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SUB-1435-2024

Mr Colm Gildernew MLA  
Chair of the Committee for Communities  
Northern Ireland Assembly  
Parliament Buildings  
Stormont  
Ballymiscaw  
Belfast  
BT4 3XX

Dear Colm

**PUBLIC CONSULTATION - Child Maintenance: Accelerating Enforcement  
(Administrative Liability Orders)**

As you will be aware, the Child Support Enforcement Bill has been introduced to the Northern Ireland Assembly and recently completed its Second Stage on 25 June 2024. The Bill makes provision for the introduction of administrative liability orders in Northern Ireland.

I would like to take this opportunity to thank the Committee members for their contribution towards the recent Second stage debate in the House and their ongoing scrutiny of the Bill's proposals.

I would also now like to inform the Committee that my department intends to conduct a public consultation on child maintenance enforcement measures, namely the use of administrative liability orders in the pursuit of collecting child maintenance arrears.

The purpose of the consultation will primarily be to inform the development of secondary legislation after the Child Support Enforcement Bill has received Royal Assent. An advance copy of the consultation is enclosed for the Committee's information.

The public consultation will be published on Monday 8 July 2024 and will close on Sunday 29 September. The consultation applies to Northern Ireland. An equivalent consultation was carried out in England, Wales and Scotland by the Department for Work and Pensions from 2 October 2023 until 24 November 2023.

My department will of course consider the responses received and publish the consultation report on the departmental website in due course.

In the meantime, should the Committee have any queries or comments on the consultation then I would welcome any feedback and the opportunity to engage further with the Committee.

Yours sincerely

A solid black rectangular box used to redact the signature of Gordon Lyons.

**Gordon Lyons MLA**  
**Minister for Communities**

# Child Maintenance: Accelerating Enforcement (Administrative Liability Orders)

Public Consultation

**July 2024**

# Contents

|  |    |
|--|----|
| Introduction .....                         | 3  |
| About this consultation .....              | 3  |
| How we consult.....                        | 5  |
| Feedback on the consultation process ..... | 5  |
| Freedom of information .....               | 6  |
| Overview.....                              | 7  |
| Background .....                           | 7  |
| Enforcement of Child Maintenance .....     | 8  |
| Administrative Liability Orders .....      | 9  |
| Appeals .....                              | 11 |
| What we would like your views on.....      | 12 |

# **1. Introduction**

This consultation sets out our plans to implement existing powers that allow the Child Maintenance Service to make an administrative liability order against a person who has failed to pay child maintenance and is in arrears. A liability order is legal recognition of the debt and is required before the Child Maintenance Service can take certain enforcement actions against non-compliant parents to enforce those arrears.

## **2. About this consultation**

### **2.1 Who this consultation is aimed at**

This consultation is seeking views from anyone who could be affected by the implementation of the power to make administrative liability orders. This consultation is open to voluntary and community sector organisations, as well as Child Maintenance Service customers and members of the public.

### **2.2 Purpose of the consultation**

This consultation is to gather views on the introduction of administrative liability orders as proposed in the Child Support Enforcement Bill.

### **2.3 Scope of consultation**

This consultation applies to Northern Ireland. An equivalent consultation was carried out in England, Wales and Scotland by the Department for Work and Pensions from 2 October 2023 until 24 November 2023.

### **2.4 Duration of the consultation**

The consultation period begins on **8 July 2024** and runs until **29 September 2024**.

## 2.5 How to respond to this consultation

Early responses are encouraged but all responses should arrive no later than 23:59 on **29 September 2024**. Responses are requested through the preferred method of the online survey, which can be found at <https://consultations.nidirect.gov.uk/dfc/child-maintenance-consultation-enforcement>. Alternatively, a hard copy of the questionnaire can be obtained here and returned by email to [sspld@communities-ni.gov.uk](mailto:sspld@communities-ni.gov.uk), or by post to: Social Security Policy, Legislation and Decision Making Services  
8th Floor  
Causeway Exchange  
1-7 Bedford Street  
Belfast  
BT2 7EG

If responding in an alternative format, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. Before you submit your responses, please read the “Privacy, Confidentiality and Access to Consultation Responses” section below (in section 3.2), which gives guidance on the legal position.

