

Child Support Reform in the United Kingdom

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Introduction

The Child Support Agency (CSA) commenced operations in April 1993. Last year, Stephen Geraghty, the incoming Chief Executive of the CSA, conducted a 'root and branch' review of the Agency's activities. The full recommendations of that review were not accepted by John Hutton MP, the Secretary of State for Work and Pensions. As a result, in February 2006 the Secretary of State announced that Sir David Henshaw, formerly Chief Executive of Liverpool City Council, would report on the future of the child support system by the summer of 2006. This paper reviews recent developments in child support policy in the United Kingdom and discusses options for the future.

A short history of child support

The Child Support Act 1991 was supposed to deliver child support awards that were set at a realistic level, as well as being fair, consistent, transparent and regularly reviewed and updated. As these outcomes were to be delivered by a formula, with only a limited role for the exercise of discretion, Mrs Thatcher's Government established the CSA to administer the new scheme. Faced with the outrage of so-called 'absent parents', the Conservative Government tinkered with the original formula through changes to the regulations. A further layer of complexity was added by the Child Support Act 1995. This allowed parents to apply for an adjustment to their child support liability on the basis of a 'departure' from the formula, but only in narrowly defined circumstances. Not surprisingly, non-compliance remained endemic.

The first Blair Government acknowledged that the original formula under the 1991 Act was too complicated and that children did not see enough benefit where maintenance was paid. According to the Prime Minister, the CSA 'was based on sound principles. But its operation has failed to live up to them' (DSS, 1999). That White Paper set out New Labour's agenda for reform. In short, the new system would be based on four fundamental features: (1) a simple system of rates; (2) the 'child maintenance premium'; (3) a tougher sanctions regime; and, last but not least, (4) 'a new child support service'. The legislative framework for these changes was embodied in the Child Support, Pensions and Social Security Act 2000. So how far have these goals been achieved?

The reforms in the 2000 Act

A simple system of rates

The new formula, at least compared with its predecessor, has the great merit of simplicity. The basic rate for one child is now 15% of the net income of the non-resident parent (the less loaded term in the 2000 Act, which replaced 'absent parent'), with 20% for two children and 25% for three or more children. There is a proportionate prior adjustment where the non-

resident parent has responsibility for a child or children in his (or occasionally her) new family. It follows that essentially the two key variables in any new CSA calculation are the number of children and the net income of the non-resident parent. The former is rarely in dispute; the latter may well be bitterly contested. So there remain problems with both the definition of income and its assessment by the CSA (see Wikeley, 2005).

The child maintenance premium

At the outset of the child support scheme, the vast majority of children affected by the CSA were living on welfare. If child support was paid, then the parent with care's entitlement to income support was reduced pound for pound. Obviously, this provided little incentive for either parents with care or non-resident parents to co-operate with the CSA. The New Labour answer in the 1999 White Paper was the child maintenance premium (in social security speak, a disregard). Parents with care on income support would be allowed to keep up to £10 a week in child support before it affected their benefit. As a result, it was expected 'at least to double the proportion of lone parents on benefit who are receiving maintenance' (DSS, 1999: 4).

So far the track record on the child maintenance premium has been very disappointing. There are currently only about 42,000 parents with care under the new scheme benefiting from the child maintenance premium (DWP, 2006a: Table 14). To put this in context, the new scheme comprises over half a million cases – and the parent with care will be on benefit, and so potentially eligible for the premium, in about two thirds of that total. Overall, the proportion of all parents with care on benefit (including those on the original child support scheme) who are regularly receiving maintenance is 25% – exactly the same as it was in February 2003, before the new scheme was introduced (DWP 2006a: Table 13.1). The official targets – that 60% of parents with care on benefit receive maintenance by March 2006 and 65% do so by March 2008 – will probably not be met.

