



Department  
for Work &  
Pensions

# Child maintenance: deduction orders against joint accounts

Government response to public consultation

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# Ministerial foreword

Research shows that children tend to have better health, emotional wellbeing and higher academic attainment if they grow up with parents, whether together or separated, who have a good quality relationship and are able to manage conflict well (Early Intervention Foundation report – [What works to enhance inter-parental relationships and improve outcomes for children](#) 2016). We know that after a relationship breakdown most parents still want the best for their children. That is why a key aim of the statutory maintenance scheme is to encourage and support parents to do the right thing and meet their responsibilities to provide their children with the financial support they need to get a good start in life.

The majority of parents who pay child maintenance through the statutory scheme do so on time and in full. However we are aware that a persistent minority choose not to pay, which is to the detriment of their children.

This government is determined that parents should fulfil their responsibilities to their children. This includes pursuing those who are deliberately trying to avoid paying their child maintenance. We already have a wide range of existing powers to deter avoidance and recover both ongoing maintenance and payments owing in arrears. Now we want to strengthen our options to recover owed maintenance and plan to extend our deduction order powers to cover paying parent resources in jointly held accounts. As we develop our new arrears and compliance strategy we will be seeking views on further options to improve compliance.

Our use of deduction order powers against joint accounts will be limited and targeted only at the small group of parents who refuse to pay what they know they owe. It will not affect compliant individuals who financially support their children through the child maintenance system.

The government is grateful for the responses made to the consultation and we have made adjustments to our original proposals in response to this feedback.

Caroline Dinenage MP

Parliamentary Under Secretary of State for Family Support, Housing and Child Maintenance

# 1. Executive summary

1.1 The consultation on deduction orders from joint accounts was published 30 June 2016 and closed on 25 August 2016. It set out plans to implement existing powers to enable deduction orders to be made from jointly held bank accounts to recover child maintenance.

1.2 The Department for Work and Pensions (DWP) received 23 responses, from a wide range of individuals and organisations.

1.3 We are grateful for the constructive responses received to this consultation – both from individuals and from representative groups. There was strong support for the government’s objective to ensure that children are financially supported by their parents. There was also recognition of a small minority of parents who seek to avoid paying what they owe, and that appropriate powers are required to ensure payments are made where this is the case. We have considered carefully the views expressed and made some adjustments to our proposed approach.

1.4 In response to concerns that the power might be used to access funds not belonging to a liable paying parent we now propose that:

- Prior to making a deduction order we will obtain account information, including account statements from deposit takers (banks/building societies etc). This account information will be examined to establish flows of money through the account and establish ownership of the monies contained within the account.
- There will be the opportunity for account holders to make representations about both lump sum deduction orders and regular deduction orders – including the distribution of ownership of the funds in the account. This is to ensure we do not remove monies not owned by the parent.
- We have applied a 14 day representation period prior to serving the deduction order for regular deduction orders.
- Recognising that lump sum deduction orders have the potential to be more complex than regular deduction orders we will increase the representation period for these to 28 days.

1.5 We also propose the following additional rights to ensure that there is independent oversight and clear channels for joint account holders to appeal their case:

- To request a review of a deduction order for the joint account holder should they not be able make representation within the representation period.
- For the joint account holder to request a review of a regular deduction order if the debtor reduces their payments into the relevant account; and
- For all account holders to appeal any decision to impose a deduction order against a joint account.

1.6 We believe this approach balances the rights of account holders against the need to ensure flow of maintenance to children.

## 2 Introduction

2.1 A consultation on the design of this power and its safeguards began on 30 June 2016 and closed on 25 August 2016. The consultation document covered:

- the process by which deduction orders against joint accounts will operate
- rights of review, variation and appeal available to both debtors and other joint account holders
- proposed safeguards to assure the measure was proportionate and balanced

2.2 In total the department received 23 responses to the consultation:

- The British Banking Association
- Gingerbread
- Money Advice Trust
- Resolution
- 19 from private individuals

2.3 This document summarises the responses received. It presents the department's revised approach to the operation of deduction orders against joint accounts and associated safeguards.