## 2.6 Consultation response

The Department for Communities will consider the responses received and publish the consultation report on the departmental website.

- 2.7** In line with good practice and sustainable development this document has been published electronically.

## 3. How we consult

### 3.1 Feedback on the consultation process

The Department for Communities values your feedback on how well we consult. If you have any comments about the consultation process (as opposed to comments about the issues which are the subject of the consultation), including if you feel that the consultation does not adhere to the values expressed in the *Eight Steps to Good Practice in Public Consultation-Engagement* or that the process could be improved, please address them to:

Social Security Policy, Legislation and Decision Making Services

8th Floor

Causeway Exchange

1-7 Bedford Street

Belfast

BT2 7EG

Email: [sspld@communities-ni.gov.uk](mailto:sspld@communities-ni.gov.uk)

### 3.2 Freedom of Information

The information you send us may need to be passed to colleagues within the Department for Communities in Northern Ireland.

Following the end of the consultation the Department for Communities shall publish a summary of responses received.

#### **Privacy, Confidentiality and Access to Consultation Responses**

For this consultation, we may publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity will be published. We will remove email addresses and telephone numbers from these responses; but

apart from this, we will publish them in full. For more information about what we do with personal data please see our consultation privacy notice.

Your response, and all other responses to this consultation, may also be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however, all disclosures will be in line with the requirements of the Data Protection Act 2018 (DPA) and UK General Data Protection Regulation (GDPR).

If you want the information that you provide to be treated as confidential it would be helpful if you could explain to us why you regard the information you have provided as confidential, so that this may be considered if the Department should receive a request for the information under the FOIA or EIR.

If staff would like to discuss the content of this DPN or the template Privacy Notice, please contact:

Departmental Data Protection Officer

Karen McMullan

Information Management Branch

Causeway Exchange

1-7 Bedford Street

Belfast

County Antrim

BT2 7EG

Ext 38200

Email- [Karen.McMullan@Communities-ni.gov.uk](mailto:Karen.McMullan@Communities-ni.gov.uk)

# Overview

This consultation, which covers the introduction of the Child Support Enforcement Bill and corresponding subordinate Regulations, sets out the Department for Communities' plans to implement existing powers that allow the Child Maintenance Service to make an administrative liability order against a person who has failed to pay child maintenance and is in arrears. A liability order is legal recognition of the debt and is required before the Child Maintenance Service can take certain enforcement actions against non-compliant parents to enforce those arrears. The Child Maintenance Service can apply for a Liability Order in a Magistrates' Court to recover any missed child maintenance payments. The Department would welcome views regarding these plans and in relation to the specific questions set out at the end of this document.

## Background

### 4.1 Introduction

- 3.1. The Child Maintenance Service is designed to encourage parents to make their own private family-based arrangements for child maintenance without support from government wherever possible. Not all separated parents can make a family-based arrangement, and the Child Maintenance Service administers an efficient and effective statutory scheme for those parents that need it.
- 3.2. The child maintenance calculation is based on income information received directly from HM Revenue & Customs and is reviewed annually. The Child Maintenance Service administers two 'service types': Direct Pay and Collect and Pay. In Direct Pay, the Child Maintenance Service makes a maintenance calculation, provides a payment schedule and parents arrange payments between themselves. In Collect & Pay, the Child Maintenance Service

calculates the maintenance and collects it from the Paying Parent and pays it to the Receiving Parent. Parents must pay fees to use Collect and Pay.

## **4.2 Enforcement of Child Maintenance**

- 4.2.1 The Department has various powers in relation to the collection and enforcement of child maintenance under the statutory schemes set out in the Child Support (Northern Ireland) Order 1991. The Department knows the majority of paying parents want to do the right thing and support the children they no longer live with. For those who do not, the Child Maintenance Service can enforce payments by deducting directly from earnings, benefits and from a range of bank accounts. For those who actively avoid meeting their obligations to support their children the Child Maintenance Service can take stronger enforcement action which is used as a last resort. The Child Maintenance Service has a range of powers that can be used to obtain money for children, including charging orders against property, forcing the sale of a property, commitment to prison and disqualification from holding a driving licence.
- 4.2.2 As part of our commitment to improve the Child Maintenance Service to secure more maintenance for qualifying children, the Department continually reviews our enforcement powers to make them as effective as possible in recovering arrears from non-paying parents.
- 4.2.3 Taking enforcement action at the earliest opportunity is key to successful arrears recovery. The more debt accrues on a case, the harder it is to collect. The Child Maintenance Service has already made significant improvements to the process, speeding up action when payments first break down and targeting enforcement action more effectively.

