NATIONAL ASSOCIATION FOR CHILD SUPPORT ACTION

'Promoting fairness and equality'

Fax 01384 343966

www.nacsa.co.uk e-mail :- admin@nacsa.co.uk

PO Box 4454, Dudley, West Midlands, DY1 9AN

Child Maintenance Redesign Team
Department for Works and Pensions
5th floor
The Adelphi
1-11 John Adam Street
London
WC2N 6HT

12th March 2007

National Association for Child Support Action is pleased to submit the following response to the Government White Paper: *A new system of child maintenance".*

Summary:

Given the history of the CSA and the problems that led to its failure, we feel that whatever replacement is introduced its foundations have to be solid and focused in the following areas:

- The new system should be focussed on the welfare of the child as opposed to recovery of monies for the Treasury
- Providing an **efficient**, **accurate**, and **speedy** administrative process, executed by well trained and experienced staff
- With an IT system that is stable, and fit for the purpose, having the facility to record all communications, and to supply an appropriate audit/paper trail to ensure continuity of evidence.
- Backed up by an efficient enforcement regime, robustly applied **in the right place** acting as a deterrent to the majority of **non compliant** NRP's.
- And inaccurate and incorrect debts to be written off.

Focussing on the welfare of the child

The Government response to the Henshaw report initially showed signs that were encouraging, particularly with the move to allow more parents to make their own arrangements when deciding child support, and for removing the compulsory element for benefit claiming PWCs to co-operate with the agency. However, the report opened with the statement

> *"Improving the welfare of children should be the paramount concern of child support."*

But the Governments insistence on putting the full weight of the law behind the PWC and virtually framing the NRP as having no rights and is merely a cash dispenser, is in our opinion not conducive to a good relationship between parents. The discontentment this treatment

causes in the non-resident parent can only lead to disputes and non-compliance so does not focus on the welfare of the child.   The report then goes on to say:

"First and foremost, child support is the responsibility of the parents involved"

and surely this must mean BOTH parents. NACSA therefore contends that the NRP be treated on equal terms with the PWC. On the other hand we were delighted that the Henshaw report expressed a need for a "clean break" from the current Child Support Agency. The four key principles that were adopted from the Henshaw report and which formed the basis of the White Paper are commendable, but not something that we hadn't heard in the past.

There are sections of the White Paper that we believe make positive steps but on the whole we were disappointed by the content. We are particularly concerned that the White Paper is introducing more 'stick' as opposed to better efficiency. Enforcement properly applied in the right place has to be a major part of the system, but certainly not the driving force; otherwise it is felt that there is great potential for the system to fail in similar ways to the current CS1/CS2 systems.

We were also very disappointed on the timescale for CMEC to be fully functional and there is a perception that the proposal to have CMEC operate at arm's length from the Government is purely a means of distance themselves from the criticism that has been levelled throughout CSA's history. Not a reassuring start for gaining public confidence.

A Clean Break*:*

The paper states an intention to provide a "*seamless"* transition between CSA and CMEC, which surely contradicts the phrase "*clean break"*. The proposal for CMEC to "absorb" and manage existing cases and pursue relevant debt with 'radically strengthened new enforcement powers' was one of the most disappointing aspects of the White Paper. NACSA cannot see how these new powers will increase the amount of monies collected; we feel that the determined defaulter will just get more determined to avoid payment. If CMEC are to manage existing cases, and operates with existing CSA staff and IT systems, it is difficult to understand how this can be considered a "radical reform". It will simply transfer data from CS1/CS2 system without any changes or improvements and we suspect the public will view this with some trepidation.

Providing an efficient, accurate, and speedy administrative process

NACSA have regularly brought to the attention of ministers and senior management within CSA of the dismissive attitude that some officers display towards clients; failing to acknowledge all of the issues and addressing them in a proper manner and unless this is changed, the stigma of CSA will quickly become that of CMEC.

To ease some of these concerns, it is absolutely crucial that parents feel they have a real choice offered to them, and not a set of options dictated by one parent alone. NACSA feels that both parents, including those who have second families, should be treated equally in law; that all available options should be given to them, and a clear explanation of why they are being applied.

