Organisation Responses

British Banking Association

Received 25/08/16 via e-mail

About the BBA

The BBA is the leading trade association for the UK banking sector with 200 member banks headquartered in over 50 countries with operations in 180 jurisdictions worldwide. Eighty per cent of global systemically important banks are members of the BBA. As the representative of the world's largest international banking cluster the BBA is the voice of UK banking.

Overarching comments

BBA is supportive of measures to ensure that children are protected and properly supported by their parents, including the proposal to open up joint accounts to possible deduction orders outlined in the Consultation Paper (CP).

Nonetheless, it is important that this policy be implemented appropriately to minimise risks, both for third party account holders (who have no responsibility to pay) and for the bank providing the joint account. We therefore highlight several issues that will need clarification or care in execution to ensure the smooth implementation of the expanded deduction order policy.

Finally, we understand that partnership accounts are out of scope of the proposals in the CP. This is sensible; placing deduction orders against partnership accounts would be legally more complex than is the case for conventional joint accounts and, if pursued, this would require careful consideration.

Banks need clear legal obligations

Banks have obligations to protect customers' privacy and personal data under data protection legislation and broader confidentiality requirements. For both Regular Deduction Orders (RDOs) and Lump Sum Deduction Orders (LSDOs), DWP anticipates that banks will provide bank statements to enable an assessment of what proportion of funds is owned by the non-resident parent. This is broadly in line with current practice, but the CP does not specify how many months of statements will be requested.

The number of months of statements will need to be set out as a clear obligation in the request to give banks with the certainty they need to provide the information.

Similarly, banks cannot freeze or withdraw customers' funds without an appropriate legal justification. Again, our members require a clear legal obligation. Banks can

provide bank statements to enable officials to make a decision about the ownership of funds by the various account holders, but are not well placed to be directly involved in such subjective decision-making themselves. The Child Maintenance Service (CMS) needs to make this decision itself, on the basis of bank statements and any representations from the account holders, and then impose a clear deduction order on the bank.

The deduction order should be clear and unambiguous as to the requirement to comply.

We understand this to be consistent with the approach under the Child Support Act and Child Support Regulations and trust that this will continue.

Lapsing of RDOs

The CP states that RDOs 'may lapse' where insufficient funds are available in 'consecutive months'. We understand that this policy is supposed to apply where insufficient funds have been available for 2 consecutive payments. This is a sensible measure to minimise the cost of maintaining deduction orders against accounts when it is clear that these will not be able to be executed.

However, our members' experience is that in practice under the current framework (which only applies to accounts with single account holders) RDOs are often not allowed to lapse by CMS despite numerous consecutive instances of deductions that cannot be executed due to lack of funds.

It is important that this sensible control feature be properly implemented for all account types.

Communications with third party account holders

By their nature, joint accounts have multiple account holders. Without effective communications, the third party account holder is likely to experience confusion and distress when funds are frozen and/or deducted. It is therefore vital that the CMS make contact with the third party account holder in order to ensure transparency and prevent misunderstandings, and to provide a suitable opportunity to give representations.

Banks will likely be best placed to provide CMS with the contact details of the third party account holder but, as above, will need a clear legal obligation to do so. These should be collected at the time the account statements are acquired.

Responses to specific questions

1 – Provision of bank statements

As noted above, our members need a clear obligation to provide bank statements to CMS.

2 – Period for making representations

We do not have a strong position on the number of days that should be allowed for representations to be made, but 28 days seems broadly appropriate.

We note that the CP only mentions the period for representations concerning LSDOs. We presume that the same period would apply for RDOs.

3 – Grounds for review of RDOs

These grounds for review seem appropriate.

We query, though, whether RDOs should lapse during the period of the review. This would help prevent conflict with third party account holders.

4 – Representations concerning variations and the lapse of an RDO

We have no comments on this question.

Final remarks

We would be happy to continue to assist officials in finalising the design of this expanded deduction orders framework. To this end, we would be interested in viewing the draft legislation to help ensure that it will operate as intended and avoid any unforeseen outcomes. This could be done by way of an exposure draft or a simple workshop with officials.

We look forward to working with you on the remainder of this process.

Gingerbread

Received 28/07/16 via e-mail

DWP Consultation: Deduction Orders against Joint Accounts

1. Gingerbread welcomes the opportunity to respond to the above public consultation. We are a national charity working for and with single parents. It has long been a goal of the organisation to achieve an effective child maintenance system in this country, to reduce the financial disadvantage faced by children growing up in households dependent on a sole parent's income, where that income is often restricted due to caring responsibilities.

