

# Father Figures



How absent fathers on welfare could pay meaningful child support

Peter Saunders



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# Contents

	About the Author	4
1	Introduction	5
2	Father Figures: How Absent Fathers on Welfare Could Pay Meaningful Child Support	7
3	Eight Policy Recommendations to Strengthen Parental Responsibility	36
4	Conclusion	46

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## About the Author

**Peter Saunders** was until 1999, Professor of Sociology at the University of Sussex, where he is still Professor Emeritus. Since then he has been Research Manager at the Australian Institute of Family Studies in Melbourne, and Social Research Director at the Centre for Independent Studies in Sydney. He is now back in the UK working as an independent consultant, specialising in social policy. He has written a number of reports for Policy Exchange on poverty and family policy. His website address is [www.petersaunders.org.uk](http://www.petersaunders.org.uk).

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# 1. Introduction

Britain's 'most feckless father' was named by the *Daily Telegraph* in November 2011 as Jamie Cumming, a 34 year-old unemployed man from Dundee. The previous holder of this dubious distinction, Keith MacDonald from Newcastle, has nine children by different women with a tenth on the way, but despite his tender years, Cummings has now surpassed MacDonald's record. He has fathered 15 children with 12 different partners in the space of just 16 years. Two more of his babies are due soon.<sup>1</sup>

How does Mr. Cumming afford to support all these women and maintain all these offspring? The answer is that he does not, nor is he expected to. Being unemployed, the most he can be required to give the mothers of his children towards the upkeep of his numerous kids is £5 per week. That is £5 in total, not £5 per child.<sup>2</sup>

Under existing rules, nothing more can be done to force men like Cumming to take responsibility for their children. Nor are men like this likely to be dissuaded by existing rules from fathering even more children in the future, for they incur no new financial responsibilities when they do so.

The people who end up paying for Cumming's expanding brood of children are total strangers, people who (unlike Cummings and his partners) go to work, earn wages, pay their own way, support their own families, and are then required by law to pay taxes to support his children as well as their own. Such is the morality of our modern welfare state.

It was not meant to be like this. There has been a series of radical reforms in Britain over the last 20 years or so designed to ensure that separated parents accept more financial responsibility for their own children. Single mothers are now expected to look for part-time work once their children start school, and absent fathers who fail to pay child support voluntarily can be required to do so by the Child

1 Donna Bowater, 'Seventeenth child on way for "jobless predator"' *Daily Telegraph* 28 November 2011

2 This is known as the 'flat rate' of child support. According to the government website [www.Directgov.uk](http://www.Directgov.uk), the flat rate applies if the non-resident parent's net weekly income is between £5 and £100. The flat rate is currently set at £5 – no matter how many children are involved. As we shall see, a new child support scheme is currently being phased in as a result of the 2008 *Child Maintenance and Other Payments Act*. Schedule 1, paragraphs 3(3) and 4(1) of this Act raises the flat rate to £7 on gross incomes less than £100 per week (David Burrows, 'Child Maintenance and Other Payments Act: An Introduction' *Family Law Week*, 1 July 2008)

Support Agency (CSA). But one group of parents seems to have slipped through the net. Non-resident fathers on welfare are required to pay almost nothing towards the costs of raising their children, and the demands made on them have if anything been weakening.<sup>3</sup>

This is a sizeable group: we shall see that as many as half a million non-resident fathers are living on welfare benefits. Like Jamie Cumming, none of them is expected or required to pay more than the price of a weekly pack of cigarettes towards the costs of maintaining their children (although some may voluntarily agree to pay more). This is because men who live on welfare benefits are presumed to be unable to afford more realistic levels of child support. They do not pay because they do not earn.

This presumption of an inability to pay creates glaring unfairness, and a huge ‘moral hazard’ problem.<sup>4</sup> Non-resident fathers who work are expected to pay substantial sums out of their earnings to support the costs of raising their children, but those who do not work get away with paying almost nothing. To make matters worse, those who work are expected to pay, not only for their own children (through weekly child support contributions), but also for the children of these other men who do not work (whom they support through their taxes). The men who ‘do the right thing’ have come to be regarded as easy targets, while those who behave irresponsibly bear little or none of the costs generated by their behaviour.