A tougher sanctions regime

All governments like to sound tough on child support defaulters. New Labour is no exception. The 1999 White Paper promised to crack down on non-resident parents who tried to shirk their responsibilities. In particular, it stated that automatic deductions from earnings orders (DEOs) would be used for non-resident parents who missed payments by other means. At that time, DEOs accounted for 20% of all payments, a rate which has now edged up to a dizzy 22%. In contrast, direct deduction from salary is used in 65% of cases in the United States and in 40% of CSA collect cases in Australia. In both jurisdictions, this method is seen as a standard means of collecting child support, rather than as an enforcement tool.

The 2000 Act allowed the courts to issue driving licence disqualification orders against child support debtors as a last resort and as an alternative to imprisonment in cases of serious default. Only a handful of cases ever get this far: since 2003 just 10 such disqualification orders have been imposed (Hansard, 2006c). The 2000 Act also introduced new criminal penalties for non-compliance with the CSA's inquiries. Few charges are brought for making false statements (just four in the first 10 months of 2005), although the CSA has shown a greater willingness to prosecute for failing to provide information (309 cases over the same period: Hansard, 2006b).

A new child support service

The 1999 White Paper promised that the CSA's operations would be 'radically reformed', with maintenance flowing within 4–6 weeks, rather than 6 months or more (DSS, 1999: 5). Judged by these expectations, the CSA's performance has been simply disastrous. Indeed, the operational difficulties involved have probably surpassed policy makers' worst nightmares. The original plan was that the new scheme would commence in 2001. In the event, the start date was pushed further and further back until 3 March 2003; since that date (known as 'A Day'), applications have been dealt with under the 'new scheme' formula (of

simple percentage rates). However, the CSA's existing 'old scheme' caseload remains subject to the original formula. The CSA's current estimates are that 60% of non-resident parents on the old scheme would face a higher liability if assessed under the new scheme. Conversely, 40% would have a lower liability. Either way, given the impact on parents with care, that adds up to a lot of unhappy people.

From an administrative point of view, the change over to the new scheme involves two distinct processes: 'migration' and 'conversion'. 'Migration' is the data transfer of the CSA's existing caseload from its old computer system (CSCS) to its new IT system (CS2). 'Conversion' is the process of changing the child support liability in an individual case from a 'maintenance assessment' (under the old scheme) to a 'maintenance calculation' (under the new scheme). The ministerial mantra is that bulk conversion of old scheme cases will only take place when the IT system is sufficiently robust to cope with such a mass transfer. A substantial (but unknown) proportion of the old scheme caseload is plagued by corrupt data, and 'cleansing' these cases will inevitably be a time-consuming and costly process. The net result is that, as at March 2006, the CSA's total caseload was just over 1.5 million – but around two thirds (923,000) were still stuck on the old scheme and only 596,000 were governed by the new scheme (DWP 2006a: Table 1). Meanwhile, some new scheme cases, by means of a domino effect, are pulling associated old scheme cases, which involve the same individuals, onto the new computer system. This phenomenon, known as 'reactive migration', is 'automatic, unplanned and uncontrolled', so exacerbating the CSA's operational problems (ICE, 2005: 25).

The main reason for all these problems lies in the new IT system, CS2, which the House of Commons Work and Pensions Select Committee described as 'clearly over-spec, over-budget and overdue' (HC Work and Pensions Select Committee, 2003: para 183). These difficulties have been compounded by problems with the CSA's new telephony system. The combined effect, as the Select Committee observed, is that 'it is a lucky caller who gets put through to somebody that can actually retrieve the relevant files on to their screen and extract the necessary information before the computer screen crashes'. As a result, more than a third of the CSA's cases are waiting to be cleared – in other words, no assessment or calculation has been made. Of these, 66,000 are old scheme cases – and so have been waiting for more than three years. The average (median) delay in clearing new scheme cases is about five months. There has also been little improvement in compliance rates over the last few years, which are actually better on the old scheme than the new. The accumulated debt over the lifetime of the scheme is now more than £3.3 billion, much of it uncollectable.

