



Northern Ireland  
Assembly

## Research and Information Service Bill Paper

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# Child Support Enforcement Bill

**NIAR 131-24**

This paper has been prepared to inform consideration of the Child Support Enforcement Bill which completed its Second Stage on 25 June 2024. The Bill contains provisions to allow the Department for Communities to make administrative liability orders which will replace the current court-based liability order process. It also contains provisions to require the Department for Communities to make regulations in respect to the right of appeal to a court against the making of such an order.

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## Key Points

- The Child Support Enforcement Bill was introduced to the Northern Ireland Assembly by the Minister for Communities on 17 June 2024.
- The Northern Ireland Assembly Bill corresponds to provisions contained within the Child Support (Enforcement) Act 2023 which applies to England, Wales and Scotland. The 2023 Act was passed at Westminster and received Royal Assent on 20 July 2023.
- In general terms, Northern Ireland's child maintenance policy and legislation operate in line with corresponding child maintenance provision in Great Britain.
- The 'parity' provisions set out in Section 87 of the Northern Ireland Act 1998 require the Minister for Communities and the Secretary of State for Work and Pensions to consult with one another with a view to securing, to the extent agreed between them, that there is a single system of child support across the United Kingdom.
- The purpose of the Bill is to make provision for the Department for Communities (DfC) to make new administrative liability orders. The new administrative liability order process will replace the current court-based liability order process. The Bill also contains provisions to require the Department to make regulations in respect to the right of appeal to a court against the making of such an order.
- Currently, a liability order (LO) provides legal recognition that a debt exists with applications being heard in a Magistrates' Court. The court will consider whether the debt in question has become payable and whether it has not been paid.
- The granting of a liability order enables the Child Maintenance Service (CMS) to register the order in the Enforcement of Judgements Office (EJO). The unpaid amount of child maintenance can then be recovered by means of, for example, the seizure of certain eligible goods or a 'charge' placed on eligible land or property of the 'paying parent'.
- In 2023/24, there were 218 liability order applications granted in Northern Ireland with a total value of £1,073,729.

- The Department has indicated that the current court-based liability order process can take an average of up to 22 weeks and the new administrative liability order process could substantially shorten the process to around six weeks.
- The ability for the Department for Communities to make administrative liability orders is already set out under Section 17 of the Child Maintenance Act (Northern Ireland) 2008. However, this part of the Act was never commenced and the court-based liability order process currently remains in place.
- When these provisions are commenced it will enable the Department to make administrative liability orders. The Child Support Enforcement Bill (as introduced) contains provisions to amend the uncommenced provisions in section 17 of the 2008 Act.
- The Bill's Explanatory and Financial Memorandum states that the new administrative liability orders will have similar effect to the liability orders currently issued by the courts in that they will certify that the debt is owed by the Non-Resident Parent (NRP)/'paying parent' and will allow the Child Maintenance Service (CMS) to take further enforcement action.
- The Child Support Enforcement Bill contains further provisions in relation to the right of appeal in relation to administrative liability orders. It provides that the Department must, by regulations, make provision for a person against whom a liability order is made to have the right to appeal to a court against the making of the order. The regulations may include provisions as to the period within which the right of appeal may be exercised and the powers of the court on or regarding the appeal.
- The Department for Work and Pensions (DWP) have recently launched a consultation on broader reforms to child maintenance payment and collection services. This includes proposals to promote further uptake of family-based arrangements, 'streamline' the service by removing the 'Direct Pay' option, introduction of a new fees structure, and the provision of further support to victims and survivors of domestic abuse. The consultation applies to England, Scotland, Wales and Northern Ireland and closes on 31 July 2024.

- The introduction of such reforms is likely to be influenced not only by the outcome to the consultation but the new UK Government's policy on, and planned approach to, child maintenance. Furthermore, in Northern Ireland, any changes to child maintenance will be subject to the necessary approval by the Minister for Communities, the Northern Ireland Executive and the Northern Ireland Assembly.

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# 1 Introduction

The [Child Support Enforcement Bill](#) was introduced to the Northern Ireland Assembly by the Minister for Communities on 17 June 2024. The [Second Stage](#) of the Bill was completed on 25 June 2024. For ease of reference, provided below are links to key documents and briefings relating to the Bill.

- The Bill (as introduced) and its **Explanatory and Financial Memorandum** are available [here](#).
- The **Section 75 Screening Form** for the Bill is available [here](#) (published 10 June 2024).
- The **Department for Communities briefed** the Committee for Communities on the Bill on 6 June 2024. The briefing can be viewed on NI Assembly tv [here](#) and the Minutes of Evidence are available [here](#).
- The Official Report of the Bill's **Second Stage** is available [here](#).
- DfC consultation on '[Child Maintenance: Accelerating Enforcement \(Administrative Liability Orders\)](#)', was published on 8 July 2024.

## 1.1 The purpose of the Bill

The purpose of the Bill is to make provision for the Department for Communities to make new administrative liability orders which will replace the current court-based liability order process. The Bill also contains provisions to require the Department to make regulations in respect to the right of appeal to a court against the making of such an order.

Under current legislation, where the Child Maintenance Service's (CMS) administrative enforcement functions are either inappropriate or have proven ineffective in collecting the arrears that the "paying parent" owes to the

“receiving parent”<sup>1</sup>, CMS must apply to the [Magistrates’ Court](#) to obtain a liability order. The liability order allows CMS to take forward enforcement powers through the Northern Ireland Courts and Tribunal Service (NICTS) to recoup the arrears. The Minister for Communities, during the Bill’s [Second Stage](#), indicated that the current court-based process can take on average up to 22 weeks and that this could potentially be reduced to six weeks under the new administrative liability order process<sup>2</sup>.

**What are ‘liability orders’ and how often are they granted in Northern Ireland?**

A liability order (LO) provides legal recognition that a debt exists with applications being heard in a Magistrates’ Court. The court will consider whether the debt in question has become payable and whether it has not been paid. The Magistrates Court has no jurisdiction to question the calculation on which the debt is based<sup>3</sup>.

A liability order has no effect in itself, however, the granting of the order enables the Child Maintenance Service to register the order in the [Enforcement of Judgements Office \(EJOs\)](#)<sup>4</sup>. The unpaid amount of child maintenance can then be recovered by means of, for example, deducting a regular sum from the salary ‘paying parent’, ‘charging’ any eligible land or property they own, require arrears is paid from money due to the ‘paying parent’ (e.g. from the sale of house or payment for a claim), and permitting the seizure of certain goods to pay the debt.

<sup>1</sup> The “paying parent” is the parent who does not have the main day-to-day care of the qualifying child(ren) and is responsible for the payment of child maintenance. They are otherwise known as the “Non-Resident Parent” (NRP). The “receiving parent” is the person with the main day to day care of the qualifying child(ren) and should receive child maintenance from the NRP. They are otherwise known as the “Parent with Care” (PWC).

<sup>2</sup> Northern Ireland Assembly Official Report, [Child Support Enforcement Bill](#), Second Stage, 25 June 2024.

<sup>3</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Northern Ireland Rules, [Chapter 73: Liability Orders](#).

<sup>4</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Northern Ireland Rules, [Chapter 73: Liability Orders](#).



Liability Order statistics are measured for the financial year 1 April to 31 March. In 2023/24, there were 218 liability order applications granted in Northern Ireland with a total value of £1,073,729.<sup>5</sup>

The ability for the Department for Communities to make administrative liability orders is already set out under Section 17 of the [Child Maintenance Act \(Northern Ireland\) 2008](#). However, this part of the Act was never commenced and the court-based liability order process currently remains in place. The purpose of the [Child Support Enforcement Bill](#) (as introduced) is to amend the uncommenced provisions in section 17 of the 2008 Act. When these provisions are commenced, it will enable the Department to make administrative liability orders.

The Bill's Explanatory and Financial Memorandum states that these administrative liability orders will have similar effect to the liability orders currently issued by the courts in that they will certify that the debt is owed by the Non-Resident Parent (NRP)/'paying parent' and will allow the Child Maintenance Service (CMS) to take further enforcement action if necessary. Sections 3 and 4 of this RaSe Bill Paper provide further information on liability orders, administrative liability orders and the enforcement powers of the CMS in Northern Ireland.

