



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Supporting Separated Families; Securing
Children's Future: DSD Briefing

11 October 2012

NORTHERN IRELAND ASSEMBLY

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Supporting Separated Families; Securing Children's Future: DSD Briefing

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Ms Paula Bradley
Ms Pam Brown
Mr Gregory Campbell
Mrs Judith Cochrane
Mr Michael Copeland
Mr Mark Durkan
Mr Fra McCann
Mr David McClarty

Witnesses:

Mr Maurice Byrne	Department for Social Development
Ms Jane Corderoy	Department for Social Development
Mr Conrad Murphy	Department for Social Development
Ms Frances Rushe	Department for Social Development

The Chairperson: I formally welcome Jane Corderoy, Maurice Byrne, Frances Rushe and Conrad Murphy from the Department for Social Development. Members have the papers before them, including the response from Parenting NI to the consultation. Folks, I will leave it to you to make your presentation.

Ms Jane Corderoy (Department for Social Development): Thank you very much for the opportunity to brief the Committee on the consultation document 'Supporting Separated Families; Securing Children's Future'. Maurice and I are here from the Department to speak about the Command Paper, its proposals and the consultation; and my colleagues from the Child Maintenance and Enforcement Division (CMED) — Frances Rushe and Conrad Murphy — are responsible for developing the network of support services and for how the new scheme will work in practice. They are happy to take questions on that.

The Command Paper sets out the proposed child maintenance reforms, which put collaboration between parents in the interests of their children first. In addition, it aligns proposals closely with the recommendations of the Henshaw review and the maximisation of maintenance flowing to children. The paper was published on 19 July, and consultation is due to close on 26 October. The main focus of the Command Paper is on the detail behind the wider family support, including the gateway conversation process. It also contains a consultation seeking views on how charging should operate in practice, particularly on the operation of domestic violence exemption; the proposed level of fees for Great Britain; and the approach to enforcement of charging. It does not, however, consult on the

question of charging, which has already been consulted on. As the Committee is aware, the detailed proposals on charging contained in this paper relate to the GB scheme. To what extent charging will be introduced here is still being explored, and we are not in a position to provide further detail on that. Any proposals in respect of the introduction of charging here will be brought to the Committee.

The purpose of the new scheme is to maximise the number of effective arrangements by encouraging and supporting the making and the keeping of family-based arrangements where possible, and supporting applications made to the statutory scheme for people who cannot make family-based arrangements. The Command Paper confirms that, in Great Britain, funds have been made available to help separated families by focusing on a network that provides a range of enhanced support, including working with the voluntary and community sector as the key deliverers of this.

The support outlined in the Command Paper includes a web application to help signpost parents to relevant areas of support; a co-ordinated telephone network that builds on and strengthens the support that the voluntary and community sector already provides; an innovation fund that is to encourage and support ideas from the voluntary and community sector for collaborative working; a quality mark that will serve to identify those groups that are linked to the provision of advice and/or support for separating and separated families; and local networks to provide a regional co-ordinator to encourage collaborative working among the voluntary and community sector.

Before making an application, parents will take part in a gateway conversation to provide them with details on the range of maintenance options available to them and the possibility of making family-based arrangements, including through direct pay arrangements, where agreement is reached and payment is made directly from one parent to another, and providing them with the tools to help them do this as well as signposting to wider support services. The gateway is another tier of support for parents. However, it does not prevent parents from applying to the statutory service if they still wish to do so.

The focus of the proposals is on collaboration between parents in the interests of putting their children first. The Command Paper outlines the proposed three progressive layers designed to support and promote that, including application to the service, calculation of maintenance with the option for direct pay, and the collection and enforcement of payment where payment is not made directly between parents.

The following proposals for GB include an application fee of £20. That has been designed to make applicants consider whether a collaborative family-based arrangement with the other parent is possible before entering into the statutory scheme. A fee will not apply to people who have declared that they are victims of domestic violence or to applicants who are aged 18 or under. A maintenance calculation based on income information from HMRC will be calculated and sent to the non-resident parent and the parent with care. An option of direct pay to the parent with care will be offered at this point to most non-resident parents. Unlike in the current system, a parent with care will not be able to veto the right of the non-resident parent to use that method of payment. That is aimed at limiting the ability of one parent to use the collection service as a means of control.