This cannot be right. Most fathers want to do all they can to help and support their children, even when they find themselves unemployed. But some – a minority – persistently evade their responsibilities. This is unfair on their children, their former partners, other fathers who are doing the right thing, and taxpayers, who have to pick up the tab. This report therefore starts from the premise that a man should not be able to exempt himself from the responsibilities he owes to his children, even if he is living on benefits. It then goes on to explore how fathers on welfare may be enabled to contribute more than is expected under the current system.

3 In this report I shall assume that the ‘parent with care’ is the mother and the ‘non-resident parent’ is the father. This is not always the case – about 10% of single parent families are male-headed – but overwhelmingly, the pattern is for women to be living with the children and for men to be living elsewhere (which makes them liable for child support payments)

4 I have explained the importance of avoiding moral hazard in welfare rules in Matthew Oakley and Peter Saunders, *No Rights Without Responsibility*, Policy Exchange 2011

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## 2. Father Figures: How Absent Fathers on Welfare Could Pay Meaningful Child Support

### The history of making absent fathers pay

For many centuries, the law in England has recognised that fathers have a duty to support their ‘illegitimate’ children, and since the 16th century, the state has been involved in helping mothers collect these payments. But there have always been problems in identifying fathers and in making them contribute once paternity has been established. For this reason, state authorities have for several centuries supplemented maintenance payments from absent fathers with tax-funded support for single mothers.<sup>5</sup> And for much of this period, there has been a tension between the two sources of funding as governments have attempted to increase fathers’ contributions and minimise the exposure of taxpayers.

In medieval England, canon law imposed a duty on the unmarried parents of illegitimate children to support them, but between 1572 and 1601, a new legal framework developed, administered by secular magistrates’ courts, which required local parishes to raise a ‘poor rate’ (a local property tax) to support the sick, elderly, unemployed and needy children within their local areas.<sup>6</sup>

Although an Act of 1576 reiterated the principle that parents should bear the financial responsibility for the maintenance of their illegitimate children, the Elizabethan Poor Law recognised that the state had a duty to ensure that these children were in fact supported. If an unmarried mother approached her local parish for financial assistance, she was required to swear an oath as to the identity of the

5 I am referring here only to unmarried mothers and divorced or separated women – women whose husbands die have for most of this period been supported by specific ‘widows and orphans’ payments

6 The account that follows draws on Thomas Nutt, ‘The Child Support Agency and the Old Poor Law’, and on Tanya Evans, ‘Is it futile to try to get non-resident fathers to maintain their children?’ *History and Policy* October 2006 <http://www.historyandpolicy.org/papers/policy-paper-48.html>



<sup>7</sup> This was, in a sense, an early version of the ‘guaranteed’ child support schemes that operate today in Scandinavia and certain other European countries, where the state assumes responsibility for paying and then attempts to collect the money from fathers. Eight European countries run some kind of guaranteed scheme today (Austria, Belgium, Denmark, Finland, France, Germany, Norway and Sweden). See Christine Skinner, Jonathon Bradshaw and Jacqueline Davidson, *Child Support Policy: An International Perspective* Department for Work and Pensions Research Report No.405, 2007.

<sup>8</sup> Recovery rates in modern guaranteed child support systems are generally low – 5% in Belgium, 15% in France, 22% in Germany – although Sweden claims to get 49% back, Finland gets 65% and Denmark 88%. *Child Support Policy: An International Perspective*, Table 6.3. A 2005 review of child support policy in Britain recommended against introducing such a scheme here because it would be costly, it would reduce compliance (the moral hazard problem that men would stop paying if they knew the state was going to step in) and it would be inequitable (low income families with separated parents would get more state support than others on the same income). Skinner et al, *Child Support Policy*, p.146.

<sup>9</sup> Nutt, ‘The Child Support Agency and the Old Poor Law’

father. The parish would then award her a weekly sum while obtaining an ‘affiliation order’ against the father to get the money back from him. Men who failed to pay could be imprisoned for up to three months, but mothers still received guaranteed support from the parish even if fathers reneged on their payments.<sup>7</sup>

Awards were comparatively generous. Affiliation orders were typically worth between 1s 6d and 2s 6d per week in the early nineteenth century, which was equivalent to about a quarter of a male labourer’s average wage and was substantially more than poor elderly parishioners received. But as with guaranteed child support systems in continental Europe today, there were often problems in recouping money from fathers.<sup>8</sup> The Commission on the Poor Law found in the early 1830s that in Essex, parishes managed to claw back only one-third of the payments they had made, and in Cambridgeshire they retrieved only half.<sup>9</sup> Local taxpayers had to make up the difference.