## **5. Administrative Liability Orders**

- 5.1 Currently where a paying parent has missed payments of child maintenance, the Child Maintenance Service attempts to recover the arrears via a Deduction from Earnings Order or by deductions directly from their bank accounts. Where this has not proved effective, the Child Maintenance Service must apply for a liability order to the Magistrates' Court and wait for the application to be granted before it is able to take certain enforcement measures to collect unpaid child maintenance. In Northern Ireland, the involvement of the Enforcement of Judgments Office also lengthens the process. From the point of application to a liability order being granted can take an average of 22 weeks.
- 5.2 Work on introducing a Child Support Enforcement Bill in Northern Ireland is ongoing. The Bill was introduced in the Northern Ireland Assembly on 17 June 2024. The Bill will amend existing uncommenced powers in section 17 of the Child Maintenance Act (Northern Ireland) 2008, that inserts new sections 32M and 32N into the Child Support (Northern Ireland) Order 1991. Those sections 32M and 32N will provide the powers for administrative liability orders. This will allow the Child Maintenance Service to make an administrative liability order against a person who has failed to pay child maintenance and is in arrears and to proceed quickly against parents who have failed to meet their obligations to pay child maintenance. Changing to administrative liability orders will help speed up and improve the enforcement process by removing the requirement to apply to the Courts for a liability order.
- 5.3 Before an administrative liability order is considered the Child Maintenance Service will ensure that, where appropriate, the Child Maintenance Service has exhausted other options to recover the arrears, either directly from the earnings of a paying parent via a Deduction from Earnings Order or directly from a range of bank accounts including certain business accounts. This will ensure that an administrative liability order will only be made where a deduction directly from the earnings of a paying parent has been unsuccessful or is not appropriate, such as where the paying parent is self-employed, or they support themselves through more complex earnings structures.

- 5.4 Currently, before applying to the Magistrates' Courts for a liability order, the Child Maintenance Service must give a paying parent at least 7 days' notice of the intention to do so. If the parent lives overseas there is a minimum notice period of 28 days. This process has been in place for many years and has been successful in ensuring that paying parents are given warning of the proposed action before an application is made.
- 5.5 The Department proposes that the new regulations will also require the Child Maintenance Service to give the same 7- or 28-day notice period to a paying parent prior to the making of an administrative liability order. This notice of intention to make an order will give details of the amount of unpaid child maintenance, to allow the paying parent time to contact the Child Maintenance Service and make payment or raise a dispute against the balance of arrears before a liability order comes into force.
- 5.6 Where a paying parent pays the whole amount of the arrears within the 7- or 28-day period, it is proposed that the administrative liability order will not come into force.
- 5.7 Once an administrative liability order has been made, there may be situations in which the order can be discharged. It is proposed that the regulations will allow an administrative liability order to be discharged where the maintenance calculation on which the order is based (the amount of arrears) has changed since the order was made.
- 5.8 The Department also proposes that if an appeal against the maintenance calculation is made to the Appeals Service for a period covered by an administrative liability order, the order can be discharged. This prevents an order being held in place against a paying parent for a period of child maintenance which is actively under dispute. The discharge of the order will not affect the paying parents' rights to continue their appeal against the maintenance calculation and will not prevent any future order being made after the dispute is resolved.