Child support in crisis: the political context

The problems described above have been evident for some time. In January 2005, the Select Committee issued a scathing report, describing the CSA's performance since March 2003 as 'woefully inadequate' and its failure to achieve any of its ministerial targets as 'totally unacceptable' (HC Work and Pensions Select Committee, 2005: paras 18 and 31). The Committee set out a total of 30 recommendations, several of which were subject to an Easter 2005 deadline for action. The immediate response of the then Secretary of State (Alan Johnson MP) to the Committee's report was less than wholehearted support for the CSA – he refused to rule out the 'nuclear option' of moving to a completely new system, but argued this would only be appropriate if 'we were absolutely convinced that this system just isn't going to work' (BBC, 2005).

This response set the tone for subsequent ministerial pronouncements on the future of the CSA. Following the May 2005 General Election, David Blunkett MP replaced Alan Johnson at the Department for Work and Pensions. At the Labour Party Conference in the autumn, the new minister advised lone parents to avoid the 'shambles' of the CSA and to take

advantage of a 'gateway' service to resolve child support issues through mediation, which it was planned to pilot in 2006. He also confirmed that the CSA's new chief executive was conducting a 'root and branch' strategic review of the CSA's operations. In November 2005, when pressed at Prime Minister's Question Time, Tony Blair described the CSA as 'not properly suited' to carry out the task of ensuring that parents met their responsibilities. In particular, he suggested that the CSA faced extreme difficulty in being simultaneously an investigating agency, an adjudicating agency and an enforcement agency (Hansard, 2005) – although he did not mention that the Australian CSA has a much better track record in combining these various disparate functions.

As late as September 2005, it was said that this 'root and branch' review was due to be published in October. But then Mr Blunkett was forced to resign, to be replaced from early November 2005 by the third Secretary of State for Work and Pensions in the space of six months, John Hutton MP. These ministerial musical chairs undoubtedly did not help the process of top-level political consideration of the future prospects of the CSA. It seems, however, that there were also other reasons for the continuing delay – not least that the message from the Geraghty Report was not one that ministers seemed particularly keen to hear.

On his first full day in office, John Hutton was given a presentation based on the Geraghty Report (CSA, 2005). This identified four main proposed policy changes. The first was the pilot scheme for 'helping parents to make their own arrangements' (Blunkett's baby, so to speak). Secondly, the CSA would aim for the 'simpler and more efficient flow of maintenance', in part through greater access to data held by other government agencies. Thirdly, debt, collection and enforcement measures would be strengthened, including the routine use of DEOs and – assuming primary legislation could be secured – tougher sanctions, such as curfew orders and passport withdrawal. Finally, the Strategic Plan referred candidly to 'clearing up the mess' – the closure of cases (which again would need legislation) and conversion of old scheme cases by a new deadline of October 2008 – over five years after 'A Day'.

This three-year plan came with a sting in its tail: the projected cost was an extra £489 million, of which £119 million would be met from the existing budget. So the net bill for the Strategic Plan was £370 million over 3 years, or about the same as the CSA's annual operating costs. Three weeks later the new Secretary of State confirmed to the Select Committee that he was 'looking at all of the options'. He emphasised that the Government needed 'to be absolutely sure that any solution we provide is a value for money solution for the taxpayer' (HC Work and Pensions Select Committee, 2005b) – not least, perhaps, given that the CSA's accounts have been qualified by the National Audit Office for every year since 1993. So the Government's favoured option was unlikely to include any plan that envisaged an increase of one third in the CSA's running costs.

From review to redesign

On 9 February 2006, the Secretary of State declared that 'neither the agency nor the policy is fit for purpose' and announced a two-stage strategy for reform (Hansard, 2006d). First, the CSA published its own *Operational Improvement Plan 2006–2009*, designed to 'stabilise and improve the performance of the agency in the short term'. This included the usual tired promises about quicker and firmer action on defaulters, including greater use of DEOs and a more active enforcement policy. Some of the debt-recovery work will be contracted out. In short, the *Operational Improvement Plan 2006–2009* looks rather like the CSA Strategic Plan with the expensive bits taken out. Secondly, Sir David Henshaw, the outgoing chief executive of Liverpool City Council, was appointed to head a team charged with the task of redesigning the child support system so it is truly 'fit for purpose'. So this latter initiative is a *redesign* and not simply a *review*.