In 1834, the system was overhauled in an attempt to reduce the growing financial burden on local ratepayers. The right to demand payments from errant fathers was taken away from the parishes and transferred to mothers, who were given a new civil right to sue for maintenance on their own behalf. In cases where they still had to rely on assistance from the parish, the emphasis switched from ‘outdoor relief’ in the form of cash payments to ‘indoor relief’ in the workhouse.

The problem was that many women lacked the means to pursue legal claims for maintenance through the courts (legal aid was only made available in 1961). Gradually, therefore, the parishes again took on the responsibility for providing them and their children with a basic income, and in 1868, Parliament restored the right of parishes to demand reimbursement from those fathers they could identify. Ten years after that, Parliament made it a criminal offence for married men to fail to provide maintenance to their estranged or divorced wives, and defaulters could be – and were – imprisoned. As

late as the 1930s, around 2,000 men each year were jailed for terms up to three months for failing to pay maintenance, although this did little to help their former partners since serving their gaol sentence cancelled their debt.<sup>10</sup>

Even when women could afford to press their claims in court, the value of awards was often modest. The maximum value of affiliation orders was fixed by Parliament at five shillings in 1872, and this rose only slowly in the years that followed (to 10s in 1918, £1 in 1925, £1 10s in 1952 and £2 10s in 1960). This statutory limit was finally abolished in 1968, but awards remained low, mainly because the courts wanted to impose settlements which men realistically would be able and willing to pay.<sup>11</sup>

In determining what a man could afford, the courts increasingly took account of the financial needs of any new family members he may have acquired, and this depressed maintenance payments even further.<sup>12</sup> And as the welfare state strengthened, courts also began to assume that any shortfall in fathers' contributions to their abandoned wives and children would be made up by welfare payments (from the Poor Law Guardians, the National Assistance Board, which replaced them in 1934, and subsequently, social security). Courts therefore fell into the habit of making low awards knowing that government would top up mothers' incomes out of tax revenues.<sup>13</sup> Even then, men often failed to pay the full maintenance the courts had awarded.<sup>14</sup>

### The rise and fall of the Child Support Agency

During the 1980s, the Thatcher government became increasingly concerned about the rise in the number of single parent families, the failure of many absent fathers to accept financial responsibility for their children, and the spiralling cost to taxpayers of supporting children who should be the responsibility of their parents.

The number of lone parents (mainly mothers) receiving Income Support more than doubled in the 1980s (from 330,000 to

10 Evans, 'Is it futile to try to get non-resident fathers to maintain their children?'

11 After the 1935 Money Payments (Justices Procedure) Act, the courts could only imprison defaulters who could not afford to pay. In 1935, 2,271 men were jailed. The following year, this fell to 1,828. See Evans, 'Is it futile to try to get non-resident fathers to maintain their children?'

12 Belinda Fehlberg and Mavis MacLean ('Child support policy in Australia and the United Kingdom' *International Journal of Law, Policy and the Family*, vol.23, 2009, 1–24) make the point that most settlements before 1991 were focused on property division and spousal support.

13 This came to a head in *Delaney v Delaney* (1990) when the Court of Appeal under Lord Justice Nourse ruled that a man with a new family whose original partner was receiving social security benefits should only have to pay a nominal sum in child support: "Whilst this court deprecates any notion that a former husband and extant father may slough off the tight skin of familial responsibility and may slither away and lose himself in the greener grass on the other side, nonetheless this court has proclaimed and will proclaim that it looks to the realities of the real world in which we live, and among the realities of life is that there is a life after divorce. The respondent husband is entitled to order his life in such a way as will hold in

reasonable balance the responsibilities to his existing family which he carries into his new life, as well as his proper aspirations for that new future" (*Delaney v Delany* 1990, 2FLR457 <http://www.swarb.co.uk/lisc/Child19901990.php>)

14 'Orders made for children were low and rarely paid in full' Fehlberg and MacLean (2009) p.3