The Bill also contains provisions to require the Department for Communities to make regulations giving the Non-Resident Parent (NRP) a right of appeal to a court against a liability order. The provisions of the Bill in respect of the appeals process is examined in further detail in Section 4 of this RaSe Bill Paper.

## 1.2 Child maintenance: parity with Great Britain

The Northern Ireland Child Support Enforcement Bill corresponds to provisions contained within the [Child Support \(Enforcement\) Act 2023](#) which was passed at Westminster and received Royal Assent on 20 July 2023. The 2023 Act, which began as a Private Members Bill sponsored by Siobhan Baillie MP and Baroness Redfern, extends to England, Scotland and Wales only. However, in

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<sup>5</sup> Department for Communities, [Section 75 Screening Form](#), p4.

general terms, Northern Ireland's child maintenance policy and legislation operate in line with corresponding child maintenance provision in Great Britain. This is in accordance with the parity provisions set out under [Section 87](#) of the Northern Ireland Act 1998. Thereby ensuring, as far as possible, that there is a single system for child support in United Kingdom. The issue of parity in relation to child maintenance and the consideration of the scrutiny of the corresponding Bill at Westminster are explored further in Section 6 of this RaISe Bill Paper.

Section 5 of this paper also explores both the equality and financial impact of the Bill. The final section of the paper looks at some of the proposals put forward by the previous UK Government in respect of further reforms to the collection and payment of child maintenance.

## 2 The current enforcement powers of the Northern Ireland Child Maintenance Service (CMS)

### 2.1 The role of the Child Maintenance Service (CMS)

The statutory child maintenance scheme is based on the principle that each parent of a [Qualifying Child](#) (QC) is responsible for maintaining them<sup>6</sup>. A person is considered a child for child maintenance purposes if they are under the age of 16 or they are under the age of 20 and are a [Qualifying Young Person](#) (QYP). A person is considered a Qualifying Young Person if they are, for example, aged 16-19, and Child Benefit for them is payable, or they are in full-time, non-advanced education<sup>7</sup>.

Separated parents can arrange child maintenance in a number of ways, that is<sup>8</sup>:

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<sup>6</sup> Article 5(1) of [The Child Support \(Northern Ireland\) Order 1991](#).

<sup>7</sup> For further information on the definition of Qualifying Child and Qualifying Young Person see the Department for Communities' Decision Makers Guide for Child Maintenance, Chapter 5 '[Meaning of Certain Terms](#)'.

<sup>8</sup> NI Direct, '[Child maintenance: an introduction](#)'. [Accessed 20 June 2024].

- Through a private family-based arrangement decided between the parents themselves (that is, without Child Maintenance Service involvement).
- A [Consent Order](#) from a court<sup>9</sup>.
- Through the Child Maintenance Service (CMS).

[Child Maintenance Choices](#) is a free service that can help parents decide on which arrangement is best for their family. Child Maintenance Choices can<sup>10</sup>:

- Explain ways to put in place a child maintenance arrangement, if the parents do not already have one in place.
- Help check if existing child maintenance arrangement are suitable.
- Advise how much child maintenance should be paid.
- Put parents in contact with the Child Maintenance Service, if for example, they cannot agree on a private informal arrangement or such an arrangement is not suitable for them.

If parents cannot come to an informal agreement on child maintenance, or an informal arrangement is not suitable, the Child Maintenance Choices team will help parents apply to use the statutory [Child Maintenance Service](#) (CMS). The statutory child maintenance scheme in Northern Ireland was introduced under the [Child Support \(Northern Ireland\) Order 1991](#) and has been operational since 1993.

CMS manages cases through one of two service types<sup>11</sup>:

- **Direct Pay:** in which the CMS will calculate how much child maintenance should be paid and when. The 'paying parent' will then make payments directly to the 'receiving parent'.
- **Collect and Pay:** in which the CMS will calculate how much child maintenance payments should be paid and when. The CMS will collect

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<sup>9</sup> A Consent Order is a legal document confirming agreement between two parties, e.g. in relation to child support arrangements.

<sup>10</sup> NI Direct, 'How Child Maintenance Choices help families'. [Accessed 20 June 2024].

<sup>11</sup> NI Direct, '[Child maintenance payment methods and plans](#)'. [Accessed 20 June 2024].

payments from the 'paying parent' and CMS will pass them on to the 'receiving parent'. Parents using the Collect and Pay service will have to [pay fees](#) for using the service (20% on top of the maintenance payment for the "paying parent" and 4% of the maintenance received by the 'receiving parent').

## 2.2 Child Maintenance Service (NI) statistics

At the end of March 2024, the Northern Ireland Child Maintenance Service was managing 17,510 cases. Of these<sup>12</sup>:

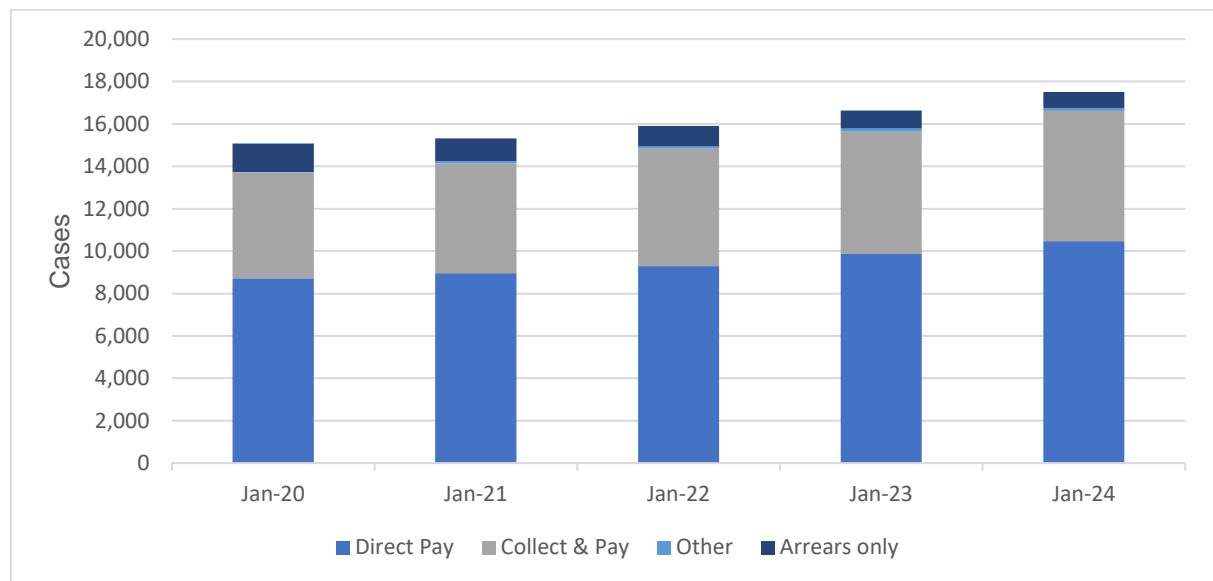
- 10,470 were Direct Pay cases.
- 6,140 were Collect and Pay cases.
- 750 were Arrears cases only.
- 150 were cases not yet allocated to a service type.

As Chart 1 demonstrates, the number of arrears cases has decreased over the past three years. There has also been an upward trend in the number of cases where there is an ongoing child maintenance liability.

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<sup>12</sup> NISRA & Department for Communities, [Northern Ireland Child Maintenance Service Statistics](#), data to March 2024, Table 3.