The terms of reference for the Henshaw redesign project are fairly broad. The report, due before the summer recess in 2006, must consider 'the longer term policy and delivery arrangements for child support'. This will include considering how to ensure that parents take financial responsibility for their children on separation and the best arrangements for delivering this in a cost-effective fashion. This will inevitably mean that the confusing inter-relationship between the work of the courts and the CSA will be re-examined. However, the emphasis on cost effectiveness means that a wholesale return of child maintenance business to the courts looks unlikely. The Secretary of State has also indicated that transferring the CSA to another department (e.g. the Inland Revenue, now Her Majesty's Revenue and Customs) is not necessarily the answer. The redesign project is therefore likely to search for ways in which to encourage more separating parents to settle their child support arrangements privately – the difficulty, of course, is that there may be limited room (or indeed inclination) for compromise.

The Henshaw redesign project must also consider the options for moving to 'new structures and policies recognising the need to protect the level of service offered to the current 1.5 million parents with care'. It is somewhat worrying that the terms of reference make no mention of *enhancing* that level of service or of improving the quality of service provided to non-resident parents. In fact, we face the prospect of yet further fragmentation of the child support system. Some 30 years ago the Finer Report attacked the confusion caused by the three systems of family law – the divorce jurisdiction in the higher courts, the magistrates' matrimonial jurisdiction and the liable relative work of the former Department for Health and Social Security. If adequate resources are not put into managing the transition from the old scheme to the new scheme, we may end up with at least three child support systems – an old scheme, a new scheme and a redesigned new scheme. On top of that, some cases will still be handled through the courts. So what are the possible options?

The role of the Revenue

Is the answer simply to turn the CSA over to the Revenue (Her Majesty's Revenue and Customs (HMRC), formerly the Inland Revenue)? If we were starting from scratch, this might well make a lot of sense. The original justification for locating the CSA within the then Department of Social Security (DSS) was that the DSS had vast experience of dealing with the social consequences of relationship breakdown through its extensive network of local offices. The Revenue, on the other hand, had limited personal contact with taxpayers and next to no expertise in social matters. In addition, unlike in Australia, most UK taxpayers do not have to file an end of year tax return.

These arguments look less convincing 15 years on – not least as the CSA is as distant (geographically and in other ways) in its dealings with its customers as is the Revenue. Conversely, under successive Blair Governments, the Revenue has taken on responsibility for the delivery of a wide range of social policy commitments designed to improve support for children (child benefit, child tax credit and the child trust fund are all now within the Revenue's remit). Locating the CSA within the Revenue would have other advantages – it would send out a clear signal that the child support liability is mandatory, not an optional extra. It would also distance the child support scheme from the benefits system and the associated stigma.

Yet there are a number of reasons why moving the CSA over to the Revenue might not be the best policy, at least in the short term. Since 2003 the Revenue's well-established reputation for both accuracy and efficiency has taken a considerable dent as a result of the difficulties with implementing the new tax credits regime. In addition, many of the CSA's clients – both parents with care and non-resident parents – are benefit claimants, so

reinforcing the need for strong links with other arms of the Department for Work and Pensions (DWP). There is, moreover, no guarantee that the Revenue would be any more inclined to question self-employed accounts than the CSA, especially in small businesses (and even more so where 'three line accounts' are acceptable for tax purposes). There is also the risk that the integrity of the tax base will be put at risk – put simply, those who fiddle their income for child support purposes are more likely to do so for tax purposes. There is some evidence from Australia that taxpayers with child support liabilities are more likely to under-declare their income and over-claim permissible deductions.

Instead of relocating the CSA within the Revenue, the answer may be rather to examine the legal and practical hurdles to the transfer of information from one to the other. In addition, we need a thorough analysis of the extent to which we can properly align the concepts of income in the tax and child support schemes – an issue recently before the House of Lords in *Smith v Smith and Secretary of State for Work and Pensions* (see Wikeley and Young, 2005). In the medium to longer term, there may be a case for transferring the CSA to the Revenue. In the short term, however, we need to go back to basics to ensure we take the right direction for the future.

