leaving parents with care, or legal aid, meeting the cost of independent court cases.

29. The Committee is concerned that parents who will now have a choice to opt in to C-MEC will not have the full information which they need to make an informed decision as it is not clear how they would move out of the system once they are in it. The Committee therefore recommends that the Government states what the expected life of a C-MEC order would be and under what conditions the case would be closed or moved onto a private maintenance direct agreement (paragraph 250).

29.1 The Government notes the Committee's concern about parents not having the full information that they need to make an informed decision. The Government can assure the Committee that communications will be developed to ensure that, at all stages of the transition, clients are kept fully informed of the choices available to them.

29.2 It is envisaged that there will be a variety of communication methods used to ensure that clients receive, and understand, information about the effect these changes will have on them. It will be crucial to provide sufficient, relevant information to allow clients to make an informed choice around either opting out of the services to be delivered by C-MEC or opting in during the transfer period.

29.3 In the first instance, at Section 6 repeal, clients will have the choice to opt out of the system. From 2010, there will be a need for customers to choose whether to continue with one of the C-MEC provided services. Communications will be developed to ensure that the implications are transparent to the client.

29.4 It is intended that C-MEC will consider all options that meet the clients' needs and provide the most cost-effective service.

30. We note that Sir David Henshaw recommended that there should be a 'clean break', with a new body to deliver the new system, and a residuary body responsible for pursuing old debt. We are concerned that the Government's proposals will in time mean that C-MEC is running three different systems. This does not represent the clean break envisaged by Sir David Henshaw. We fear that, given the experience of the CSA, this will jeopardise the success of C-MEC. This means that the transition should be planned with administrative efficiency at its heart. We appreciate that the Government wants to focus on support for the poorest families first. We are, however, concerned at the CSA Chief Executive's comments that C-MEC may prioritise the old scheme nil assessment cases. This approach may be misplaced effort and result in little additional child maintenance for parents with care. We would welcome clarification on this aspect of the Government's proposals (paragraph 255).

30.1 The Government notes the Committee's concerns that C-MEC could be running three different systems and that this could jeopardise the success of its reforms. While it is for C-MEC to develop its detailed plan, the Government is very clear that C-MEC will work with stakeholders to develop the detailed transfer processes for cases that remain in the system. The Government knows from experience that this is a complex issue and we do not underestimate the challenges involved.

- 30.2 Research is being undertaken to identify the barriers to both seeking and paying child maintenance. This work will support C-MEC in developing an effective strategy to ensure maximum levels of maintenance can start to flow.
- 30.3 C-MEC will be responsible for developing the detailed plans and proposals for moving cases into the new arrangements. This includes which cases might move first. This may mean focusing efforts on parents with care on benefit who have nil assessments on the old scheme. Figures show that around 90 per cent of these cases are likely to have a positive maintenance calculation on the new scheme. This will allow them for the first time to establish a flow of maintenance for their children.

31. We have seen no evidence that, with CSA's record of serial IT failures, this third attempt to create a new system of child maintenance arrangements with the necessary IT support will be any more successful than the first two. The Committee recognises that the proposed reforms simplifying the child maintenance calculation does not necessarily mean a simplified IT programme as has been demonstrated by the current CSA computer system problems. The National Audit Office report on IT projects, Delivering successful IT-enabled business change, highlights the complexities of the technical issues around joining new and old systems and we hope that the Department has learnt from its past mistakes from its first two CSA IT systems. Our predecessor Committee wrote in depth about these problems and recommended that the DWP should be significantly more open about its IT projects. In this light we recommend that the Government publish detailed explanation of its plans for C-MEC's IT system in an attempt to win public confidence before the work begins (paragraph 261).

- 31.1 The Government recognises the Committee's concerns about the plans for the IT system to support the new system of child maintenance.
- 31.2 The Child Support Agency Operational Improvement Plan is delivering improvements in the existing IT, and this is enabling performance to improve now. This also provides a more robust platform for future changes. It will be for C-MEC to decide how its future IT needs are delivered; in establishing C-MEC as a Non-Departmental Public Body, we are giving it the maximum flexibility and independence to draw from private sector suppliers and experience.

32. We are disappointed that having emphasised the importance of advice services in the White Paper there is evidence that the Government has already failed in explaining to current CSA clients what the potential meaning of the White Paper is to them. This is a vulnerable client group whose needs must be anticipated and met and we ask the Government to address this urgently (paragraph 264).

- 32.1 The Government notes the Committee's concerns and recognises its responsibility to communicate effectively the nature of the changes proposed in the White Paper.
- 32.2 There is much that we can do, and have done, to ensure that current Child Support Agency clients are kept informed. It will not, however, be possible to provide appropriate detailed information to individual clients on the impact of White Paper proposals on their cases until decisions on timing and transition arrangements are known.
- 32.3 The Committee can be assured that the Child Support Agency has been providing up-to-date information on the potential impact of the reforms and the likely timetables for change through currently available channels. The Child Support Agency and the Department for Work and Pensions websites have been carrying this information

throughout the process of change, from Sir David Henshaw's report, to the Government's response and subsequent White Paper.