## 3 Summary of respondents' views

3.1 The consultation document sought views on 4 specific questions about how we should implement deductions from joint accounts. They covered the department's administration of the policy, the process by which DWP would contact banks and building societies, and asked for views on whether the proposed safeguards were proportionate and balanced.

3.2 Many responses went much wider than the 4 consultation questions. Some respondents raised more general concerns about the statutory scheme itself. The government has carefully considered all responses, including those that were outside the scope of the consultation.

# 4 Responses

## Overview of responses

4.1 Key themes from the responses have been drawn out, and the department's response to each of these, are below.

### Protecting the rights of joint account holders

4.2 Some respondents had concerns that joint accounts were being unfairly targeted in this policy, in particular that funds belonging to one joint account holder (who did not have a child maintenance debt) could be recovered to pay the child maintenance debt of another joint account holder.

4.3 The department has been clear that it wishes to strike a balance between recovering money from debtors who are refusing to pay while protecting the rights of other account holders.

4.4 The department is reaffirming its safeguards for joint account holders:

- Funds within targeted accounts will be carefully examined to determine ownership prior to a decision to make a deduction order. Account information to do this will be obtained directly from deposit takers.
- All account holders will be notified that action is to be taken.
- Joint account holders will have the opportunity to make representations in relation to the funds targeted.
- Deductions will only be applied to a pro-rata proportion of the account's balance when we cannot establish what funds in the account belong to the joint account holder.
- Once the deduction order is imposed joint account holders may apply for a review or variation of the order.
- The joint account holders or deposit takers may apply to remove a lump sum deduction order in prescribed circumstances (for example if the deduction would subject the paying parent, their partner or any children to hardship).
- All account holders will have appeal rights.

### Protecting information

4.5 Some respondents had concerns about privacy and the release of information by deposit holders to the department.

4.6 The department believes the best route to obtain definitive and up to date account information is directly from deposit holders in the first instance.

4.7 Deposit takers have obligations to protect customers' privacy and personal data under data protection legislation and broader confidentiality requirements. The government will legislate, supported by comprehensive guidance to deposit takers, to enable them to provide information to the department under this measure. Legislation

will also be enacted to provide timescales for return of information to allow the timely implementation of deductions.

4.8 Information provided under this measure will be used to establish provenance of monies within the joint account to safeguard the assets of the other joint account holders. Information held is managed subject to the Data Protection Act, will not be shared and will be destroyed when no longer needed.

## **Communication**

4.9 Respondents stressed the need for clear communication channels with all joint account holders.

4.10 The department will individually notify all account holders of the intention to perform a deduction order on a jointly held account and representations will be sought from all account holders before money is removed from an account. All account holders will be informed of their right to appeal the decision to perform a deduction order.

4.11 Deposit takers will provide address/contact information for joint account holders connected to a relevant account to ensure they are informed of the intention to make a deduction order against the account, and of their right to make representations. Clear legislation and guidance will be provided to deposit takers to allow them to provide this information within a specified time period.

4.12 Deduction orders from solely held accounts are now well established and we are confident in their use. All orders are processed by a single specialist team. This allows clear oversight and corporate governance of deduction orders to achieve quality assurance. External queries which are solely in regard to deduction orders are handled by the specialist team to ensure continuity of message.

## **The scope of the consultation**

4.13 Some respondents were concerned that the department was consulting on the process and operation of deduction orders in joint accounts, rather than on the choice of policy itself. The purpose of this consultation was to seek views on how best to implement deduction orders against joint accounts held by paying parents who have sufficient funds in bank and building society accounts to pay the maintenance they owe but choose not to.

4.14 The department has sought, through this consultation, to be open about the best way to expand an existing power and how to design the process so that it targets the right people and does not create unnecessary hardship. We are grateful for all of the constructive responses we have received.