The White Paper confirms that most parents would prefer to discuss their options with a neutral and independent body and to support this, there has to be an extensive promotion of the services provided by the voluntary sector and other independent services. These totally independent bodies will be working for the best interests of the client, and can discuss the best options for their child support arrangements. An important audience to target is that of

family solicitors, who are still advising clients to agree to clean break settlements. This is often not in the clients best interests given that CSA do not recognise such settlements.

In addition to these services, it is also necessary to ensure that adequate, and easy to understand literature is widely available, using plain English that all can understand. Ideally, literature should be introduced to the various outlets in the very near future, to allow parents to familiarise themselves with the new system before they actually face the decisions of preferred method of arrangements. Currently, parents have limited sources of accurate information and/or signposting. Subsequently, many parents rely heavily on media coverage which is very often a distortion of reality. It is essential to correctly educate the public in preparation for CMEC's arrival.

A New Focus

As the essence of the White Paper is to relieve child poverty, it is encouraging that PWCs will receive a higher disregard than the current £10 per week. There are strong arguments for the benefits of increasing this disregard further still, as it can dramatically improve the welfare of many children. However, we do have to voice some concern that the disregard does not increase sufficiently to become a financial incentive for intact couples to separate.

NACSA welcomes the Government proposals to encourage parents into making their own choices for their children, but there is a real need for such payments to be monitored. Currently, it is a simple process for the benefit claiming PWC to receive informal child support payments only to later deny receipt when questioned by the Benefits Agency. Deception on either side is wrong and should not be allowed to happen; therefore NACSA believes that a thorough investigation should be carried out to verify all statements made by either partner. Thus we welcome the proposal to introduce a register where private arrangements will be recorded, and careful monitoring will be visible.

The issue of charges were discussed within the proposals, and whilst NACSA can accept the argument for introducing fees, insomuch that there is a need to avoid parents looking to use a "free" CMEC as opposed to a consent order where court fees will be applicable; but we feel it totally unjustified to place the onus of these charges on the shoulders of the NRP. This reflects an agency looking at placing blame for family breakdown at the door of the NRP, which is not an accurate portrayal. There are a number of reasons why the NRP may choose to use the CMEC system and thus charging should not necessarily become his/her responsibility.

If a charging regime were to be introduced, any such charge should be applied fairly. Perhaps consideration should be given as to who is making the application, and why? Has a private arrangement been offered and if so why was it declined? The reasons behind an application to CMEC should be investigated. Currently a number of NRPs have provided substantially for their children's future through divorce settlement. Should the PWC then be allowed to use CMEC as a weapon in an acrimonious separation? Such instances need considering before fees become an integral part of CMEC.

Informal payments of child support is a matter discussed in the proposals, and NACSA would endorse the inclusion of informal payments but feel it is critical that such agreements are registered from the outset so as to avoid any dispute about what has been paid (and should include what can be considered as payments-in-kind) - and accepted – as child maintenance. If informal payments are agreed and accepted from initial registration, there should be no confusion as to what payments will be considered eligible child support at a later date.

Assessment process:

There are undoubtedly going to be benefits for CMEC to have open access to the tax year income information of the NRP, for those who use income as a means to manipulate or avoid responsibility. But an opportunity should be given initially to the NRP to supply appropriate income verification. More importantly, responsibility should be put on the caseworker to ensure that such information is regularly updated and present on the system. All too often NRPs are considered non compliant for failing to supply information, when in fact the problem is due to systems not being regularly updated with information supplied.

One only has to look at the tax credits fiasco with overpayments being recovered and pushing families into financial hardship, to realise the dangers of using historical income details on which to base assessments. Furthermore, using gross income for assessment purposes is likely to bring inaccurate assessments for the NRP because the data could be up to two years old, which could subsequently lead to a higher non compliance rate. Additionally, as there is extensive Government advertising to encourage individuals to invest in personal pensions because of the pension crisis, to use gross income for assessment purposes would subsequently dismiss a parent's pension contributions and we believe this is inappropriate and would reject the proposal.