2. In its recent report on child maintenance debt collection Missing Maintenance, Gingerbread argued that the Department's current child maintenance arrears and compliance strategy gives insufficient importance to the collection of past unpaid maintenance for children. With the operational focus of the Child Support Agency (CSA) and Child Maintenance Service (CMS) mainly on current compliance levels, action to recover child maintenance that goes unpaid lacks resource, energy and expertise. Yet failure to make due payments can have severe financial consequences for children growing up in single parent families. It also contributes to a culture where paying for one's children after separation is not seen as obligatory, and where non-resident parents who do not want to pay for their children after separation find it pretty easy to get away with it.

3. In January 2015, at the point when the ending of liability on current CSA cases began, there was over £1bn in child maintenance arrears owing for children.1 Although the exact amount is now somewhat hidden by the impact of CSA case closure, we suspect the current figure for CSA debt involving qualifying children is little changed. And despite the small CMS caseload, there is already £63.5m in outstanding child maintenance arrears – a total which is rising.2

4. In Missing Maintenance Gingerbread has called for more resource and expertise to be put into child maintenance debt collection activity, with an intensive push over the next three years, to help change the culture so that non-resident parents who are thinking about evading their child maintenance responsibilities realise that this will not be tolerated. We want clear annual targets for the collection of child maintenance arrears owed for children, whether CSA or CMS. There also needs to be greater accountability to parents with care regarding the steps taken to collect the child maintenance owed to them.

5. Gingerbread therefore welcomes the proposal to extend the use of Deduction Orders to joint accounts, which is long overdue. The power to make rules allowing deduction of child maintenance from joint accounts is contained in the Child Maintenance and Other Payments Act 2008. It took until 2014 for the DWP to concede that extending Deduction

1 DWP (2016) CSA Quarterly Summary of Statistics, March 2016

2 DWP (2016) CMS 2012 Scheme Experimental Statistics to May 2016

Orders to joint accounts "might be a worthwhile pursuit"3 and then a further 18 months for a consultation document to be issued, with implementation not planned to take place June 2017. This is a slow pace to help tackle one of the big challenges facing the statutory child maintenance authorities: how to deal with determined non-payers who are not in regular PAYE employment.

6. When it comes to arrears enforcement, the standard administrative enforcement tool used by the CSA and CMS is a Deduction from Earnings Order (DEO). Yet there

are increasing numbers of non-paying non-resident parents (amongst them some of those most determined to avoid paying child maintenance) against whom a DEO will not work. These include parents who are self-employed, who work cash in hand or who have an income but no employment. There are also parents who switch jobs whenever traced by the CSA or CMS; and those who, as owners of their own company pay themselves a low wage, whilst taking the bulk of their income in other forms.

7. For such groups, Deduction Orders are a crucial – and, in our view, underused – instrument in the enforcement toolbox available to child maintenance debt collectors.

8. Clearly, the current rules, which restrict Deduction Orders to accounts in the sole name of the non-resident parent, provide too easy an escape for those not wishing to pay maintenance. It is therefore important to close this loophole.

9. Gingerbread does not underestimate the challenge of dealing with 'paying' parents outside regular PAYE employment – both in identifying income for assessment purposes, and in tracing available resources for debt collection purposes. In extending Deduction Orders to joint accounts, issues of judgement also arise concerning fairness to all account holders. It is therefore important that there are sufficient high calibre dedicated child maintenance staff who have the requisite financial expertise to conduct financial investigations; identify deposit takers; scrutinise balances held in accounts to determine the funds attributable to the non-resident parent; and to properly consider representations from account holders.

10. From outside the Department, the resources devoted by the CSA and CMS to dealing with 'non PAYE' cases appear inadequate. There is a Financial Investigations Unit, but it has just 33.01 full-time equivalent staff,4 and a remit covering other areas than simply enforcement. There appears to be just one team dealing with Deduction Orders for the whole country – with work limited to cases where all alternative forms of recovery action, including bailiff action, have been tried, and where arrears must have reached at least £500.

11. Given that Deduction Orders are an administrative method of enforcement, and therefore potentially speedier and cheaper than going to court for first a liability order and then bailiff action, the present preconditions before a Deduction Order will be considered seem unduly time-consuming and restrictive. The requirement that

3 DWP(2014) Post-legislative Scrutiny, Child Maintenance and Other Payments Act 2008, Cm 8986, p. 25

4 Commons Written Answer 27465, 29/02/2016

arrears must reach £500 before a Deduction Order will be considered discriminates against lower income families – where they must wait longer than better-off families for action to be taken and where, even though the child maintenance due may be modest, receipt can give a substantial lift to the family's resources. Provided there

are proper checks on the accuracy of the arrears and on the funds available to the non-resident parent held in an account, as well as the opportunity to properly consider representations, we see no reason why Deduction Orders cannot be used more routinely, rather than only as a last resort.

12. Sadly, too often in the past, efforts to enforce payment of child maintenance debts have foundered due to difficulties in proving the accuracy of the debt. It is important that the current CSA 'arrears cleansing' process (being applied to all CSA arrears cases where current liability has ended) is carried out thoroughly, so that all CSA debts transferred to the CMS system are capable of being full enforced by the CMS using Deduction Orders where necessary.