## **5.9 Appeals**

- 5.9.1 It is important to ensure that there will be robust mechanisms in place to allow a paying parent to appeal the making of an administrative liability order so that they can challenge this decision where appropriate.
- 5.9.2 When a liability order is granted under the current arrangements, the Magistrates' Court will consider whether the debt in question has become payable and whether it has not been paid. The jurisdiction of the Magistrates' Court does not include consideration of the Child Maintenance Service calculation on which the debt is based, as appeals against the maintenance calculation are made separately to the Appeals Service.
- 5.9.3 The Department proposes that the regulations for administrative liability orders will set out the paying parent's right of appeal to a Magistrates' Court against the decision to make the order and the period within which the right of appeal may be exercised.
- 5.9.4 The Department considers that appeals against administrative liability orders should reflect the appeal rights already available to paying parents against other child maintenance enforcement measures, such as those which allow for deductions of child maintenance directly from a parent's bank account. These types of appeals have operated successfully for many years and provide a fair, independent process by which an appeal can be raised.
- 5.9.5 To give an example, appeals against deductions directly from a paying parent's bank account can be made to the Magistrates' Court within 21 days from the date that the order is made. These appeals are made directly to the Magistrates' Court by completing the relevant court application form, which is available online or upon request from any front office in a court building.
- 5.9.6 The Department proposes that the regulations should allow a right of appeal to the Magistrates' Court within 21 days from the date that an administrative liability order is made. As with appeals against deductions directly from a paying parent's bank account, this will mean that appeals can also be made directly to the Magistrates' Court without a parent needing the agreement of the Child Maintenance Service.

- 5.9.7 The Department proposes not to make any restrictions upon the grounds for appeal in child maintenance regulations, other than allowing an appeal against the making of an administrative liability order. This would maintain consistency with appeals against deductions directly from a paying parent's bank account.
- 5.9.8 The powers being brought into force will also allow for regulations to be made, whilst respecting the authority of the powers of the Magistrates' Court. However, the Department wishes to avoid making regulations that place any unreasonable restriction upon the courts. The Department therefore proposes the regulations will confirm that the Magistrates' Court may cancel the administrative liability order where it finds it appropriate to do so, i.e. if the Child Maintenance Service loses the appeal.

## **5.10 Timing**

The amendments will be made by confirmatory rule, which it is proposed will be made and brought into operation in Spring 2025, subject to the Assembly approval of the Child Support Enforcement Bill

## **6. What we would like your views on**

The Department wants to ensure that we can collect more maintenance for children by being able to improve the liability order process and welcome views and observations particularly in relation to the following:

1. Are you responding as an individual or representing the views of an organisation?

**Individual/Organisation**

2. If you are responding on behalf of an organisation, please state who the organisation represents and, where applicable, how the views of members were assembled.

**Please provide comments on your response: Open text box**

3. Do you agree with the Department's plan to introduce an administrative liability order against parents that do not pay their child maintenance?

**Yes/No**

**Please provide comments on your response: Open text box**

4. Do you agree with the proposal to give a paying parent a notice period of at least 7 days (28 days if overseas) before an administrative liability order is made, in which the liability order will not come into force if paid?

**Yes/No**

**Please provide comments on your response: Open text box**

5. Do you agree with the proposals to discharge an administrative liability order in the circumstances set out in sections 5.7 and 5.8?

**Yes/No**

**Please provide comments on your response: Open text box**

6. Are there additional circumstances in which you think an administrative liability order should be discharged?

**Yes/No**

**If yes, what are those circumstances? Open text box**

7. Do you believe there could be unintended consequences because of any of the administrative liability order proposals?

**Yes/No**

**If yes, what are the unintended consequences? Open text box**

8. Do you think the proposals will allow the Child Maintenance Service to move quickly to get money to children when parents fail to meet their obligations to pay child maintenance?

**Yes/No**

**Please provide comments on your response: Open text box**

9. Do you agree with the proposals to allow a right of appeal to the Magistrates' Court within 21 days from the date that an administrative liability order is made?

**Yes/No**

**Please provide comments on your response: Open text box**

10. Do you feel the proposals provide a paying parent with sufficient protections to appeal the decision to make an administrative liability order?

**Yes/No**

11. If you have any additional comments that you would like to make in relation to the proposed administrative liability order, please provide them below:

**open text box**

# Accessibility

A range of alternative formats are available upon request from this Department.

Please contact the Department at:

[sspld@communities-ni.gov.uk](mailto:sspld@communities-ni.gov.uk)