The White Paper suggests fixed term payments, with only significant changes in circumstances being eligible for review. Whilst the system undoubtedly has to protect itself from being swamped with continual reviews with little change, it also has to be considered that even a difference of a few pounds per week can be 'a significant change' to a low income family.

Fixed term payments could lead to further complications of arrears and/or overpayments accruing from one year to another; how would these anomalies be amended? Would CMEC use high-handed enforcement measures to collect debts created by fixed term payments?

The move to increase the flat rate is acceptable given that no increase has been awarded since 2003. However there would need to be a safeguard against these rates being cranked up on a regular basis.

The White Paper appears to have completely overlooked the issue of shared care. The Government response to the Henshaw review indicated that in cases where <u>equal</u> shared care is present, no application would be allowed from either parent which we believe to be the most appropriate action, but no such mention was made in the White Paper.

There is a strong belief among NACSA members that maintenance payments and contact should be connected. It has been argued by others that the NRP incurs no cost when he has overnight stays by his children but we reject those claims. It has to be considered that even if the NRP enjoys only limited access, certain provisions still have to be made, such as adequate housing,(which may otherwise be unnecessary), additional clothing etc may be required, together with additional food provisions all of which has a cost, over and above his maintenance. As such, we feel that recognition should be given to those parents that have reasonable (if not necessarily equal) access to their children.

The White Paper discussed uncertainty over how secondary child support arrangements should be viewed. It would be completely unacceptable for CMEC to dismiss any arrangement that the NRP may have towards other children. It would not only undermine the importance of good equal parenting, but would also contradict the purpose of CMEC, i.e. to give the option to make private child support arrangements. The most appropriate method to account for all responsibilities would be to calculate the required amounts as per the CMEC rules, and award accordingly. If the NRP decides to pay amounts different to that award they are at liberty to do so, but recognition of the payment would remain as per the award calculated under CMEC.

Common complaints in the present system surround issues of no case ownership, which can easily be resolved if clients are assigned specific case officers that deal with the case holistically, from processing application to first stage complaints. This is something we would like to see within the operation of CMEC.

The process of administration is the essence of any system, and as such meticulous training and efficiency has to be evident. Without this basic foundation, we are sure to see failings on the same scale as we do currently. We have been given assurances before and have been sorely let down; we hope that lessons have been learned and the new system delivers as it promises.

Enforcement:

NACSA would desperately like to see a "less stick and more carrot" approach with CMEC, until the system has enjoyed a reasonable period of reliability. CSA's own statistics show that 70% of NRPs comply and so, whilst enforcement has to be robust, it does not have to be the driving force.

Parents should feel confident that the system will: calculate assessments according to the rules; monitor, collect, and redistribute payments quickly; and be supported by a speedy and efficient, enforcement regime. Enforcement, without first establishing the legitimacy of the debt, only adds to the cost of collection and is ultimately a charge to the tax-payer. Trust in the fairness of a system will be quickly lost if any participant feels excluded from the decision-making process so we would like to see an end to the practise of caseworkers initiating enforcement action on the assumption of non compliance whilst dismissing any outstanding issues on the case. The NAO report of 2006 confirms that 65% of liability order applications are rejected. This is costly to the taxpayer and causes unnecessary distress to both PWC and NRP. This must not continue with CMEC. In many current cases, child poverty is created rather than eradicated because of unwarranted actions from enforcement officers.

It would be nonsense to suggest that all parents will comply with the system, but given the failings of the agency, the CSA do have to accept responsibility for part of the problem with non compliance. As has been said numerous times before – if the system is efficient, there will be no loop-holes for the truly non compliant to manipulate to their advantage and if the system is fair there would be greater compliance.

CSA currently have more than sufficient enforcement powers in which to target the non compliant, and CMEC will no doubt inherit all of these. We therefore do not feel there is any requirement to extend powers further. We do however call for a more appropriate and streamlined use of the powers when necessary.