## 5 Responses to specific proposals raised in the consultation

**We said: We propose seeking bank statements prior to making regular deduction orders (RDOs) and lump sum deduction orders (LSDOs). The purpose of doing this to reduce the risk of targeting funds contributed to the account by an account holder other than the non-resident parent.**

5.1 Respondents stated that monies held within joint accounts but not attributable to the paying parent must not be subject to a deduction order. This aligns with our policy intent. A child maintenance debt is owed by the paying parent only, not in any part by another person who they choose to hold a bank account with.

5.2 Respondents believed that obtaining bank statements directly from deposit takers themselves is preferable in providing timely quality information. Respondents advised the department must be mindful of data protection and provide a clear obligation for the banks to provide the required information.

5.3 Existing legislation places a clear duty on deposit takers to provide information requested of them and we will legislate to set a timescale in which they are required to respond.

**We said: In relation to LSDOs, we freeze a proportion of the account for a short period of time to allow representations to be made. We want to ensure that this is as short a period as possible, whilst giving enough time to make representations. We are considering a 28 day period.**

5.4 Respondents broadly agreed that a 28 day representation period was sufficiently long to allow all account holders to consider their position and make representations in relation to lump sum deduction orders. We will legislate to provide a 28 day representation period for all account holders to make representations. We believe this period balances the rights of account holders against the need to ensure flow of maintenance to relevant children.

5.5 Some respondents raised the possibility of extending the representation period in extenuating circumstances. When preparing legislation the department will ensure the Secretary of State has flexibility to extend the representation period should this be considered reasonable due to the individual circumstances of the case.



**We said: In addition to the grounds for applying for a review of an RDO which already exists, we are considering 2 additional grounds for joint account holders – where the amount contributed to the account by the non-resident parent has decreased, and where the joint account holder did not make representations in relation to the making of the order.**

5.6 Respondents were generally supportive of these 2 additional grounds for review, considering that they increased the protection for joint account holders. In addition to extending the existing grounds for review for solely held accounts to joint account deductions, we will also legislate to add these additional grounds.

5.7 One response suggested that representations for review should not be time limited for joint account holders. We agree that joint account holders should not be disadvantaged should they be unable to make representations, equally we felt that an unlimited period in which a joint account holder could make representation would be unreasonable. We intend to legislate for the Secretary of State to be given flexibility to consider representations from joint account holders outside of the representation period as long as the joint account holder informs us in a timely fashion of an acceptable reason why they did not make representations.

5.8 The British Banking Association asked whether regular deduction orders should lapse during the review period in order to prevent conflict with joint account holders. We believe this can be managed at an operational level on a case by case basis under existing powers to lapse rather than through a new power. Under the proposed legislation lapsing an order will require a period of representation prior to reinstatement should the reason for the review be declined. Given that the majority of reviews receive a decision within a very short timescale, such a compulsion to lapse could disproportionately jeopardise the regular flow of monies to relevant children.

**We said: We will allow joint account holders the opportunity to make representations about a proposal to vary or lapse an RDO. We are considering allowing 28 days for this.**

5.9 Most respondents did not specifically respond to this question. Those that did were supportive of the intent to safeguard assets not belonging to the non-resident parent.

5.10 We intend to legislate for joint account holders to make representations about a proposal to vary a regular deduction order when the amount deducted from the account will increase.

5.11 We will also legislate to allow joint account holders to make representations if the date the regular deduction order will be deducted is to be changed.

5.12 Representations will not be requested in the circumstance of a regular deduction order being lapsed as this means no more deductions will be taken from a joint account, and therefore does not put the assets of a joint account holder at increased risk.

5.13 We will legislate to allow joint account holders to make representations should the Secretary of State decide to revive a lapsed regular deduction order.

5.14 We have decided on a 14 day representation period. This is in line with the time we give account holders to make representations when starting a regular deduction order. We also believe this period balances protecting the joint account holder with ensuring that the correct level of maintenance flows to children in a timely fashion.

## 6 Next steps

6.1 We will work to produce the necessary legislation to allow for the introduction of these measures as the parliamentary timetable allows.