The proposal is that fees will be introduced for using the collection service to incentivise both parents to use direct pay. If direct pay is agreed, no collection fees will be levied. Where the collection service is used, a fee will be added to the non-resident parent's liability, and for providing the service, the fee will also be deducted from the parent with care's maintenance payment. In the Command Paper, the fees are proposed at 20% for non-resident parents and 7% for parents with care. The collection fee has been set at that level to create a strong incentive for the non-resident parent to make payments to the parent with care through direct pay, in full and on time. Once introduced, the collection fee will apply equally to non-resident parents who are in work and to those on benefits, and the fee will apply on top of flat-rate maintenance.

The introduction of penalties charging non-resident parents for enforcement action will further act as an incentive for them to comply. The estimated actual cost for enforcement action and the planned charges for enforcement are set out in the Command Paper. It is very clear from those figures that, even if the proposed charges are introduced, enforcement action will still need to be heavily subsidised.

As part of the reforms, all clients will be offered the opportunity to consider whether a family-based arrangement might be best for them and their children. Existing cases will be closed, which will involve ending the ongoing liability to pay maintenance on the 1993 and 2003 statutory schemes. The case closure process is expected to take around three years. All cases will then be managed on the

same calculation rules and on one computer system under the new scheme. Parents unable to reach a family-based arrangement will be able to apply to the new statutory maintenance scheme. It is also proposed that the flat-rate maintenance will be increased from £5 to £10 a week, once all the existing cases are fully closed.

With the introduction of the new scheme, the 1993 and the 2003 schemes will be closed. However, the collection of maintenance arrears from those schemes remains a priority, and as much as debt as possible will still be collected from non-resident parents. Subject to the introduction of new regulations, it is not intended that arrears will be written off, unless the parent with care specifically requests that to be done. All available powers — for example, the increased use of deductions from non-resident parents' bank accounts and orders for sale of their property — will continue to be used, as well as making innovations such as accessing wider sources of government information to locate parents who have tried to avoid their responsibilities. The introduction of the new scheme will bring greater automation and, in turn, more alerts to quickly identify those people who fail to pay. So, once the new scheme is introduced, there will be capacity to pursue effective debt collection.

The previous consultation on the proposals to allow for the write-off of a limited amount of child maintenance arrears in specific circumstances and to accept part payment as full and final settlement of arrears where the parent with care agrees ended in March this year. That consultation recognised that not all arrears can be collected and may no longer be wanted by the parent with care. It is proposed that, rather than looking to collect old debt, the focus needs to be on getting money to those parents who have children now and are, therefore, most in need of it. The Department for Work and Pensions (DWP) response to that consultation is due to be published later this year.

The Command Paper has 10 consultation questions. The first four relate to the proposed levels for charging, exemptions from charging and the hierarchy approach for fees for the associated enforcement action. Questions 5 and 7 deal with the time allowed for new applicants to the statutory scheme and for those with cases potentially moving from the existing schemes to the new scheme to consider and decide how they wish to proceed with their maintenance payments, be it through family-based arrangements or the statutory service. Questions 6 and 8 focus on how DWP can communicate with and best harness the expertise in the voluntary and community sector to provide support to separating families through the case closure process and to establish family-based arrangements. Question 9 covers the approach for closing cases on an oldest-first basis and asks whether consultees agree with that. Question 10 refers to the planned review and evaluation of the impact of the charging powers 30 months after they are implemented. It asks for views on the evidence and criteria that consultees feel should be considered in evaluating the success of the new scheme.

DWP confirmed that it received 36 responses to the current consultation. It is a GB consultation paper, and we have had no responses yet.

Mr Copeland: Thank you. This legislation has long been in need of a good looking at. Will it deal with current cases that have been the subject of settlement through CMED? In other words, will they be reviewed to see whether this option is open to them? Will it apply to cases that are going through CMED?