Back to basics

Why do we have child support in the first place? There are at least three good sets of reasons. First and foremost is the argument that, as a matter of principle, children have a right to support from their natural parents, regardless of whether they actually live with them. It is therefore incumbent on government to ensure that that right is effective and not merely aspirational, not least as the United Nations Convention on the Rights of the Child 1989 mandates Contracting States to 'take all appropriate measures to secure the recovery of maintenance for the child from the parents' (Art 27(4)).

Secondly, an effective child support regime may serve a number of important social policy objectives. The research evidence shows that women and children still face greater financial hardship than men when relationships break down. Receipt of child support is also positively associated with lone parents taking up work and with children maintaining contact with (predominantly) fathers after their parents' separation (although cause and effect is difficult to disentangle). In addition, evidence from the USA suggests that strong child support enforcement helps to reduce teenage pregnancy rates.

Thirdly, in terms of political imperatives, one of the current Government's major policy commitments is to halve child poverty by 2010 and to eradicate it by 2020. Given the slippage to date on achieving these goals (DWP, 2006b), it is difficult to see how they can realistically be achieved in the absence of an effective child support system. But just because we need child support, it does not necessarily follow that we need a Child Support Agency. Can the goal of securing proper financial support for children be delivered through other mechanisms? In particular, is there a place for a guaranteed maintenance scheme and what is the role of the courts?

Options for reform

A guaranteed maintenance scheme

Guaranteed maintenance schemes are common in other North European countries. In such schemes, a public authority, typically the social security office, makes advance payments of child support where the non-resident parent either does not pay, or cannot pay, and then assumes responsibility for collecting and offsetting contributions from the defaulting parent, although the precise details vary: see Barnes et al (1998) and Corden (1999).

The idea of a guaranteed maintenance scheme has attracted some support in the UK from organisations working with lone parents. The main argument for such a scheme is that as private child support is an inherently unreliable source of income. Guaranteed child support would provide greater security, especially for low income families not claiming benefit, and would operate as a further incentive for lone parents on welfare to move into paid work. In this way, guaranteed child support would contribute to the overall task of tackling child poverty.

In truth, however, so far as lone parents on welfare are concerned, the UK already operates a guaranteed maintenance scheme – it is just called income support. It is difficult to envisage that there will be much of a political appetite for any scheme which might look rather like a reinvention of the old DSS liable relative system, not least as any such scheme might further weaken compliance incentives.

The Treasury might also argue, not unreasonably, that the public purse already makes a significant contribution to the cause of combating child poverty, both by improving the real value of means-tested, out-of-work benefits for children and through the extension and generosity of the new tax credits scheme. The latter, despite its well-publicised problems, has channelled increased resources to working and low income families with children. On this basis, the problem of child support needs to be addressed by reinforcing, rather than undermining, private responsibility for the financial support of children. If this is right, why not use the courts as the mechanism for doing so?

The role of the courts

The dismal performance of the CSA in recent years should not disguise the fact that it was the inability of the courts to provide an effective child maintenance system that was one of the prime reasons for the enactment of the Child Support Act 1991 in the first place. As one minister has noted, there never was a 'golden age of child maintenance before the CSA was set up' (Hansard, 2006a). We should, therefore, pause before assuming that we should, for example, return the assessment of child support in all cases to the courts (either subject to the formula or on some broader basis) and leave the CSA to focus on enforcement alone. Moreover, the court-based system for resolving ancillary relief claims is notoriously unpredictable: it is not so much 'bargaining in the shadow of the law' as 'operating in a vacuum' (Douglas and Perry, 2001: 76). And how would a court-based system manage with the need to review the levels of awards due to changes in income and other circumstances?

In practice, of course, reliance on the courts often means reliance on settlements negotiated with the assistance of lawyers. It hardly seems probable that the Treasury would be willing to fund such litigation through the legal aid budget. There is also ample evidence that many parents feel under intense pressure to compromise on unsatisfactory terms in order to avoid further stress or conflict (see Wasoff, 2005). Any proposals to encourage greater private settlement of child support will need to guard against this danger.