**Chart 1: composition of Child Maintenance arrangements managed by the Northern Ireland Child Maintenance Service (March 2022 to March 2024)**



Source: NISRA & DfC, [Northern Ireland Child Maintenance Service Statistics](#), data to March 2024, Table 3.<sup>13</sup>

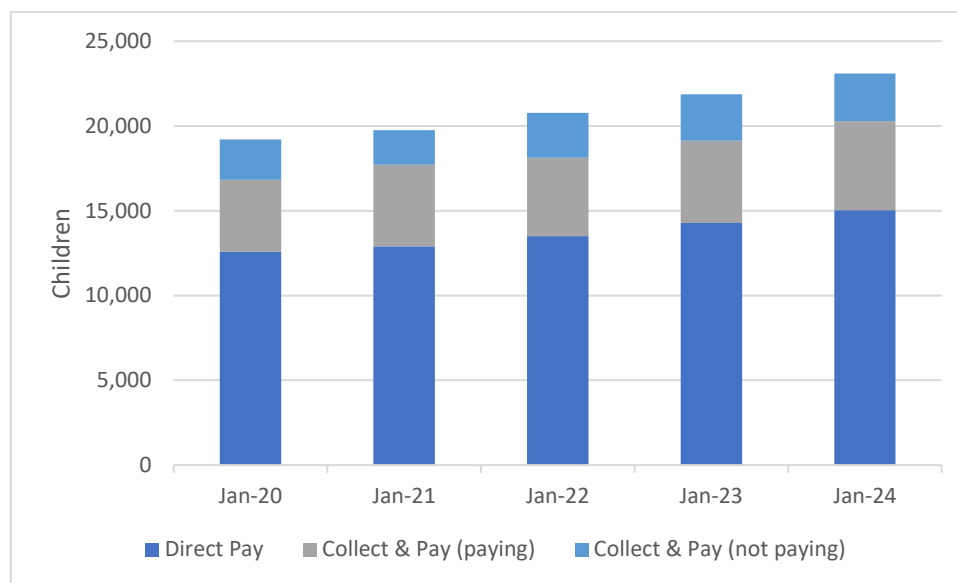
As demonstrated by Chart 2, by the end of March 2024, a total of 23,290 children were covered by a CMS payment arrangement<sup>14</sup>:

- 15,030 children were covered by 10,470 Direct Pay arrangements.
- 8,060 children were covered by 6,140 Collect and Pay arrangements.

<sup>13</sup> Notes: (i) 'other' includes children covered by cases not currently assigned a service type and (ii) totals may not sum due to rounding.

<sup>14</sup> NISRA & Department for Communities, [Northern Ireland Child Maintenance Service Statistics](#), data to March 2024, Table 4.

**Chart 2: Children covered by the Northern Ireland Child Maintenance Service**



Source: NISRA & DfC, [Northern Ireland Child Maintenance Service Statistics](#), data to March 2024, Table 4.<sup>15</sup>

## 2.3 Compliance and the Collect and Pay Service

During the quarter ending March 2024, £7,479,200 in child maintenance was due to be paid:

- £5,901,700 was due to be paid through Direct Payment arrangements.
- £1,577,400 was due to be paid through Collect and Pay arrangements.  
Around 75% (£1,187,500) of the amount due through the Collect and Pay service was paid.

In the quarter ending March 2024, of the 4,500 'paying parents' due to pay via the Collect and Pay Service:

- 3,570 (80%) paid some maintenance. Of these 1,060 (24%) paid up to 90% of the maintenance due and 2,520 (56%) paid over 90% of the maintenance due.

<sup>15</sup> Notes: (i) 'other' includes children covered by cases not currently assigned a service type and (ii) totals may not sum due to rounding.

- 920 (20%) paid no maintenance<sup>16</sup>.

## 2.4 Child Maintenance Service (CMS) existing powers of enforcement

Under the statutory child maintenance scheme, a 'receiving parent' (also known as a Parent with Care or 'PWC') cannot bring enforcement proceedings against the 'paying parent' (also known as the Non-Resident Party or 'NRP'). Only the CMS has legal powers to take enforcement action against the NRP/'paying parent'<sup>17</sup>. The CMS monitors compliance made through the Collect & Pay Service. If parents using the Direct Pay arrangements have maintenance owed, they will have to transfer to Collect and Pay before the CMS can take enforcement action.

### **Monitoring compliance in Direct Pay?**

Note that it is currently relatively more difficult to track compliance trends in Direct Pay as payments are not monitored as closely as the Collect and Pay service. A recent DWP [consultation](#) on potential future reforms to child maintenance noted that non-compliance in Direct Pay was an issue. It stated that evidence suggested that parents can be reluctant to report missed payments on Direct Pay and instigate enforcement action due to the impact it could have on their relationship with the 'paying parent'. The consultation paper noted that this could suggest that there are barriers in terms of encouraging receiving parents to report non-payment.

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<sup>16</sup> NISRA & Department for Communities, [Northern Ireland Child Maintenance Service Statistics](#), data to March 2024. Please refer to statistic publication for further methodological information on the compliance data.

<sup>17</sup> Child Support Enforcement Bill, [Explanatory and Financial Memorandum](#) (as introduced).

**Discussion point:**

**The Committee may wish to consider exploring with the Department for Communities and with stakeholders as to whether there are compliance issues in Direct Pay in Northern Ireland.**

When a 'paying parent' using the Collect and Pay service does not pay their child maintenance, the CMS can act to recover the money in a number of different ways. The most appropriate method may depend on the circumstances of the case<sup>18</sup>. Enforcement action may include<sup>19</sup>:

- **Negotiating an acceptable agreement or arrangement using the 'Debt Steer'**: the '[Debt Steer](#)' provides a policy-based framework for arrears negotiations. Its purpose is to "ensure arrears are collected as promptly and reliably as possible taking into account all relevant circumstances". The Debt Steer helps Decision Makers (DMs) ensure that parents with care (PWCs)/'receiving parents' receive the on-going child maintenance and arrears they are due and prevents non-resident parents (NRPs) getting into more debt<sup>20</sup>.
- **Deduction from Earnings Order (DEO) and Deduction from Earnings Request (DER)**: a DEO operates as an instruction to an employer to make deductions from the 'paying parent's' earnings and pay the amounts deducted to the CMS. A Deduction from Earnings Request (DER) is the equivalent to a DEO but are made in relation to serving members of the armed forces. A DEO may be imposed where, for example, the 'paying parent' has refused to pay (despite a number of payment options being provided by CMS). Further detailed information

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<sup>18</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Chapter 52 '[Arrears methods of collection](#)'.

<sup>19</sup> NISRA & Department for Communities, [Northern Ireland Child Maintenance Service Statistics](#), data to March 2024

<sup>20</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Chapter 53 '[The Debt Steer](#)'.



on DEOs and DERs is available from the Department for Communities' Decision Makers Guide for Child Maintenance [here](#).

- **Deduction Order:** Deduction Orders allow the CMS to instruct a bank or building society to deduct payments from a 'paying parent's' bank or building society account. There are two types of Deduction Order, a Regular Deduction Order (RDO) (in which payments will be taken at regular intervals) and a Lump Sum Deduction Order (LSDO) (where a lump sum is deducted). Further detailed information on DEOs and DERs is available from the Department for Communities' Decision Makers Guide on Child Maintenance [here](#).
- **Court action:** Magistrates' Courts can grant liability orders. Liability orders can be registered in the Enforcement of Judgments Office who can take action to recover any unpaid maintenance and costs from the 'paying parent'.

## 2.5 Data on enforcement collections

Table 1 provides data on the amount of money collected through enforcement action in each quarter from March 2020 to March 2024. As evident from the table, the largest proportion of money collected via enforcement measures is through Deduction from Earnings Orders (DEOs).