There are a number of issues about the way in which the current system works. I know of one case. It is a bit complex but the bottom line is that the father of the children, who is not the parent with care, has evidence of having reached an agreement with the mother of the children, which entailed him giving her in excess of £11,000 over three years. He has invoices for the goods that were provided. He has produced evidence from people who would not normally be associated with telling untruths and who confirm they saw him giving her the money. She then decided to take CMED cases against him on the basis of his parentage of two of the children, and another individual on the basis of his parentage of one child. She says that she never got anything from those men, so CMED automatically made an assumption and that man is now faced with an arrears bill in the region of £11,000, which is forcing him and his new settled family, a relationship that I believe will be maintained, into poverty. The mother concerned has not been totally truthful in the evidence that she gave to CMED. As the evidence is not pertinent to the case, however, there is an automatic assumption that the parent with care, who just happens to be the mother, almost appears to have everything that she says taken as absolute gospel truth. The wronged party in the case, who is the parent without care, in this case the father, does not seem to have a legal leg to stand on or any way in which the injustice of the situation that he finds himself in can be balanced. He has also been the subject of repeated and, in my view, spurious court appearances, funded on her part by legal aid, and on his part from his already diminished income.

Mr Conrad Murphy (Department for Social Development): Clearly, it is not appropriate to discuss individual cases.

Mr Copeland: It is a hypothetical case.

Mr Murphy: Of course. Clearly, I am not aware the pitfalls. Perhaps we could look at that particular case in your representation of it.

In general, there is a plan for clients who are on the 1993 and 2003 schemes to have the opportunity to move to the new 2012 scheme at the point at which the new scheme and system are seen to be working well.

Mr Copeland: Is that dependent on the acceptance of both or does a veto exist at that level?

Mr Murphy: That is where we are in the realms of the gateway conversation. Before an existing client can move to the 2012 scheme, they have to have a gateway conversation or a mandatory gateway conversation. That allows the clients involved to discuss their child maintenance options. That may well end up as an application to the future scheme. Clearly, however, there will be an element of discussion between the clients involved.

Mr Copeland: Thank you. You will forgive me a degree of cynicism because the change management process in CMED traditionally has not been very good. At one stage, the very best they could offer was to put people on the paper scheme, which seemed to be going back to two schemes that existed before the one that they are trying to put in now. So, it is an issue that brings distress not only to parents with care but serious distress to the absent parents. In my view, it has not worked very well up to now.

Ms Corderoy: The gateway conversation is designed so that the parent with care cannot veto. If a direct payment has been agreed, the parent with care cannot say that they do not want to follow that. If it has been agreed, they should not be able to do that anymore.

Mr Brady: Thanks very much for the presentation. On the face of it, it is a much better system if people actually agree before they go into a type of litigation. I have just a couple of questions. Some, but not all, of the parents with care may be on benefits. How will the £20 fee work if someone is in receipt of benefit?

Ms Corderoy: It will apply to everybody.

Mr Brady: So they will have to find that £20 out of their benefit, if that is the road they wish to take?

Ms Corderoy: Yes.

Mr Brady: The other question is about the calculation of direct pay. HMRC is going to do a maintenance calculation and the parent with care cannot veto that. It can be by direct payment. We have had a lot of discussion this week about direct payments. Presumably, HMRC will have a computer system. Will that be geared to direct payments to the parent with care from the non-resident parent? Presumably, if it is a direct payment, and there is no agreement from either side, it has to go through some sort of statutory organisation, which, in this case, is HMRC, so it would have to be geared up to do that.

Mr Maurice Byrne (Department for Social Development): The direct payment in this respect is direct payment between the two parents. The calculation will be based on information about gross income provided by HMRC. If a calculation is done and the parents agree, direct payment will be from the non-resident parent to the parent with care.

Mr Brady: So, on the logistics of actually paying it, it does not have to go through —

Mr M Byrne: No.

Mr Brady: Presumably, there will be some sort of follow-up procedure. The big problem in the past has been, and it will continue to be a problem, that the non-resident parent just does not bother for a week or two and then the arrears build up. That has been the problem. That is why there is £61 million in arrears. That is one of the reasons why, in the North here, they had to take the system into the Social Security Agency. In England, it was just a disaster and they had to revamp the whole thing.

Mr M Byrne: Obviously, if the parents agree to direct pay, they will be encouraged to set up some sort of system — standing order or direct debit or whatever — so that they can track the payments. Then, if they fall down, it will be passed on to the collection service and they will be charged for that.

Mr Brady: This is my third and final point. The briefing states:

"All available powers — for example, the increased use of deductions from non-resident parents' bank accounts and 'orders for sale' of their property — are being used as well as making innovations such as accessing wider sources of Government information".