13. Gingerbread also makes a plea for greater transparency. It is now three and a half years since the CMS was established, yet the amount of information in the public domain concerning CMS performance remains limited. Unlike the CSA quarterly statistics, no information is published, for example, on what enforcement action has been taken each quarter by the CMS. We hope that, by the time Deduction Orders are permitted against joint accounts from June 2017, the CMS will be able to produce quarterly statistics which show how often such orders are actually used.

14. Ultimately, unless the statutory child maintenance system steps up to the challenge of dealing with non-resident parents who are not in regular PAYE employment, it leaves itself wide open to evasion by those intent on avoiding paying for their children. Dealing with that challenge must include more use of Deduction Orders, including against joint accounts, on a routine and systematic basis.

Gingerbread July 2016

Money Advice Trust

Received 25/08/2017

Introductory comment

We do not generally favour the use of Regular Deduction Orders (RDO) or Lump sum Deduction Orders (LSDO) against joint accounts. We recognise this is a trend in the collection of various government debts. However, we believe such orders may give rise to bank charges, lapsed direct debits, unpaid bills, and hardship for the non-resident parent and the joint account holder who may be anew partner with children. We appreciate that for child support there is a minimum level that must be kept in an account and that deductions cannot be made if the account contains less than a set amount but it can still have the effect of tipping people into further debt.

We believe such orders are likely to lead to unfair results affecting innocent third parties such as the joint account holder and their household, dependent children and so on. We see no justification for the assumption that 50% of the funds in a joint account belong to the non-resident parent. The funds could easily be from the joint account holder's salary alone or from child benefit or other benefits in their name.

It is therefore vital that robust safeguards are put in place to protect the joint account holder. It is also vital that the DWP considers the possibility of financial abuse by the non-resident parent when considering action against funds held in a joint account with a new partner and ensure that appropriate safeguards and precautions are put in place.

We welcome the DWP commitment to explore other options before considering a RDO or LSDO against a joint account. In particular, we welcome the commitment to target a bank account in the sole name of the non-resident parent first.

However, the process needs a detailed exploration of financial circumstances with the non-resident parent and the joint-account holder concerned. Whilst the argument may be made for savings and deposit accounts, a current account will contain funds to pay essential household outgoings. It is vital that there is a mechanism in place to determine the amount that can be taken from a current account. Without a substantial buffer zone many people in debt who may be vulnerable will be left in a very difficult situation with very little money in their account to pay household bills and living expenses.

As such orders will be attractive to use against sole traders where a deduction for earnings order cannot be made, it is again vital to ascertain whether the funds are required for running a small business, or payments to suppliers and so on.

We suggest the introduction of a higher 'protected minimum balance' of funds that cannot be frozen. This would be an extra measure to protect the people from undue hardship. Rules could also be introduced to protect benefit income from being frozen.

As a parallel we draw your attention to the equivalent bank arrestment process in Scotland. This includes a concept of the Protected Minimum Balance (PMB). The PMB protects debtors from undue hardship by providing a minimum balance which limits the amount that can be arrested from a personal account. Adopting a similar system could be a protective mechanism for people who are subject to an RDO.

We would also suggest that the right is not used in relation to current accounts where it is clear that income is derived solely from state benefits. Again there are also some interesting principles in Scottish law about the ability of creditors to arrest benefit-only accounts.

In the Scottish court system, there is a protected minimum balance of £494.01 that cannot be frozen as a result of a 'bank arrestment'. Also, accounts solely comprising benefit income should not be arrested or benefit income frozen if it can be clearly identifiable. Where an account contains a mixture of benefit and other income, a person has strong arguments against a creditor's ability to freeze the benefit funds. Whilst there are disputes about the money in the account and whether it is susceptible to arrestment, e.g. where the funds belong to a third party these measures would appear to have improved the bank arrestment process to make it fairer for vulnerable people in debt.

Responses to individual questions

Question 1: We propose seeking bank statements prior to making RDOs and 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.

We would support seeking bank statements as a first step before making a RDO or a LSDO. However, it may be difficult to establish who the funds in the account belong to unless it is a current account with regular payments being paid into the account in a specific account holder's name. If the account is a savings type account, the funds may have been there for some time. Asking for recent bank statements may not be sufficient.

However, it is often the case that older paper bank statements may not be available if these have not been retained. There may be substantial fees charged by the bank to produce a further copy. With many online accounts, statements may not be accessible at all going back more than a few months. We believe that the DWP should consider whether it is possible to direct banks to disclose the requested information where necessary, subject to data protection requirements.

It is important that the DWP considers what other evidence will be accepted to prove ownership of funds in an account to ensure all possible safeguards are in place.

Question 2: 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.