**Table 1: Enforcement collections (Northern Ireland)**

Quarter ending	Deduction from Earnings Order/ Request	Regular Deductions Order	Lump Sum Deductions Order	Pre-Liability Order <sup>21</sup>	Liability Order	Register LO with EJO <sup>22</sup>
Mar 2020	£595,100	£3,600	£10,300	£2,600	£56,200	£7,300
Jun 2020	£565,500	£3,400	£10,900	£3,500	£30,000	£8,500
Sept 2020	£559,200	£1,000	£15,600	£4,500	£32,800	£4,400
Dec 2020	£541,100	£2,800	£30,400	£3,000	£30,400	4,500
Mar 2021	£581,100	£2,100	£69,800	£12,100	£40,800	£30,800
Jun 2021	£539,200	£3,600	£22,300	£3,800	£39,800	£16,300
Sept 2021	£549,600	£3,000	£26,100	£1,800	£52,700	£4,300
Dec 2021	£529,400	£6,200	£39,600	£6,800	£63,700	£8,700
Mar 2022	£538,700	£2,800	£58,700	£4,100	£33,100	£7,800
Jun 2022	£592,700	£3,300	£19,400	£4,000	£18,800	£23,200
Sept 2022	£560,600	£4,100	£26,000	£3,300	£34,500	£16,300
Dec 2022	£543,800	£2,600	£16,300	£4,100	£30,300	£23,600
Mar 2023	£582,100	£4,200	£20,400	£4,100	£35,800	£24,100
Jun 2023	£613,800	£4,700	£72,400	£8,700	£30,500	£17,400
Sept 2023	£671,400	£4,300	£17,000	£8,200	£41,000	£20,000
Dec 2023	£655,600	£4,200	£26,100	£9,700	£30,500	£24,000
Mar 2024	£685,300	£4,100	£37,000	£5,600	£36,700	£40,600

Source: NISRA & DfC, [Northern Ireland Child Maintenance Service Statistics](#), data to March 2024, Table 7.

In terms of the amount recoverable and number of liability orders (LOs) granted, the DfC [equality screening](#) form for the Child Enforcement Support Bill provides the following data (note that liability order statistics are measured for the financial year, 1 April to 31 March)<sup>23</sup>:

Year	Liability order applications granted	Total value
<b>2021/22</b>	149	£872,558
<b>2022/23</b>	160	£645,008
<b>2023/24</b>	218	£1,073,729

<sup>21</sup> Some parents will pay their maintenance before they are taken to court (pre-liability order collection). Note that courts may also grant an Order for Sale which can force the sale of land or property so that CMS can recover unpaid maintenance. There were no Orders for Sale between March 2020 and March 2024.

<sup>22</sup> Enforcement of Judgments Office (EJO).

<sup>23</sup> Department for Communities, [Child Support Enforcement Bill – screening](#), 10 June 2024.

### 3 Court-based liability orders

As previously highlighted, where arrears of child maintenance have accrued, the Child Maintenance Service (CMS) can take various civil enforcement actions via the courts to attempt recovery of those arrears. The Department for Communities '[Decision Makers Guide for Child Maintenance](#)' states that cases could be considered for civil enforcement proceedings if<sup>24</sup>:

- A payment is not received from the Non-Resident Parent/'paying parent'), or
- Payments are received, but not for the full amount due, and
- A Deduction from Earnings Order (DEO) or a Deduction Order (DO) is not applicable or has been proved unsuccessful, or
- A DEO is in place, but at a rate that will not allow the arrears to be collected within an acceptable period and the NRP/'paying parent' has assets that may be realised.

However, it also notes that before a decision to proceed with civil enforcement action is made, a Decision Maker must consider a number of points. This includes, for example, have final checks been made to see if a DEO can be applied, have outstanding parentage issues been resolved, and have all queries from NRP/'paying parent' been dealt with. Where it deems appropriate, CMS may then apply to the court for a 'liability order' so that further civil enforcement action can be taken if necessary.

#### 3.1 Liability orders: an overview

The power of the Department to apply for liability orders is provided in Article 33 of the [Child Support \(Northern Ireland\) Order 1991](#). A liability order (LO) provides legal recognition that a debt exists with applications heard in a Magistrates' Court. According to [Chapter 73](#) of the DfC [Decision Makers Guide for Child Maintenance](#), the court will consider whether the debt in question has

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<sup>24</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Chapter 71 '[Legal Enforcement](#)'.

become payable and whether it has not been paid. However, the Magistrates' Court has no jurisdiction to question the calculation on which the debt is based.

**Discussion point:**

**To aid its understanding of the Bill and relevant processes, the Committee may wish to consider requesting that the Department provides an overview of the current arrangements available for an NPR/'paying parent' seeking to question or appeal a maintenance calculation.**

The Decision Makers Guide outlines cases that may be suitable for a liability order, for example:

- Attempts to put in place a Deduction from Earnings Order (DEO), Regulation Deduction Order (RDO) or Lump Sum Deduction Order (LSDO) action has been unsuccessful.
- The NPR/'paying parent' is in receipt of a benefit but has substantial assets to enforce against but is unwilling to make an acceptable arrears payment.
- The NPR's/'paying parent's' employer has refused to implement a DEO.
- The NPR/'paying parent' habitually leaves an employer before a DEO can be imposed.

Cases that may not be suitable for a liability order include, for example (this is not an exhaustive list)<sup>25</sup>:

- The NPR/'paying parent' is terminally ill or has special needs.
- The NPR's/'paying parent's' partner or child(ren) from a second family are seriously ill.
- The majority of the debt is owed to the Parent With Care (PWC)/'receiving parent' and they have requested that no enforcement proceedings be taken.

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<sup>25</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Chapter 71 '[Legal Enforcement](#)'.

- The PWC/'receiving parent' has requested case closure and does not want CMS to collect arrears.
- The NRP/'paying parent' is currently on active duty.
- The NRP/'paying parent' has an exceptional immediate major or severe financial burden on their current financial circumstances (the Decision Maker may consider suspending the enforcement action until the immediate financial pressure has passed).

The Guide states that the law does not restrict the amount of child maintenance arrears for which a liability order application can be made. However, Decision Makers "must consider how appropriate the action is in relation to the level of debt being pursued and the circumstances of the case". For example, courts may view it as unreasonable for a liability order to be made for a debt lower than the £300 enforcement fee<sup>26</sup>.

The Guide also states that Decision Makers should not proceed with a liability order application if there is an ongoing appeal or any outstanding assessment whose outcome may impact on the arrears for the period of debt covered by the liability order application. But an application can proceed for any "safe period" of debt, such as any period prior to the effective date of the maintenance calculation under appeal, if the Decision Maker is confident that the arrears balance is correct and will not be altered.

Decision Makers must give notice of the intention to seek a liability order by issuing the NRP/'paying parent' with an arrears warning letter and include with it a notice of intention to apply for a liability order. The Guide states that it is not a legal requirement to issue the warning letter, rather it is a policy requirement but "issuing the letter assists in demonstrating that DMs have taken all reasonable steps possible to secure payment before progressing". If the NRP/'paying

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<sup>26</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Chapter 73 '[Liability Orders](#)'.

parent' pays all of the arrears within the notice period, DMs will not proceed with the liability order application<sup>27</sup>.

### 3.2 The role of the Enforcement of Judgments Office (EJO)

Where a liability order has been made by the Magistrates' Court, and upon application to the Enforcement of Judgments Office (EJO), the unpaid amount may be recoverable by means of an Order Appointing Receiver, Garnishee Order, an Order Charging Land, an Attachment of Earnings Order, or Instalment Order, or a Seizure Order. These terms are explained in part 3.3 of this paper.

#### **What is the Enforcement of Judgments Office?**

The [Enforcement of Judgments Office \(EJO\)](#) is a centralised unit for enforcing civil judgments related to the recovery of money, goods or property of the courts. The EJO can also enforce civil judgments made by other courts outside Northern Ireland including England, Wales, Scotland and the European Union.

The EJO's powers and procedures are contained in the Judgments Enforcement (Northern Ireland) Order 1981 and Judgment Enforcement Rules (Northern Ireland) 1981<sup>28</sup>.

The DfC Decision Makers Guide for Child Maintenance explains that liability orders must be registered in the EJO before CMS can act to enforce them through the EJO:

*"This is because liability orders are granted in the magistrates' court, but Order Charging Land, Order Appointing Receiver and Garnishee Order actions are dealt with within the High Court.*

*When CMS registers a liability order in the EJO, the Guide states that the High Court will recognise the liability order and*

<sup>27</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Chapter 73 '[Liability Orders](#)'.