Is there another way of cutting the caseload cake for child support? Why not require the CSA to assess and enforce cases involving parents with care on benefit, and allow all 'private cases' to go to court for assessment and enforcement? There are a number of reasons why not, leaving aside the risks involved with private ordering.

First, this assumes that the overriding goal of a child support system is to protect the public purse – whereas this might have been the case at the outset, there are much weightier reasons for having a child support system (see above and see further Wikeley, 2006d). Furthermore, if children have a right to support, the benefit status of the parent with care is simply irrelevant.

Secondly, the history of the welfare state demonstrates that a system designed for the poor

often becomes a poor service. Conversely, one of the reasons for the relative success of the Australian child support scheme is arguably its very universality: all separated parents are eligible to register with the Agency and 94% of those eligible to register do so.

Thirdly, there would be serious boundary problems: the status of the parent with care as a 'private' or 'benefit' case is never fixed – in particular, parents typically move on and off benefit, depending on their circumstances at any one time. There is a real danger that a system which categorised parents with care in this way would simply reinvent the problem identified by the Finer Report (1974) with the arrangements in place before the old diversion procedure was introduced, when women who were owed maintenance were buffeted from pillar (the magistrates' court) to post (the National Assistance Board office) and back again.

All this is not to suggest for one moment that the existing division of work between the CSA, tribunals and the courts is ideal. At the point of separation, there is clearly a strong argument for saying that the courts should have the power to determine child support liabilities, subject to the formula, in cases which are already in the courts for the determination of ancillary relief matters. There is no point at all in duplicating work and costs (e.g. in securing adequate disclosure of income details). In addition, it seems highly unsatisfactory that parents with care, even those in 'private' cases with no involvement in the benefits system, have no independent right to enforce a CSA assessment. This is as a result of the judgment of the House of Lords in the case of *Keohoe* (see Wikeley, 2006a).

The existing child support adjudication system is also confusing for many parents. There is a desperate need to simplify the cumbersome decision making regime that applies to the CSA, which has produced 'institutionalised delay and uncertainty' (Mr Commissioner Jacobs in decision CCS/1535/1997) and provide 'plenty of scope of parents to find themselves going round in circles' (the same Commissioner in reported decision *R (CS) 3/01*). The appeals regime is also unnecessarily fragmented – whereas decisions on liability and quantum are subject to appeal to a tribunal and then the Commissioner, paternity issues, appeals against deduction of earnings orders and applications for liability orders are heard by the magistrates' courts. There must be scope for rationalisation here.

The mechanics of CSA assessments

From the very outset, policymakers seem to have underestimated the frequency of changes in family circumstances and overestimated the ability of the CSA to keep track of such changes. The Secretary of State has stated that Sir David Henshaw's task is 'to design a system that is capable of being efficiently and effectively operationalised' (HC Work and Pensions Select Committee, 2006). It is a challenge in itself to design a child support system fit for purpose for the future. It is quite another, as the architects of the reforms in the Child Support, Pensions and Social Security Act 2000 have discovered, to build that on to an existing scheme. As we have seen, there are almost a million old scheme cases, governed by the original 1991 formula, as amended before the 2000 Act, and with no immediate prospect of change. This is one of the most pressing policy questions to arise as part of this review. Are they to be left on the old scheme and the old computer system? Or are resources to be invested to cleanse data and transfer them both to the new scheme (conversion) and the new IT system (migration)? Or are they somehow to be leapfrogged onto a redesigned scheme – bearing in mind that the existing unhappy contract with the American IT giant EDS (Electronic Data Systems) for the new (post-2003) IT system runs until 2010?

It follows that it is absolutely imperative that, if the CSA is to remain in place, the Henshaw Report comes up with proposals to make its caseload more manageable. One way would be to reform the Byzantine system of decision-making, revisions, supersessions and appeals (see above). Another strategy might be to change radically the period over which child support awards are assessed. The CSA inherited from the former DSS the week-by-week

mentality of the means-tested benefits system. It is said that this is more practical, given that many parents with care are on benefits which are paid on a weekly basis. But child support liabilities potentially last for 18 years. It might be better to rely on a percentage of the non-resident parent's income in the previous tax year, perhaps with an appropriate uplift for inflation. Obviously it would have to be possible to adjust such liabilities, e.g. where a paying parent loses their job, but the more successful Australian scheme operates on just such a basis.