We would suggest that it should be possible to extend the 28 day period to make representations where there are extenuating circumstances. There may be reasons why paperwork has not been received, there may be incapacity due to illness, being in hospital or a particular vulnerability or the evidence needed is not available within the time frame.

Question 3: In addition to the grounds for applying for a review of an RDO which already exist, 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.

We would welcome these additional grounds for applying for a review. It is important that it is possible for the joint account holder to make representations in relation to the making of the order at any point. This should not be time-limited, as there may be reasons that the joint account holder was unable to make representations at the time the order was made. They may not have received the communications for whatever reason such as being ill, in hospital or away, or been unable to obtain the proof needed at the time.

In addition, we believe there should be the possibility of applying for a review on hardship grounds to ask for some of the money to be released.

Question 4: 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.

28 days would appear to be a reasonable timescale to allow joint account holders the opportunity to make representations about a proposal to vary or lapse an RDO. However, it is important to ensure that joint account holders are aware of the order.

However, we would expect the DWP to set out how it will ensure that joint account holders are informed of the order. All reasonable precautions against the possibility of financial abuse by the non-resident parent against the joint account holder should be taken.

Resolution

Received 16/08/17 via e-mail

Deduction Orders against Joint Accounts

Resolution's response to the Department for Works and Pensions

Resolution is an association of 6,500 family lawyers, mediators and other family professionals, committed to a non-adversarial approach to family law and resolution of family disputes.

We also campaign for better laws and better support and facilities for families and children undergoing family change.

Resolution's response

1. We would generally welcome any moves to make child maintenance debt collection more effective in relation to enforcing sums assessed as due from maintenance evaders. It is though necessary to recognise those rarer cases where there are genuine issues over what is due in child support or whether the sums being seized are beneficially owned by the debtor.

2. In principle, Resolution is supportive of the implementation of powers to make Deduction Orders to recover child maintenance arrears from joint bank accounts held by a non-resident parent, and as recommended by Gingerbread in its recent "Missing Maintenance" report.

3. The devil will however be in the detail of the process involved and whether it appropriately balances the competing needs we set out below. More detail on the implementation of the proposal would be welcomed. We would like to see further consultation on the detail to be contained in the relevant regulations before they are laid and engagement with us and others with front line experience of working with both parents with care and non-resident parents (NRPs) about how the process will be delivered in practice and the content of relevant standard communications to NRPs and other account holders. We believe that this would assist with fair and effective administration, and help to avoid any pitfalls which unnecessarily divert staff resources.

4. Regarding the questions raised at the end of the consultation paper, we think that a 28 day period from the time of making contact with each of or one of the joint account holders would generally be enough time for the making of representations in various circumstances, provided that period could be extended for cause shown within the 28 days, and with a summary appeal process for dealing with any appeals against a failure to extend. Where a confident contact has not been made, or cannot be shown, the time frame may need to be longer or the administration required to make good where within a time frame of six months for example the NRP makes out a proper case. Question 3 needs some further background explanation.

5. In our view, it will also be important for effective safeguards to be clearly set out in the regulations (rather than reliance on the discretion of the administration) with information clearly presented and available for the maintenance debtor who may well unfortunately have little or no access to professional advice and support. Debtors should be aware of the scheme by which the deduction is made, what criteria are engaged and what steps might be available to remedy infringement of his/her rights.

6. We would also ask that the DWP give further consideration to where this power is likely to arise. We suggest that there is a difference between the very old (particularly CS1) caseload and the more recent ones (post 2003 CS2 or CS3). There seems to us to be less risk of unfairness in the taking of a robust approach in relation to the more recent caseloads. In our members' experience, there are a considerable number of highly alienated NRPs under CS1.

Whilst recognising that these may be where there is greatest evasion, some cases involve NRPs on very low incomes, perhaps with mental health issues, who have been unable to manage the complexity involved over a significant period of time. To avoid injustice we consider that the scheme must take account of any:

i. penalty assessments to be set aside

ii. miscalculations

iii. incomplete supersessions

iv. unrecognised termination of liability or

v. accounting errors.

7. Legitimate concerns of the NRP will remain in the deduction against joint account intervention where, for example:

i. There are ongoing disputes as to liability (and this would impact upon the sums seized)

ii. The sums are not beneficially their own

iii. The sums are already committed for a project (for example, monies required to complete a property purchase, where contracts are already exchanged) where seizure may lead to significant losses.

8. These elements may overlap but each would require a very different sort of remedy which might involve the following:

i. Fast-tracking the resolution of outstanding disputes

ii. The taking of evidence including from non-parties to the maintenance dispute about beneficial ownership

iii. The taking of security as a condition for permitting a transaction to proceed.

9. Other areas which seem to us to require further consideration are where an NRP has beneficial ownership of the entirety of the funds placed in a joint account; and confidentiality - we believe that simply being a joint account holder with the NRP does not mean that the NRP’s confidential information can be automatically released to the joint account holder or that information on the NRP can automatically be obtained from the joint account holder.