<sup>28</sup> Department for Justice. The Enforcement of Judgments Office. [Accessed 21 June 2024].

*grant an order for recovery, allowing CMS to take enforcement action in the High Court.”<sup>29</sup>*

The Guide further states that deciding whether to register a liability order in the EJO is a discretionary decision and that Decision Makers must take into account all relevant factors such as<sup>30</sup>:

- The [welfare of any child](#) potentially affected by the decision<sup>31</sup>.
- Whether the action is likely to be effective.
- Details of any contact with the NRP/‘paying parent’ or PWC/‘receiving parent’.
- Consideration given to the likelihood of collection of debt via the EJO.

### 3.3 Recovery of child maintenance arrears

Where a liability order has been made by a Magistrates’ Court, and upon application to the Enforcement of Judgments Office, the unpaid amount can be recoverable by means of, for example<sup>32</sup>:

- **Order Charging Land:** if the debtor owns land or has an interest in land/property, the EJO may ‘charge’ the land/property to secure payment of the debt.
- **Garnishee Order:** this order gives the EJO the power to ‘freeze’ the debtors’ bank account.
- **Order Appointing Receiver:** where the EJO receives information that the debtor is about to receive monies from a third party (for example, from a claim or proceeds from the sale of a house), the EJO can issue

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<sup>29</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Chapter 73 [‘Liability Orders’](#).

<sup>30</sup> Ibid.

<sup>31</sup> Further information on ‘Welfare of the Child’ is available in [Chapter 4](#) of the DfC Decision Makers Guide for Child Maintenance.

<sup>32</sup> Department of Justice. [The Enforcement of Judgments Office](#). [Accessed 24 June 2024].

this order so that the Office receives monies due for the purposes of satisfying the debt.

- **Seizure Order:** permits the seizing of a debtors' goods to pay the debt, if there is evidence that there are sufficient goods that can be seized in order to satisfy the debt.

See [here](#) and [here](#) for further detailed explanations of these Orders<sup>33</sup>.

Where a liability order has been granted, CMS can apply for the NRP/'paying parent' to be disqualified from holding or obtaining a driving licence or commitment to prison (these are known as '[sanctions](#)'). The DfC Decision Makers Guide for Child Maintenance states that all other enforcement actions should be considered before applying for sanctions<sup>34</sup>.

## 4 The Child Support Enforcement Bill: administrative liability orders and the right of appeal

The [Child Support Enforcement Bill](#) (as introduced) contains provisions which will facilitate the replacement of the current, relatively lengthy, court-based liability order process with an administrative liability order process. The administrative liability orders will be made by the Department for Communities. Departmental officials have indicated that the new arrangement could substantially shorten the process from an average of 22 weeks to around six weeks<sup>35</sup>.

The power for the Department for Communities to make 'administrative liability orders' is already contained within Section 17 of the [Child Maintenance Act \(Northern Ireland\) 2008](#). However, this part of the 2008 Act was uncommenced (note the equivalent legislation for Great Britain was also uncommenced). The

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<sup>33</sup> Department of Justice, [The Enforcement of Judgments Office](#). [Accessed 19 June 2024].

<sup>34</sup> Department for Communities, Decision Makers Guide for Child Maintenance, Chapter 79 '[Sanctions](#)'.

<sup>35</sup> Northern Ireland Assembly Official Report, [Minutes of Evidence](#), Child Support Enforcement Bill, 6 June 2024.



purpose of Section 17 was to insert two new articles (Articles 32M and 32N) into the Child Support (Northern Ireland) Order 1991. The order would effectively certify the amount owed by the Non-Resident Parent (NRP)/‘paying parent’ and would be the first step to enforcement action through the Enforcement of Judgments Office. This would essentially remove the need to apply to the courts for a liability order<sup>36</sup>.

In response to a question from the Deputy Chair for the Committee for Communities as to why these powers were never commenced, a Departmental official stated that<sup>37</sup>:

*“We brought in the powers at the time of the 1991 Order and the 2008 Act. We did not commence them because, along with our counterparts in DWP, we did not have the process and procedures in place. We constantly review our policies and procedures, and the opportunity has now arisen for us to revisit them and bring them forward in conjunction with the Northern Ireland Courts and Tribunals Service, as I said.*

*Yes, there is a bit of a time lag, but sometimes that happens. As we move forward, other priorities and policy areas sometimes take over. We have small numbers of liability orders, so we felt at that time that it was not appropriate to commence those provisions, but we now want to move to that stage”.*

The official also indicated that as Departmental officials developed proposals for the bill, there was engagement with the Northern Ireland Courts and Tribunals Service and that collaboration would continue during policy development work for the necessary subordinate legislation that would be required to implement the process changes<sup>38</sup>.

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<sup>36</sup> Child Maintenance Act (Northern Ireland) 2008, [Explanatory Notes](#), Section 17.

<sup>37</sup> Northern Ireland Assembly, Committee for Communities, [Minutes of Evidence: Child Support Enforcement Bill](#), 6 June 2024.

<sup>38</sup> Northern Ireland Assembly, Committee for Communities, [Minutes of Evidence: Child Support Enforcement Bill](#), 6 June 2024.

## 4.1 Clause 1: rules relating to liability orders

The Child Support Enforcement Bill contains provisions to amend the [Child Support \(Northern Ireland\) Order 1991](#) and the [Child Maintenance Act \(Northern Ireland\) 2008](#) with respect to:

- Making and varying (administrative) liability orders; and
- Appealing against (administrative) liability orders.

### 4.1.1 The making and varying of administrative liability orders

As previously stated, the uncommenced [Section 17](#) of the Child Maintenance Act (Northern Ireland) 2008 contained provisions to amend the 1991 Order by inserting new Articles 32M and 32N to provide for the introduction of administrative liability orders. The Child Support Enforcement Bill will facilitate the commencement of these uncommenced provisions. The [Schedule](#) of the Child Support Enforcement Bill also makes a number of amendments to the existing Articles 32M and 32N. That is,

- Amends Article 32M(1) to provide that the Department may make a (administrative) liability order where a Non-Resident Parent (NRP) has failed to pay an amount of child maintenance due and where a Deduction from Earnings Order is inappropriate or ineffective.
- Amends Article 32N to expand the power to make regulations for the variation of a (administrative) liability order. For example, the amount of arrears upon which the liability order is based and subsequently found to be incorrect.

For ease of reference, the box on the left provides the current wording of Articles 32M and 32N (in the 2008 Act) and the box on the right the proposed substantive amendments outlined in the Schedule to the Bill in relation to the making and variation of liability orders.

Current wording of Article 32M(1) in Section 17 of the Child Maintenance Act (NI) 2008	Proposed amendment to wording as outlined in the Schedule to the Bill
<p><b>32M</b> – (1) If it appears to the Department that a person has failed to pay an amount of child support maintenance, it may make an order against the person in respect of that amount.</p>	<p><b>32M</b> – Where it appears to the Department that –</p> <ul style="list-style-type: none"> <li>(a) A person has failed to pay an amount of child maintenance, and</li> <li>(b) Either – <ul style="list-style-type: none"> <li>(i) it is inappropriate to make a deduction from earnings order against the person (because, for example, the person is not employed), or</li> <li>(ii) although a deduction from earnings order has been made against the person, it has proved ineffective as a means of securing that payments are made in accordance with the maintenance calculation in question,</li> </ul> </li> </ul> <p>the Department may make an order against the person in respect of that amount.</p>
<p><b>32N</b> – (1) The Department may by regulations make provision with respect to liability orders.</p> <p>(2) Regulations under paragraph (1) may in particular</p> <ul style="list-style-type: none"> <li>(a) make provision about the form and content of a liability order;</li> <li>(b) make provision for a liability order not to come into force if, before it does so, the whole of the amount in respect of which it is made is paid;</li> <li>(c) make provision for the discharge of a liability order;</li> <li>(d) make provision for the revival of a liability order in prescribed circumstances.</li> </ul>	<p><i>After sub-paragraph b of paragraph (2) insert:</i></p> <p>“(ba) make provision for the variation of a liability order”</p>

#### 4.1.2 Regulations on the right of appeal

The Child Support Enforcement Bill also inserts new provisions relating to the right of appeal into Article 32N. Article 32N would be amended by inserting new provisions which state that:

- The Department must, by regulations, make provision for a person against whom a liability order is made to have the right to appeal to a court against the making of the order (new Article 32N(3)).
- The regulations may include provisions as to (a) the period within which the right of appeal may be exercised and (b) the powers of the court on or regarding the appeal (new Article 32N(4)).