32.4 In addition, the Child Support Agency is supporting its client and call-handling people by providing the most up-to-date information, ensuring that clients who have specific queries on the proposed changes are given correct and consistent information. We have also made this information available to client representative groups, for use when clients make contact with them.

32.5 In addition to using existing channels to support Child Support Agency clients, the Government also recognises that local Members of Parliament are a trusted way of relaying information. With this in mind, Ministers wrote to all Members of Parliament on the day the White Paper was launched to draw the consultation to their attention and to advise them of the option to register for regular updates on child poverty, child maintenance and welfare reform through the blog on the Department's website.

32.6 We also placed an article in the Department's *Touchbase* magazine, which goes out to advisers within the voluntary sector, to ensure that professionals at local level were aware of the consultation and able to advise Child Support Agency clients accordingly.

33. Given that the level of arrears is still rising, we ask the Government to explain in greater detail the changes in resourcing levels and processes which it plans to introduce to turn the situation around (paragraph 270).

33.1 The Government shares the Committee's concern that money which is owed to children should be efficiently collected and paid.

33.2 The amount of arrears owed has accrued over 14 years of Child Support Agency operations, and reflects an artificially high figure due to punitive interim maintenance assessments. As such, arrears continue to accrue at an artificially high rate.

33.3 The Child Support Agency has made significant progress in the first year of its Operational Improvement Plan to maximise collections and make more difference to more children. There are now in excess of 3,000 people working in these lines of business.

33.4 In addition, the Child Support Agency has also increased its focus on the collection of arrears by:

- contracting out some debt collection to external debt collection agencies. A contract was signed in July 2006 with two external debt collection agencies to collect debt on the Child Support Agency's behalf, and the number of cases exported to the debt collection agencies continues to rise. To the end of March 2007, the debt collection agencies had collected £1.6 million from non-resident parents on behalf of the Child Support Agency, and another £990,000 has been collected by the Child Support Agency in response to the threat of their use;
- supplementing the debt collection agencies' specific expertise by providing access to the relevant tools available to the Child Support Agency and Departmental Investigation Staff via the Department's Matching, Intelligence and Data Analysis Service;
- trialing the effectiveness of the Debt Collection Agencies in collecting debt via Liability Order (the first step in taking legal action);

- introducing payment via debit and credit cards (it has collected in excess of £4 million via this method to the end of March 2007);
- equipping its people with enhanced debt management skills; and
- increasing its focus on the use of bailiffs, civil court action and prosecutions.

33.5 In addition to resourcing and process improvements, the Child Support Agency has recently launched an advertising campaign to impress upon non-resident parents the potential consequences of the failure to pay child maintenance.

34. The Committee recommends that the DWP should develop an action plan to ensure that the availability of compensation for maladministration (as described in the Department's publication, *Financial Redress for Maladministration*) is effectively drawn to the attention of potential applicants. The Committee further recommends that the Secretary of State be required to report to the Committee annually setting out the full details of the sums paid in respect of alleged maladministration by C-MEC, both under the scheme for Financial Redress for Maladministration and through legal proceedings (paragraph 281).

34.1 The Government notes the Committee's recommendation that the Department for Work and Pensions should develop an action plan to ensure that the availability of compensation is drawn to the attention of potential applicants. The Department's *Guide to Financial Redress for Maladministration*¹² is a published document. It is available on the Department's website www.dwp.gov.uk/publications/dwp/2003/frm.

34.2 The Child Support Agency website and its leaflet *How to complain* (CSL119) provide information for clients, including information on the Independent Case Examiner, the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) and financial redress.

34.3 Child Support Agency clients who consider that they may have experienced maladministration will still be able to seek redress after the introduction of C-MEC.

34.4 C-MEC will develop its own complaints and redress policy, which will be subject to standard government accounting and reporting procedures.

34.5 In keeping with those procedures, C-MEC will publish its expenditure on financial redress payments within its annual accounts, as the Child Support Agency does currently.

35. On balance, the Committee recommends that the Department should make every effort to collect debt owed to parents with care that can be proved to be accurate. However, the Department should look in more detail into the efficiency of collecting debt owed to the state, particularly where the calculated amounts are questionable (paragraph 285).

¹² Financial Redress for Maladministration: putting things right when they go wrong (London, Department for Work and Pensions, 2003).

35.1 The Government welcomes the Committee's support and will not be seeking a general power to write off debt. The new powers the Government seeks – such as the ability to negotiate settlements – will enable it to tackle old debt much more effectively. The Government acknowledges that it does need to strike a balance between the value of using more taxpayers' money to enforce debt owed to the State and the message that failure to enforce would send to compliant non-resident parents and to those who may consider non-compliance in the future.

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