<u>Individual Responses</u>

E-mail: 23/08/2016 20:24 (1)

I am a non resident parent and subject to annual assessment through the CMS.

The new partner of a NRP has the right to retain their individuality and privacy and to retain their monies in an account regardless of the status of that account. Having said that, it is unacceptable for a NRP to hide money in a joint account for the purpose of avoidance of payment of child support. There should therefore be a request for disclosure of NRP funds held in joint accounts made to the NRP from the CMS. This should take the form of a written declaration with consequences for giving false information but there should be no automatic right to invade the privacy of an individual who has no link to the cases apart from the fact they are a partner of an individual who has children from a previous relationship. The proposed legislation in my view is unfair as it does not treat the partner of a NRP fairly and does not respect the right to privacy of that person.

E-mail: 24/08/2016 12:00 (2)

Do what you like . You ruin lives full stop. You will be shut down eventually like csa was.

E-mail: 24/08/2016 12:15 (3)

Dear sirs/madam,

Again the point is being missed and this idea of taking money from joint accounts is not particularly fair.

There are a great many ways deductions could be taken but this isn't one of them.

My overriding opinion and I am not alone in this is that firstly if the child is not in contact with the mother/father and yet said persons are willing to pay surely making sure the parent paying should also be spending time with child/children. I know this deepens the argument but there are too many fathers seeking contact and pay but don't see their child/children so if you are enforcing payment you should then enforce contact.

But if they are a parent who wishes not to be involved with the child and don't want to pay go directly from their wages and not joint accounts of their new partners as this surely isn't the correct way of going about it. Basically you are taken money potentially from someone who doesn't need to pay for their partners mistakes.

I would like to think that common sense prevails and that money equals contact with children as the courts are rammed with people paying and not seeing their children and being let down by the courts, social services and cafcass.

Kind Regards

E-mail: 24/08/2016 13:06 (4)

Hi

I disagree with this it is not the responsibility of a non parent to pay for a child and they should not have their account subjected to this.

I totally disagree with the suggestion it's a disgrace

It's invasion of privacy of an unconnected party

E-mail: 24/08/2016 13:06 (5)

Why should someone's new partner be liable for her partners children when that new partner may have children of her own.

This will end in more relationship breakdowns.

Between couples "regarding why should i pay for your children"

When we struggling to feed our own family

E-mail: 24/08/2016 14:43 (6)

To whom it may concern,

This is so wrong! What has the new partners wage or income got to do with anything? They are not responsible for another persons child/ children! They want to put right the way they run the organisation before anything else and also get to grips with the staff doing what they are paid for instead of personally judging the non resident parents like they don't give a toss about their kids and tell them it's just tough if you have no money left for your household & family and told we are taking this amount from you whether you can afford it or not! They need to assign one caseworker to a case and keep that caseworker instead of having to speak to a different person every time you call them and have to explain everything again and make sure when they say they will call you back at a certain time that they actually do so!!!! They should also enforce the resident parent/carer to allow the other parent regular visitations to see their child/children ONLY if they pose no threat or risk to

them! After all it's the child/children that matter in all this and not the parents feelings! So get your house in order before bringing in even more rules in order to fill your coffers for ridiculous charges such as letters and phone calls!! .

Yours faithfully,

A very annoyed step grandma.

E-mail: 24/08/2016 15:20 (7)

Dear sir/madam

This proposal is farcical. A non resident parent's partners income should never come into child maintenance calculations. The aim of maintenance is for the NRP to continue to support their child as if they were still there. This proposal is an over reach of an already interfering and biased department. These proposals are simply going to result in NRP's being unable to be involved in new relationships as no one will want to risk being penalised financially to support their partners ex.

Perhaps the government could better invest their time in consultations regarding shared parenting thereby removing the need for the CSA and child maintenance, and creating a better quality of life for the children of these relationships

Regards

E-mail: 24/08/2016 17:32 (8)

Public Consultation: Deduction Orders against Joint Accounts

Written evidence submitted by [redacted name]

Executive Summary:

- Both parents have a responsibility towards the upbringing of their children after a family separates. The stated aim of the proposals is to maximise collection of child maintenance whilst ensuring fairness for non-resident parents.

- Non-resident parents with adequate resources should not seek to avoid their financial responsibilities. However, the maintenance calculation legislation for the 2003 and 2012 Schemes contains serious flaws :

o The thresholds intended to address the limited financial resources of non-resident parents on low pay still have the values assigned to them in 1998.

o The interaction of the child maintenance schemes with welfare support gives rise to effective “marginal tax rates” of up to 130% .

As a result, the assessed liabilities are beyond the reach of many parents.

• Many non-resident parents are on low income. As of March 2016 , 80.9% of the live caseload had a liability of £30 or less or a nil liability. £30 is the liability for one child when the net weekly income is £200.