New Article 32N(5) also provides that on appeal the court cannot question the maintenance calculation itself (this is also the case with court-based liability orders under [Article 33\(4\)](#) of the 1991 Order).

The Department for Work and Pensions launched a public consultation (for England, Scotland and Wales) on a number of issues relating to administrative liability orders including the appeals process. It asked for views relating to the period within which an appeal may be exercised and the powers of the courts in relation to appeals. The outcome of that consultation is explored in Section 7 of this RaISe Bill Paper.

## 5 The impact of the Bill: financial and equality implications

The Bill's [Explanatory and Financial Memorandum](#) states that “there will be no immediate financial implications because the Bill takes enabling powers to implement the proposed changes through secondary legislation at a later date”.

**Discussion points:**

**The Committee may wish to consider requesting that this information is provided at the earliest available opportunity to allow sufficient time to scrutinise the financial implications of the legislation.**

**In advance of this, the Committee may wish to consider exploring with the Department where expenditure will potentially arise (e.g. in terms of staffing and training) and whether there will be any cost implications for the 'paying parent' in terms of the appeals process.**

In accordance with its duty under section 75 of the Northern Ireland Act, the Department for Communities conducted an [Equality Impact Assessment](#) screening exercise which it published on 10 June 2024. The screening document states that the Department considered that most Section 75 categories should benefit from the changes resulting from the legislation as it would speed up and simplify the liability order process. It did note however that:

- As a higher percentage of CMS 'receiving parents' are generally women (96.5%) and that they may benefit more from the changes than other CMS customers.
- A higher percentage of men are the CMS 'paying parent' (96.3%) and may benefit less from the change. The Department states that "as the process is about enforcing a maintenance arrangement the paying parent had already agreed to, any adverse impact on men should be low".

A Rural Needs Impact Assessment was carried out, the Explanatory and Financial Memorandum states that there would no difference in the impact between people living in urban and rural areas.

**Discussion points:**

**The Committee may wish to remain cognisant of any potential equality issues that may be identified during its Call for Evidence and evidence sessions on the Bill.**

## 6 Consideration of the equivalent Bill at Westminster

The Child Support Enforcement Bill introduced to the Northern Ireland Assembly on 17 June 2024 corresponds to provisions contained within the [Child Support \(Enforcement\) Act 2023](#) which was passed at Westminster and received Royal Assent on 20 July 2023. The 2023 Act, which began as a Private Members Bill sponsored by Siobhan Baillie MP and Baroness Redfern, extends to England, Scotland and Wales only. However, in general terms, Northern Ireland's child maintenance policy and legislation operates in line with corresponding child maintenance provision in Great Britain. This is in accordance with the parity arrangements set out in [Section 87](#) of the Northern Ireland Act 1998 which aims to facilitate, as far as possible, a single child support system across the United Kingdom.

During the Second Reading of the Bill, Siobhan Baillie MP stated what she perceived to be the problems with the current court-based process (in GB) and the benefits of a much quicker process<sup>39</sup>:

*“Obtaining a liability order through the courts is time consuming. At the moment, the government website tells parents that it can take anything from a few weeks to a few months. We know that there are now also a lot of delays in courts – there was a pause during the pandemic, when the courts were closed – so I imagine it has been even more difficult recently to obtain these things. That delay in receiving child maintenance has a consequence for the receiving parent.*

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<sup>39</sup> UK Parliament Hansard, [Child Support \(Enforcement\) Bill: Second Reading](#), 9 December 2022.

[...]

*[The Bill] will stop applications to the courts by making amendments to uncommenced powers in the Child Maintenance and Other Payments Act 2008. Those powers, once enacted, will allow enforcement measures to be used more quickly against parents who have failed to meet their obligation.”*

The Bill did receive cross-party support. A number of general issues were raised during [Second Stage](#) including<sup>40</sup>:

- That the non-payment of child maintenance disproportionately affects women and the payment of child maintenance is an important alleviating factor in tackling child poverty.
- Recognition that many parents, despite separation, come to an amicable financial agreement regarding their children. However, CMS is an important agency for those who cannot reach agreement for a variety of reasons.
- That the COVID-19 pandemic had led to further delays and backlogs in the court system which had an impact on civil cases such as liability orders.
- That issues around child maintenance make up a sizeable proportion of MP's constituency work.
- Questions around why the powers to make administrative liabilities orders were not commenced.
- Difficulties around deducting child maintenance from Universal Credit payments.
- Recognition of the role that community and voluntary organisations play in helping families with child maintenance and wider finance issues.
- One MP had questions around the period within which a right of appeal under regulations may be exercised and felt that it potentially provided

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<sup>40</sup> [Child Support \(Enforcement\) Bill - Hansard - UK Parliament](#)

the Secretary of State with a “great deal of power” in relation to the grounds under which an appeal could be made.

The Bill was considered by a Public Bill Committee which [debated](#) the Bill on 1 March 2023. A number of additional issues were raised including<sup>41</sup>:

- The difficulties experienced by some parents who have been unable to secure child maintenance for extended periods of time for a variety of reasons and the impact that this had on children.
- Concern for those families in which there was no maintenance arrangement in place (that is, no family-based nor CMS arrangement).
- That some survivors of domestic abuse report that the system is often “weaponised” by ex-partners in order to continue to perpetuate abuse. For example, by deliberately delaying or frustrating payments. The Member felt that the Bill had the potential to make positive changes.
- Whether the Minister would, in due course, bring forward statistics and information to show how the legislation is reducing child maintenance arrears.

Commenting after The Support Enforcement Act received Royal Assent, then DWP Minister Viscount Younger of Leckie stated<sup>42</sup>:

*“This is another step in our work to strengthen our powers and improve how the Child Maintenance Service supports children of separated parents. We want parents to collaborate where at all possible, but if the financial responsibilities to children are not being met, the CMS will help those in need. This new law will help speed up the enforcement process to get money flowing which ultimately will be for the benefit of children.”*

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<sup>41</sup> [Child Support \(Enforcement\) Bill - Hansard - UK Parliament](#)

<sup>42</sup> Department for Work and Pensions, Press Release, ‘[Swifter sanctions on unpaid child maintenance](#)’, 20 July 2023.



**Further reading on the Westminster Bill and Act:**

Links to all stages of the Bill and key documents is available on the UK Parliament website [here](#).

A House of Lords Library Briefing on the Bill including commentary on the stages of the Bill is available [here](#).

## 7 DWP public consultation on subordinate regulations for Great Britain

In October 2023, the Department for Work and Pensions (DWP) launched a public consultation paper entitled '[Child Maintenance: Accelerating Enforcement](#)' (for England, Scotland and Wales only). The purpose of the consultation was to help the UK Government understand views on administrative liability orders and, in particular, to inform the proposed new regulations relating to the appeals process<sup>43</sup>. The consultation ran from 2 October until 24 November 2023.

In relation to administrative liability orders, the consultation paper stated that<sup>44</sup>:

*“Before an administrative liability order is considered, we will ensure that, where appropriate, the CMS has exhausted other options to recover 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*

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<sup>43</sup> Department for Work and Pensions, [Child Maintenance: Accelerating Enforcement](#), October 2023.

<sup>44</sup> Ibid.

*paying parent is self-employed or they support themselves through more complex earnings structures”*

The paper states that it is currently the case for liability orders that, before applying to the courts for an order, the CMS must give a paying parent at least **seven days’ notice** of the intention to do so. If the parent lives overseas there is a **minimum notice period of 28 days**. The paper states that the 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”.