NACSA accept the benefits of CMEC having access to a wider range of financial institutes in which to secure relevant information about the NRP, but such searches should only be used in the case proven to involve the truly non compliant. Currently, we find that CSA instigate special traces when in fact relevant information is already held on file, but the system had not been updated. Again, if the system operates efficiently, time and resources will not be wasted on unnecessary tracing. Whilst NACSA see the potential for CMEC having access to financial institutions, we would not support the proposal to place NRP information into the hands of the financial institutions for fear of misuse.

Given the statistics for failed Liability Order applications, the proposal to remove this court process underscores the agency habit of "moving the goalposts to suit!" The large number of failed applications should suggest a need for improvements in the system, not proposals to sidestep the issue. Until there has been a significant period of time in which CMEC has proven its self to be fully functional and reliable, the idea of removing the process of Liability Order applications is truly abhorrent and we would reject this proposal outright.

Debt:

NACSA have always voiced concerns over the debt mountain that has accrued. Mr Geraghty confirmed to the select committee in February 06 that;

"We made up a number to frighten people into compliance….which when we do get data in tend to be over-valuated by about two thirds"

Previous policy clearly failed to recognise what the consequences of this dictatorial action would have on the NRP—dispute and non-compliance. Interim assessments such as this may serve a particular purpose, but our experience shows that all too often, conversion never takes place despite the information being provided. The horror then continues as these debts are placed into the hands of the debt collection agencies (DCA) without any further discussion or consideration.

Threatening to use force costs nothing, but there is a cost to the tax payer when acting on those threats, as such, the agency should be confident about their case before proceeding. This is especially true if the legitimacy of the powers the DCA has is in question

Lord Hutton stated that the contractors engaged to collect this debt will be "*encouraged to be innovative*" but already there are signs of misuse of such collection services. Clients are unable to explain outstanding issues with the DCA and CSA deny ownership at this point. We understand these DCA's have been given the powers to impose deduction from earnings orders but experience has shown that DEOs are being applied without just cause and at times collected at a rate higher than legally allowed.

If CMEC is to gain any form of respect from the public it must take control of its enforcement measures and ensure cases are only put into this situation when there is conclusive evidence that the debt is safe. We would encourage debts created in the manner described above are re-valued accordingly.

We would also be looking for assurances that all contractors will be subject to a code of conduct which will be monitored and any breach of this code would result in serious consequences, and suitable compensation awarded for maladministration.

Debts should not simply be written off, but carefully inspected as to how they had accrued, and where fault lies. If debt is created through procrastination on the part of the agency, appropriate debt management and negotiation of collectible debt should be instigated with appropriate compensation being awarded to the PWC for any loss incurred. Where the debt is conclusively shown to be resulting from the delays of the NRP, the debt should remain fully enforceable, although we accept that PWCs would probably be more than willing to accept a lower agreed figure of arrears than the potential risk of further non payment.

Joint Registration/Promoting parental responsibility

Joint registration is not an area that we have a specific opinion on, however, in a society that requires better education of parental responsibility; joint registration could have a purpose. Other campaign groups call for improving father's rights to their children, and for this purpose we could see the benefit in making joint registration compulsory.

In relation to CMEC, we see the only potential gain for joint registration would be the prevention of NRPs being unaware of the child named in any assessment, and reducing the need for DNA testing.

However further discussion with organisations more versed in child welfare issues would be required to determine what possible implications could be found in making this proposal a fact.

NACSA support the notion of introducing good parenting responsibilities into Secondary School education. New legislation "*every child matters"* forms a strong basis for every child to enjoy a safe and secure environment which can work alongside legislation to help promote good parenting. PHSE lessons could be instrumental in educating future generations not only of the importance of having two loving parents, the responsibility they take on later in life when they too become parents, and the consequences of marriage break-down, but how the law governs these things.

Conclusion:

In summary, NACSA were encouraged by the Government's realisation that parents should be given the opportunity to make their own arrangement for child support when possible. We hope to see a large number of couples making use of this option. We were also pleased with the proposal to increase the maintenance disregard and make it available to all PWCs on both CS1 and CS2. However, the remaining contents of the White Paper appear shallow with great potential for parents to suffer the same difficulties as they experience with both CS1 and CS2.