• Unaffordable assessments lead inevitably to debt and arrears, on a personal level and nationally.

• Many the non-resident parents subject to enforcement action have very low incomes.

For example, in the year April 2013 – March 2014 :

o There were 184,090 active Deduction from Earnings Orders (DEO/R). Of those whose income was available, 63% had a weekly net income of less than £300.

o There were 8,930 Bailiff Referrals. Of those whose income was available, 29% had no assessable income, a further 44% had a weekly net income of less than £300.

• The attempted enforcement of unaffordable child maintenance is inappropriate. It is also unlikely to be cost effective.

• The proposal to allow deduction orders against joint accounts is fraught with difficulties. The concept that each party “owns” a certain percentage of a joint account is an artificial one.

• It is inappropriate to make further regulations on enforcement until child maintenance calculation regulations are amended to ensure that assessments are within the reach of the paying parent.

• To ensure the desired fairness for non-resident parents, steps should be taken as a matter of some urgency, to address these problems of unaffordability.

1. Introduction

My involvement/interest in child maintenance began early in 2011, through the case of a particular individual, a fully committed father, who was faced with a child maintenance assessment that he could not possibly meet. Investigation showed that this was not a mistake but a consequence of the regulations and that many non-resident parents were affected.

My research uncovered fundamental flaws in the 2003 and 2012 maintenance calculation regulations and I have worked since then, in a variety of ways, to get the issues addressed. My understanding has grown over the years, helped by my lifetime background as a university mathematician.

I worked with the Centre for Social Justice on their 2014 Family Breakdown report Fully Committed? How a Government could reverse family breakdown . This drew attention to the problems with the child maintenance regulations and recommended urgent action.

I presented an invited paper at the ESRC International Research on Child Maintenance in July 2015. This gave a comprehensive account of the situation, including the interaction of the child maintenance schemes with welfare support and effective “marginal tax rates”.

Following the ESRC event I provided a briefing paper for the Joseph Rowntree Foundation.

I will submit written evidence to the Work and Pensions Committee Inquiry into the Child Maintenance Service. My comments here relate to the plans to make regulations to implement existing primary powers enabling deduction of child maintenance from joint accounts held by a non-resident parent.

2. Joint parental responsibility

2.1 Both parents have a responsibility towards the upbringing of their children after a family separates, financially and in wider ways.

2.2 Discussions on child maintenance usually centre on the situation of the parent with main day-to-day care of the children (the parent with care, the receiving parent); little or no attention is given to the situation of the parent with the smaller share of the day-to-day care (the non-resident parent, the paying parent).

2.3 The national charity Gingerbread is a powerful advocate, effective campaigner and lobbyist for the parent with care. It provides detailed briefings for parliamentarians and policy makers. There is no balancing voice for the non-resident parent. Families Need Fathers, for example, is a much smaller charity focussed on helping non-resident parents retain a relationship with their children after separation.

3. Enforcement Measures

3.1 The present proposal is part of the wider strategy to maximise collection of child maintenance. Increased enforcement powers were granted by the Child Maintenance and Other Payments Act 2008 in response to recommendations by the Henshaw Report . The recommendations arose because of concerns over non-payment of maintenance and build-up of arrears. The Henshaw Report did not

address the issue as to why these arrears developed and whether the calculated liabilities were affordable.

3.2 The assumption behind enforcement measures is that non-resident parents are refusing to pay (they are “non-compliant”). Their ability to pay is not considered.

3.3 Non-resident parents with adequate resources should not seek to avoid their financial responsibilities towards their children. However, the maintenance calculation legislation for the 2003 Scheme contains serious flaws which have led to unaffordable assessments of liability. The same flaws have been continued into the 2012 Scheme, so the problems of unaffordable assessments and consequent arrears will continue.

3.4 It is inappropriate to attempt to enforce payments that are unaffordable. It is also unlikely to be cost effective.

4. Flaws in 2003 and 2012 Scheme Child Maintenance Regulations

4.1 The problems with the 2003 and 2012 Schemes were trailed in the CSJ paper and dealt with more comprehensively in the ESRC and JRF papers . Note, in particular:

- The thresholds intended to address the limited financial resources of non-resident parents on low pay still have the values assigned to them in 1998.

- The interaction of the child maintenance schemes with welfare support gives rise to effective “marginal tax rates” of up to 130% .

4.2 The consequences for non-resident parents on low income are severe:

- Those in full-time work have less money than when they were unemployed.

- They cannot improve their situation by working more hours; indeed this can make them worse off.

4.3 The problems exist for both the 2003 and 2012 Schemes.

4.4 The problems exist in the present welfare system and continue under Universal Credit. For non-resident parents it is not the case that “work will always pay” and that they will “always be better off working more hours”.