**Discussion points:**

**Will the Department for Communities conduct a similar public consultation exercise? If so, is there a timescale for the publication of the consultation paper? Similar to the DWP, will DfC also specifically target feedback from voluntary and community sector organisations with an interest in child maintenance?**

**Does the Department for Communities, in line with DWP proposals, intend to propose to retain the same 7 or 28 day notice period to a paying parent prior to the making of an administrative liability order?**

**Will the notice of intention to make an order provide details of the amount of unpaid child maintenance in order to allow the paying parent to make payment or raise a dispute against the balance of the arrears before a liability order comes into force?**

**Are there any circumstances in which a liability order may be discharged?**

**The aim of administrative liability orders is to help CMS accelerate the process and get money to children quicker where parents have failed to meet their obligations to pay child maintenance. The Committee for Communities may wish to consider requesting that the Department provides the**

**Committee with data on the average time for DfC to make an administrative order (e.g. six or 12 months after the power has commenced). This may assist the Committee in scrutinising the impact of the new legislation.**

The DWP consultation paper made a number of further proposals in relation to the appeals process<sup>45</sup>:

- Currently, appeals against deduction directly from the bank account of an NRP/‘paying parent’ can be made to the Family Court (in England and Wales) or the Sheriff Court (in Scotland) within 21 days from the date that the order is made. It was proposed that the regulations should therefore also allow a **right of appeal within 21 days** from the date that an administrative liability order is made. As is the case currently with appeals against deductions in England, Scotland and Wales, this would mean that appeals could be made directly to the court without a parent needing the agreement of CMS.
- The jurisdiction of the appeal court **does not include consideration of the CMS calculation** on which the debt is based (as is also currently the case with court-based liability orders). The consultation paper proposed that “any more detailed grounds for appeal can be set out in the court procedures of the relevant court” and that “we therefore propose not to make restrictions upon the grounds for appeal in child maintenance regulations, other than allowing an appeal against the making of an administrative liability order”. The paper stated that this would “maintain consistency with appeals against deductions directly from a paying parent’s bank account”.

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<sup>45</sup> Department for Work and Pensions, [Child Maintenance: Accelerating Enforcement](#), October 2023.

**Discussion points:**

**Will regulations for Northern Ireland allow a right of appeal within 21 days from the date that an administrative liability is made?**

**What will be the grounds for appeal in Northern Ireland?**

## 7.1 DWP consultation outcome (England, Wales and Scotland only)

The Department for Work and Pensions (DWP) published a [consultation outcome](#) report in February 2024. A total of 87 responses to the consultation were received, which is a relatively low response rate. In summary, the outcome report stated that there was “broad agreement” that the proposals would allow the CMS to move quicker to get money to receiving parents. This view was said to be more prevalent among ‘receiving parents’ and organisations that support ‘receiving parents’ rather than paying parents.

An overview of the outcome in respect of the then UK Government’s proposals is set out below:

### **Notice period before administrative liability order is made**

On the proposal for providing a parent with a notice period of at least 7 days (or 28 days if overseas) before a liability order is made, 19 responses considered the notice period was too short, 10 responses were positive or neutral and two responses suggested that no notice period should be given. Of those who thought the proposed notice period was too short, alternative suggested notice periods ranged from 14 days to one month. A key theme amongst those who disagreed with the minimum 7-day period was that it did not give sufficient time to prepare an appeal or seek legal guidance. Some also felt that delays in postage could mean the notice itself was not received before the order was made.

In response, the then UK Government stated that (note that reference to ‘CMS’ refers to the CMS for Great Britain and not the Northern Ireland CMS):

- It was proceeding with the minimum 7-day (or 28 days if overseas) notice period to the 'paying parent' prior to the making of an administrative liability order and that the notice would include providing details of the amount of unpaid maintenance.
- It had noted concerns that the 7-day notice period may not enable sufficient time to prepare an appeal but that the CMS would not require an appeal to be prepared within this notice period. It stated the intention of the notice period was "simply to allow the paying parent to contact the CMS and make payment or indicate that they wish to raise a dispute against the balance of arrears before a liability order comes into force". It noted that, there was "therefore no expectation that a formal appeal would be required for a paying parent to raise this dispute".
- It had noted concerns around postage times but stated that the vast majority of 'paying parents' would be notified instantly via electronic means (SMS or via their online child maintenance account). Where more traditional postage is used "the CMS can allow additional time to take into account postal delivery".
- It emphasised that the 7-day notice period for liability orders was the same notice period which is already in place for court-based liability orders and that CMS would retain the "flexibility" to allow a longer notice period where needed (for example, if the 'paying parent' was experiencing severe financial hardship).

### **Circumstances in which an administrative liability order can be discharged**

The then UK Government consulted on proposals to allow an administrative liability order to be discharged where the amount of arrears change or where there is an appeal (to the first-tier tribunal in England and Wales) against a maintenance calculation. The outcomes report stated that 16 responses were positive to the proposal to discharge a liability order where the amount of arrears change or where there is an appeal against a maintenance calculation. A total of 9 responses were negative to the proposals, with concerns raised including that the first-tier tribunal appeals may be used to delay enforcement or to discharge a liability order.

In response the then UK Government stated that it was going to proceed with its proposals on discharge. However, it stated that the discharging of an order will not be mandatory in these situations and each case could be assessed based on individual circumstances. It stated that it had noted concerns that an appeal process may be raised simply as a means of discharging an administrative liability order. It emphasised that where the CMS are confident that the arrears balance is correct and will not be altered by the result of tribunal process, there would be no requirement to discharge an administrative liability order, for example, if an appeal against a maintenance calculation is made.

### **Other circumstances in which an administrative liability order could be discharged**

There were additional suggestions from some respondents for other circumstances to be considered in relation to the discharge of an administrative liability order. For example, if the 'paying parent' is bereaved or in receipt of benefits with assets. The then UK Government agreed that these are important considerations to take into account but did not consider it would be necessary to add these additional circumstances into regulations. It stated that each case in which an administrative liability order is either made or is subject to further enforcement will be assessed individually to establish whether it is appropriate. It also stated that CMS will produce instructions and guidance for caseworkers to assist them in making these judgements.

### **Unintended consequences of administrative liability orders**

A total of 19 responses to the consultation indicated that they felt there would be unintended consequences. However, the outcome report stated that the majority of the responses either did not provide a reason or made broader points that were not specific to the use of administrative liability orders.

The small number of responses that did provide reasons why there would be unintended consequences suggested that:

- Either parent could use the process to inflict control over the other.
- The 'paying parent' could potentially repeatedly use the appeals process to prevent or delay enforcement.

- It could lead to false allegations of non-payment.

In response, the then UK Government stated that in relation to false allegations of missed payments, CMS would continue to investigate missed payments and that this process would ensure the 'paying parent' is given the opportunity to show payments have been made.

### **The appeals process**

The consultation asked for views on the proposal to allow the right of appeal to a court within 21 days from the date that an administrative liability order is made. The questions received mixed responses with 8 positive responses, 8 negative and four neutral responses. The then UK Government decided to retain the 21-day appeal window and emphasised that 'paying parents' will be able make appeals directly to the court without first needing the agreement of the CMS. It further stated that CMS have already worked in partnership with HM Courts and Tribunal Service to improve court processing times, using technology to speed up sending information and enforcement applications to the courts.

Some respondents also expressed concern that (as is currently the case with court-based liability orders) the jurisdiction of the appeal court will not include consideration of the CMS calculation on which the debt is based. In response, the then UK Government stated that the maintenance calculation can continue to be appealed to the first-tier tribunal.

### **Views on wider improvements to the CMS (Great Britain)**

Some respondents also used the opportunity to voice their views on the CMS (in GB) more broadly. The issue of the **child maintenance calculation** was raised by 24 respondents with some reporting that they felt the calculation was unaffordable or otherwise unfair. In response, the then UK Government stated that:

- The CMS calculation process utilises income information from HM Revenue & Customs to ensure the most up to date and accurate information is used in the payment schedule.