Tougher sanctions

One of the great ironies of the Child Support Act 1991 is that the CSA's enforcement powers were the subject of intense controversy when these measures were debated in Parliament. Lord Stoddart described the CSA's inspectors as having 'almost the powers of the Gestapo, not of a proper investigative agency in a democratic society' (Hansard, 1991). In fact, the usual complaint, certainly by parents with care, is that the CSA simply fails to exercise the enforcement powers it already has. It may be no coincidence that since 1993 there has not been a single prosecution for the offence of intentionally delaying or obstructing a CSA inspector (Hansard, 2006b).

It is, of course, easy to portray the problem of child support as one which can simply be solved by getting tough on defaulters and increasing the range of sanctions. This sort of rhetoric plays well in the popular media (Daily Mirror, 2005). Similarly the main focus of much of the press coverage of the Secretary of State's February 2006 statement was on the plan to use private debt collectors to enforce child support arrears, a relatively small part of the overall package of measures announced. Sensibly, ministers have made it clear that proposals for tougher sanctions, which will inevitably require primary legislation, must await the outcome of the Henshaw Report.

The CSA's own *Strategic Plan* (November 2005) suggested that curfew orders (hence tagging) and passport revocation should be added to its enforcement armoury. Although there are some signs that the CSA is devoting more effort to its enforcement functions, there remains a respectable case for arguing that it could benefit from having a wider range of sanctions. Whether tagging, with its connotations of criminality, is a sensible strategy is open to question – can it serve any real purpose except stopping the feckless father from enjoying a pint at his local? Revocation of passports in cases of serious default is used in both the USA and Canada to some effect, and might be a worthwhile alternative to driving licence disqualifications and imprisonment in extreme cases. Australia uses a rather different mechanism, known as a 'departure prohibition order', to target those with substantial arrears – whether or not they hold an Australian passport. These orders have been used to recover nearly Aus \$7 million in child support debt since their introduction in July 2001 (Australian CSA, personal communication). In the UK context, however, any such strategy will need to comply with both European Union law and the European Convention on Human Rights.

Conclusion

Child support policy is, by its very nature, always going to be controversial. The Australian scheme, relatively successful by most international standards, has been subject to concerted attack by fathers' rights groups in recent years. An independent review last year, chaired by a leading family law professor, made sweeping proposals for changes (Taskforce Report, 2005). The Australian Government has now formally announced its acceptance of the Taskforce recommendations. Subject to parliamentary approval, a series of changes will be introduced in stages from July 2006, leading up to a new formula in July 2008. These reforms will undoubtedly benefit better-off, non-resident parents but will be accompanied by firmer enforcement activity. According to the banner headline in the *Sydney Morning Herald*, 'Child support gets leaner and meaner' (1 March 2006), but this fails to reflect that the proposals envisage higher child support liabilities for older children (albeit lower awards for

younger children).

The history of recovering the costs of child maintenance in England and Wales, going right back to the early poor law, is a history of low assessments, poor compliance and ineffective enforcement. To that extent, the failures of the CSA are nothing new; they are simply more public. It is clear that effective enforcement must be part of any rescue package. Yet, as a US Congressional committee has noted:

'a strong child support program may change the way society thinks about child support. As in the cases of civil rights and smoking, a persistent effort over a period of years may convince millions of Americans ... that making payments is a moral and civic duty. Those who avoid it would then be subject to something even more potent than legal prosecution – social ostracism' (Committee of Ways and Means, 2004: 8-68).

It follows that securing better compliance is not simply about waving the big stick of tougher sanctions – the child support system must also be seen to be fair, both in substantive and procedural terms (see further Wikeley, 2006d). That is the biggest challenge for the Henshaw Report.

Nick Wikeley is author of Child Support Law and Policy (Hart Publishing, forthcoming, October 2006). This paper is based on articles which first appeared as Wikeley (2006b and 2006c).

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