5. How many non-resident parents are affected?

5.1 Many non-resident parents are on low income. Some evidence for this is given in the Child Support Agency Quarterly Summary of Statistics (CSA QSS). For example, Table 3 in the CSA QSS for March 2016 gives the caseload by weekly liability value. 80.9% of the live caseload had a liability of £30 or less or a nil liability. £30 is the liability for one child when the net weekly income is £200. The average weekly liability, excluding nil liability, was £38.00.

5.2 The unaffordability of payments means that non-payment and arrears are inevitable.

5.3 Many the non-resident parents who are subject to enforcement action have very low incomes. Enforcement activities are regularly reported in the CSA QSS and I have supplemented this using the Freedom of Information Act.

5.4 For example, in the year April 2013 – March 2014 :

• There were 184,090 active Deduction from Earnings Orders (DEO/R). Of those whose income was available, 63% had a weekly net income, including tax credits, of less than £300. The child maintenance for two children on the 2003 Scheme for a weekly net income of £300 would be £60.

The deduction can be to cover both current liability and arrears and can take up to 40% of net earnings. Unlike court orders, there is no requirement that the person be left with enough to cover the essential living cost of themselves and any dependents.

• There were 8,930 Bailiff Referrals. Of those whose income was available, 29% had no assessable income, a further 44% had a weekly net income, including tax credits, of less than £300.

5.5 The proposals here relate to Deduction Orders. It would seem that many of these are sought from non-resident parents who have few financial resources. For April 2013 – March 2014 :

• Disclosure requests, prior to a Deduction Order, were sent to 6,310 cases. 4,830 of these (77%) were deselected at disclosure stage. Of these, 1,320 were weeded (no longer within agency priorities). Of the other 3510, 2,710 (77%) had no account traced or no positive balance.

6. The present proposal

6.1 The proposal to allow deduction orders against joint accounts is fraught with difficulties. The concept that each party owns a certain percentage of a joint account is an artificial one. I hope that others will speak to this in more detail.

6.2 However, the essential point I make is that flawed legislation means that the child maintenance liabilities calculated by the regulations in the 2003 and 2012 Schemes are beyond the reach of many parents.

6.3 It is inappropriate to make further regulations on enforcement until child maintenance calculation regulations are amended to ensure that assessments are within the reach of the paying parent.

7. Conclusion and Recommendation

7.1 The 2003 and 2012 Schemes give maintenance liabilities that are beyond the reach of many non-resident parents.

7.2 No steps should be taken make new regulations concerning deductions against joint accounts until the problems with the child maintenance regulations are addressed.

7.3 Steps should be taken to investigate the problems and amend the regulations to ensure that assessments are within the reach of the paying parent.

E-mail: 24/08/2016 21:00 (9)

What a pathetic and deluded idea !! The CMEC / CSA / CMS / DWP really need to concentrate their energy on encouraging children to spend time with fathers by not giving into lies and deceit from ex partners. You have ruined enough lives already and will no doubt continue to ruin more. Shame on all of you

E-mail: 24/08/2016 21:00 (10)

Hi everyone,

As an NRP (What a disgusting term) I find the thought that any governmental dept can take money from a joint account with any new partner I may have in future outrageous and disgusting - why should any new partner of mine shoulder the cost of bringing any of my children up!

Children should see both parents 50/50 unless one parent is unfit to parent and if 50/50 is agreed then no money should pass between parents. We men are sick of topping up our ex wives part time work lives while we struggle to move on.

E-mail: 24/08/2016 21:35 (11)

Dear Sir/Madam...

...I hope this email finds you well.

The change being proposed is tantamount to putting two families at risk of Financial Hardship when there are already safeguarding arrangements in place against defaulted payments.

This measure seems highly intrusive and a recipe for disaster!

Yours Sincerely

E-mail: 24/08/2016 22:08 (12)

I am completely against this as you have no right to take money from people who are NOT related to the child that the order is made for.

E-mail: 24/08/2016 22:24 (13)

I find the idea of punishing a partner of a nrp absolitely disgusting. Nrp are punished enough and are not represented fairly enough in the courts, now there new families will be forced to suffer by an unfair system. This is intrinsically wrong and totaly unfair

E-mail: 24/08/2016 23:51 (14)

This is wrong to expect or penalise anyone who is NOT responsible for another's child.

What's wrong with 50/50 custody with NO payment to either parent.

Just another way to "tax" people to keep them poor.

What happens when you make huge mistakes, like my case, where you empties my bank account forcing me to lay off my staff and close my business when you got my assessment wrong by your case workers incompetence

E-mail: 25/08/2016 06:59 (15)

Is this correct you are wanting views on wether CSA should be collected from a joint account?...

If so then that's a definitive no! When my husband was paying through your system he was supported by me, due to your calculations and the fact the parent with care left him with all the bills and debts he would not have eaten if it were not for me. So would I be happy at you taking MY money?...no.

It's a ludicrous idea and yet like most government decisions it'll probably get passed.