- The calculation is intended to represent a level of financial support proportionate to the sum of money a 'paying parent' would spend on children if they lived with them.
- The calculation is designed to reflect the individual circumstances of separated families and takes into account any other children that the paying parent is responsible for and the number of nights the 'paying parent' has overnight care.
- Calculations are reviewed annually and 'paying parents' are able to report a change in income at any time.
- That it would, however, undertake a strategic review of the calculations and that this work was likely to include a review of the formulas used and the way in which calculations currently incorporate changes in tax and national insurance payments. It stated that it would announce further details in due course.

Aside from the child maintenance calculations, other respondents raised issues around:

- **Dissatisfaction with the service** they had personally received from CMS (that is, the CMS in Great Britain) and highlighted difficulties in contacting CMS or making an application. The then UK Government stated that the CMS is reviewing its customer service framework through its digitalisation and transformation programmes.
- **Concern with the arrears process** in that some felt that action was not taken soon enough once arrears had begun to build up. Others felt that there had been a miscalculation with the amount they owed in arrears. The then UK Government stated that the CMS had worked to improve processes in which arrears could be collected and that a 'paying parent' could contact the CMS at anytime to challenge if they feel that arrears are incorrect.
- **The impact of the CMS on mental health** with some reporting feeling that enforcement powers were used too aggressively. The then UK Government stated that it did recognise that some 'paying parents' face difficult circumstances and may be in distress. It stated that where 'paying parents' are struggling with their mental health due to the cost of



child maintenance payments, the CMS would work with them to come to a suitable arrangement. The CMS will also provide referral guidance to organisations that specialise in providing support and guidance on mental health, debt, money management and financial hardship.

- **The impact of domestic abuse** was raised by 8 respondents and also by responses from voluntary and community sector organisations. Responses stressed the importance of considering impacts on those who had, or were, experiencing domestic abuse. The then UK Government stated that the CMS takes the issue of domestic abuse “extremely seriously” and is committed to ensuring that there is access to help and support to use the CMS service safely. It stated that in 2021, DWP had commissioned an [independent review](#) of ways in which the CMS supports survivors of domestic abuse (conducted by Dr Samantha Callan). The UK Government [had accepted](#) eight of the ten recommendations.

Additionally, it highlighted that the [Child Support Collection \(Domestic Abuse\) Act 2023](#) allows a case to be placed onto a Collect and Pay Service where a parent applies on the grounds of domestic abuse and that a further consultation would explore this issue in more detail. CMS had also reviewed its domestic abuse training for caseworkers in 2021 and that CMS also had a Complex Needs Toolkit for its caseworkers which had clear steps to follow in order to support customers who experience abuse. Other important developments included acting as an intermediary in direct pay cases to facilitate the exchange of bank details to help ensure no personal information is shared, provision of advice on how to set up bank accounts so that the parent’s location cannot be traced, and signposting parents to specialist domestic abuse support organisations.

In conclusion, it is important to recognise that this consultation was for respondents in England, Wales and Scotland and not to Northern Ireland as child maintenance is a devolved matter. A similar Northern Ireland-specific consultation may be necessary in order to obtain local views on these issues.

**Discussion points:**

The former UK Government stated that it would undertake a review of child maintenance calculations. Does the Department for Communities intend to undertake a similar review?

What support is currently available to both parents using CMS services in Northern Ireland who are experiencing mental health difficulties as a result of maintenance payments and/or arrears?

Has the Department for Communities considered the findings of the Callan independent review of the CMS response to domestic abuse? Has it made any changes to its services and/or procedures in response to the recommendations of the review?

Section 4 of the [Child Support Collection \(Domestic Abuse\) Act 2023](#) extends to Northern Ireland. Could the Department provide an update on this?

## 8 Child maintenance payment and collection: further reforms ahead?

Commencing the powers to make administrative liability orders and introducing regulations that would introduce an appeal process for ‘paying parents’ in respect of such orders is just one piece of the previous UK Government’s plans to reform child maintenance. Other, broader reforms, are outlined in its recent consultation ‘[Child Maintenance: improving the collection and transfer of payments](#)’ published on 8 May 2024. The consultation applies to England, Scotland, Wales and to Northern Ireland given the parity arrangements for child maintenance outlined in Section 87 of the Northern Ireland Act 1998.

The previous UK Government’s reform proposals were to:

### i. Promote uptake of family-based arrangements

Encourage more parents, where appropriate, to make **family-based arrangements** by providing separated families with easier access to resources, guidance and support and a newly enhanced online calculation tool for CMS

using verified income data (for example, HMRC data). Some aspects of this proposal may be more applicable in Great Britain as [Child Maintenance Choices](#) (a service provided by the Northern Ireland CMS) can provide advice and an online calculation of a child maintenance payment.

## **ii. ‘Streamline’ the service by removing the Direct Pay option**

The consultation paper states that there is evidence suggesting that the Direct Pay arrangements are not working as they were intended to. In Direct Pay cases, CMS will provide a maintenance calculation and a payment schedule and payments are arranged privately between the receiving parent and the paying parent. The consultation states that many parents in Great Britain are reporting that the Direct Pay arrangements are either ineffective or not sustained and that there is an issue of “hidden non-compliance”. The then UK Government was considering removing the Direct Pay service completely.

Under this proposal, parents who currently use Direct Pay would be offered a choice of setting up a family-based arrangement or moving over to the Collect and Pay service. The consultation paper stated that those who use Direct Pay who would transfer to Collect and Pay would benefit in that all child maintenance payment would then be monitored. It claimed that late, missed or partial payments would be identified and enforcement action could be taken.

## **iii. Introduction of a new fee structure**

Currently within Collect and Pay, ‘receiving parents’ currently pay a 4% fee and ‘paying parents’ a 20% fee<sup>46</sup>. The proposal was to introduce an administration fee of 2% for both ‘receiving parents’ and ‘compliant paying parents’ for the new ‘streamlined’ service<sup>47</sup>. Parents who remain compliant with maintenance payments (and if there is no other reason why a family-based arrangement would be inappropriate) would be supported by CMS to move out

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<sup>46</sup> For example, if the child maintenance liability was £100, a ‘paying parent’ would pay £120 (£100 liability plus £20 fee) and the receiving parent would receive a payment of £96.

<sup>47</sup> The fees would only be payable from the money that is actually collected and transferred by the service.

of the statutory scheme. A 20% fee would be maintained for ‘non-compliant’ paying parents who do “not pay their maintenance liability in full and on time”.

#### **iv. Further support for victims and survivors of domestic abuse**

The consultation paper maintains that a new streamlined Collect and Pay service would enable the CMS to detect previously undetected cases of non-compliance under the Direct Pay service. It felt that this could help reduce the ability of perpetrators of domestic abuse to “inflict economic control and coercion” through withholding child maintenance payments.

It also outlined steps that CMS (in GB) had already taken to assist victims and survivors of domestic abuse. For example, helping the ‘receiving parent’ set up bank accounts with a centralised sort code to reduce the risk of their location being traced and signposting to suitable domestic abuse organisations if domestic abuse was raised or suspected. The consultation sought views on whether removing the Direct Pay service completely would benefit victims and survivors of domestic abuse, how services could be further improved for both ‘receiving parents’ and ‘paying parents’ who have, or are, experiencing domestic abuse. It also stated that it wanted the consultation to help identify the barriers victims and survivors face in accessing CMS services.

It is important to note at the outset that introduction of such reforms is likely to be influenced not only by the outcome to the consultation but the new UK Government’s policy on, and planned approach to, child maintenance. Furthermore, in Northern Ireland any changes to child maintenance must be subject to the necessary approval by the Minister for Communities, the Northern Ireland Executive and the Northern Ireland Assembly.

The [public consultation](#) on the proposals for further reforms to child maintenance runs from 8 May to 31 July 2024. The outcome of the consultation, and in particular the responses from service users and organisations supporting families in Northern Ireland, will be of interest to both policymakers and MLAs.

**The Committee for Communities may wish to consider, at an appropriate time after the conclusion of the consultation, seeking an update from the Department for Communities on the findings and conclusions of the consultation.**