One of the problems for people in the constituency that I represent, which is a border constituency, is that people just disappear across the border into another jurisdiction. That has been a big problem in our area. Has any effort been made with the Government in the South of Ireland to try to come to some reciprocal arrangement so that information can be accessed as to the whereabouts of the non-resident parent and the way in which that they may be forced into paying for their responsibilities?

Mr Murphy: I am not aware of any specific engagement with the Republic of Ireland on that issue, but, again, I am happy to go away and provide some further information to the Committee if that would be helpful.

Mr Brady: There is not much point in introducing an innovative and possibly effective system if that kind of loophole is going to be left there. If that problem is not addressed, in the area that I represent, there are going to be a lot of parents with care who are going to end up the same as they were 10 or 15 years ago, with no progress being made, whatever about direct payments.

Mr Murphy: There is a legislation element to that, and I will ask my colleagues to comment on that.

Mr M Byrne: There is European legislation in place so that maintenance can be pursued through the courts in other member states. If the non-resident parent leaves the jurisdiction, obviously the Child Maintenance and Enforcement Division cannot pursue the case. It is up to the parent with care who is still living here to take it through the court, and that will be taken forward with our counterparts.

Mr Brady: It may be another good reason for doing away with the border.

Mr McClarty: That was a good try.

Mr M Byrne: It will apply in any member state; it does not just apply across the border.

Mr Brady: God loves a trier.

Mr M Byrne: It is the most common one in this area.

Mr Brady: It is a genuine problem. It really needs to be addressed, because there is no reason why there should not be that co-operation in that area. It is costing on both sides.

The Chairperson: Are you looking to make a small point again, Michael?

Mr Copeland: It is three small pieces. The witnesses may wish to reply in writing.

The Chairperson: You actually asked me for one small piece.

Mr Copeland: Then Mickey started talking, and it expanded, Chair.

Is it possible for an arrangement to be reached in the current circumstances through the Child Maintenance and Enforcement Division in which the parent without care feels that they have been

badly done by? Is there a fear that, by entering into this process, a parent with care could end up worse off? If so, what is the incentive for him or her to do that?

Secondly, is the income that is derived from CMED counted as income for the purposes of housing benefit and a raft of other benefits?

Lastly, and probably most interestingly, I have another two or three hypothetical cases. Some people who happen to be company directors pay themselves the minimum wage for 32 hours a week. Their calculation bases that as income, but a director in one case paid himself £54,000 a year of directors' drawings, which did not appear to be income. Will that be closed down?

Ms Corderoy: I will answer the first part. The Command Paper is obviously for what is happening in GB. The incentive for not using the statutory scheme is obviously the charging. There is also the greater support through the gateway and support services as well as the services that the voluntary and community sector already offer. It is essentially to try to get people to make family-based arrangements themselves. I do not know whether people would be worse off on the statutory scheme or their own arrangements. There is a calculation service that they could see. They might go to CMED, use the calculation service and then set it up themselves and not pursue it through the statutory scheme. I am not sure about the other two points.

Mr Murphy: To go back to the second point: there is a calculation-only service, which could potentially give a client an estimate of what their maintenance level would be in the new scheme. Therefore, it might be used as a basis for arriving at a family-based arrangement.

As for the directors you mentioned, we will need to come back to provide you with a response in writing on that. Although the scheme will deal much more effectively with the vast majority of clients, the current provisions may well still exist for some. We need to come back to confirm that.

The Chairperson: No other member has indicated that they want to speak. The consultation closes on, is it 29 —

Ms Corderoy: It is 26 October.

The Chairperson: I propose that we bring a report back to the Committee next week and discuss it more formally. Invariably, members have talked about this in a number of conversations. It is a complex and very sensitive issue. Most people want to see a fair system for parents with care and for parents who pay maintenance. It needs to be fair to both sides. I think that everybody around the table could give a lot of examples of the sometimes complex and difficult arrangements. A lot of these things can be quite emotional, with people using CMED nearly against somebody else. I think that everybody understands all that, so it is important that we look at our report next week in the context of the correspondence that we received, the presentations, the briefings from you and the conversations that we have had at other meetings before today. We will have a report back to the Committee next week, and then we will formally decide on our response to the consultation. Are members content?

Members indicated assent.

The Chairperson: Are you satisfied, having made your presentation this morning?

Mr Murphy: Yes.

The Chairperson: Thank you all very much.