The whole CSA/CMS system is a poor attempt and totally unjustly calculated.

E-mail: 25/08/2016 09:30 (16)

I object to the forced removal of funds from anyone's bank for whatever reason let alone CM. As a parent any money in my account is in one way or another going to be used for the children. I have my children over 50% of the time, my ex partner receives ALL the benefits and works less than me. To have the right to forcibly take money from my account is just not right as everything is already stacked in favour of the "main carer"

Regards,

E-mail: 30 June 2016 12:21 (17)

DWP / CSA Anti Father Policy Will Cause Diminished Responsibility

"It's clear to the rest of the world that UK justice system currently being run by corrupt and quite evil executives and mangers has become as rotten and as insufficient as its national football team, an incompetent team, that failed to show the world the winners cup, just as these corrupt and wastful tax funded over paid UK goverment agencies fail to return millions of UK children to their real fathers.

History records that the 2016 England football team were defeated by Iceland and this is because, millions of UK men suffer from pysciatric injury (including members of the national football team) all sharing an obvious collective and national mental illness that manifests itself with zero humanity and compassion, this is caused by the evil injustice of the DWP, the CSA and the UK Family Law Courts, by virtue of how these courrupt UK departments continue to sell UK children through its divorce courts, for profit.

It's plainly obvious that the DWP, the CSA and the UK Family Courts, are making a corrupt family law policy to plunder the bank accounts of fathers in tandem with HMCTS & HM Tax officers. The further evil attacks by these grossly over paid underperforming tax funded agencies, namely the DWP, CSA, HMCTS and HM Tax office now plan to introduce an evil new law that allows its own members a right to freeze the UK bank accounts of separated fathers using the fathers earnings to pay maintaince to motherswho refuse to comply with court orders allowing their children to see their fathers.

The freezing of UK fathers bank accounts when they have never even seen their own children, because of the evil polices of the DWP, HMCTS, CSA will simply cause the rest of the world to boycott British products. For the fathers whose children have already been sold to the mother by HMCTS family courts, to then have their bank accounts stolen, is evidence that British goverment departments are operating a Nazi regime long after the UK battled to defeat Nazism.

It's an evil policy for the UK goverment to steal the money of fathers being denied their children under the false pretence of "child maintaince", any such stealing of UK

fathers money as proposed by the DWP, to pay mothers who do not even share the children with the father, will clearly lead to destruction of the fathers life, the consequences of which, will be far worse and very costly for those at the DWP, HMCTS & CSA found freezing accounts of UK fathers, it will cause these fathers to have nothing else to lose and will cause violence should their money be stolen? My advice to DWP, CSA, HMCTS staff is that the reaction of the UK fathers who not only have no right to see their children because of UK goverment policy, when faced with their bank accounts being frozen by the UK government, it will cause the victims of this HMCTS, DWP, CSA gross miscarriage of family Law injustice excessive and very serious pysciatric damage, and diminished responsibility, in which DWP, HMCTS, CSA must at all costs prevent creating government policies that cause the victims to become insane with unjust goverment policy, as we saw in the very sad and tragic murder of Jo Cox. The reason UK fathers cannot afford to pay UK child maintaince is because they suffer monetary loss in paying HMCTS exsessive court fees, and lawyers fees, to see children they have never seen, so I n freezing their bank accounts so as the seperated fathers money is then controlled by the UK government, it will be a terrible tragedy at Caxton House & in Whitehall, causing the fathers to act with diminished responsibility having had their children and money stolen by HMCTS/DWP/CSA in the exact way that the Nazi's stole from victims of the Holocaust.

E-mail: 05/07/2016 11:17 (18)

Subject: deduction orders to recover child maintenance arrears from joint bank accounts held by a non-resident parent

Good Afternoon

I work as [redacted] Citizens Advice Bureau.

I believe that implementing this would be extremely harmful to the Right to a Family Life of the NRP and new partner.

It is extremely unfair to penalise a person who had nothing to do with the first family whilst trying to build a new family. There are other ways to make the NRP pay.

How many NRP’s do you have that you are unable to get CM arrears from through the other methods?

It looks, to me, that this is just another way of the government using their powers to access people’s private information and finances.

Get a grip!

E-mail: 21/07/2016 15:37 (19)

Dear DWP/CMS

i am a single parent and a client of CMS. I applied for CM in Aug 2014. This was 3 months after the father left. To date i am still waiting to recieve money for help towards the cost of upbringing our one and only son.

Life is a struggle but it doesn't matter to the father who chose to walk out on us without a valid reason. The recent contact from him states he does not care about his son and that he has re-married.

Therefore, i whole heartedley agree with the proposed implementation of deductions from joint accounts because i may soon be affected by this. In addition, any extra powers or permissions given to the CMS may mean i finally get some cm from this callous and inconsiderate person.

Thank you

Kind regards