15 Nutt, 'The Child Support Agency and the Old Poor Law'

16 Fehlberg and MacLean insist that Thatcher was the main driver behind the reform, and that her principal motive was ethical (making fathers accept responsibility) rather than financial (reducing the welfare bill). Fehlberg and MacLean (2009) pp.3–5

17 To meet the concerns of lawyers, judges and academics who claimed that the new system would be unable to tailor awards to the specific circumstances of individual cases, the government kept refining the assessment criteria, adding details such as housing costs, and this had the effect of making the process even more opaque, cumbersome and time-consuming, Fehlberg and MacLean (2009), p.7

770,000), and the cost of paying their benefits more than trebled (up from £1.3 to £4.3 billion). By 1989, 70% of lone parents were claiming Income Support, and only 22% of them were receiving any maintenance from the fathers of their children.<sup>15</sup> It was obvious that something had to be done. Determined to make fathers accept more responsibility for the upkeep of their children, Margaret Thatcher pushed for a radical change to the organisation and administration of child maintenance.<sup>16</sup>

The result was the 1991 *Child Support Act* which replaced court awards with a rule-based administrative system run by the new Child Support Agency (CSA). Separated parents could still come to their own financial arrangements if they wished, but if the parent with care of the children (normally the mother) was on welfare, she had to use the CSA to get a child care payment from the father, even though she was not allowed to keep any of the money he was required to pay (this all went back to the government to set against the cost of the welfare payments being made to his former family). The hope was that the CSA would create greater consistency in awards than the courts had achieved, because it would apply the same rules across all cases. Absent fathers could be made to contribute more, and the burden on taxpayers could be reduced by overturning the assumption that the welfare system would make good any shortfall.

In the event, the new arrangements failed to deliver the outcomes that had been expected, and the new system swiftly lost public support and legitimacy. The rules were complex because they had to take account of wide variations in people's circumstances,<sup>17</sup> and many non-resident parents simply did not understand the criteria governing their payment liabilities. The expensive new IT system which was commissioned to assess fathers' circumstances and obligations never worked properly, staff did not receive proper training, and the CSA struggled to collect the detailed personal financial information needed to implement the system fairly. More than half of the money that was collected was swallowed up in administration costs.

Cases got lost or bogged down in the system and arrears started to build up as men whose details were awaiting processing were hit with high default awards which they could not or would not pay. As irresponsible fathers ducked beneath the radar, more responsible men who already had agreements in place found themselves hounded for additional payments.<sup>18</sup> Mindful of the need to get its caseload down, the Agency devoted much of its time in the early years to chasing these easier targets.<sup>19</sup>

Where their former partners were on benefits, the extra money men were obliged to pay in child support all went to the government. With none of it going directly to their children, this fuelled even more grievances.<sup>20</sup> The lack of a 'disregard' for mothers who were receiving welfare benefits also meant women had no incentive to divulge the paternity of their children, which made it difficult for the CSA to track them down. Non-compliance was widespread and complaints from both parents with care and non-residential parents escalated.

The outcomes were not wholly negative: the agency did succeed in collecting more money than was raised by the old court-based system, and its compliance rate was no worse than what had gone on before (as we saw earlier, government agencies have always encountered problems in finding absent fathers and forcing them to pay, and the CSA's collection rate was no worse than that achieved in many other European countries, and was considerably better than some).<sup>21</sup> For all its weaknesses, the new system did also succeed in re-establishing the principle that fathers should contribute to the upkeep of their children, even if they are on benefits or they have a new family to support.<sup>22</sup> Nevertheless, it clearly failed to deliver the outcomes that had been anticipated or demanded. The 1991 Act setting up the CSA has been described as "one of the worst examples of social policy making in modern history"<sup>23</sup> and the agency itself was condemned by the chair of a Parliamentary committee as "one of the greatest public administration disasters of recent times."<sup>24</sup>

18 For example, some men who thought they had agreed a final settlement through a property transfer at the time of their separation were now told they had to start making regular payments, for asset transfers were disregarded by CSA assessment criteria. Not surprisingly, this created deep resentment.

19 A 1995 survey found that the men who were most likely to have had contact with the CSA were those who had a past record of paying child support, and that those who had never paid anything were the least likely to have been contacted by the agency. This seems to confirm the complaints of those who argued that the CSA went after the 'soft targets' and left the hard cases alone. Jonathon Bradshaw, Carol Stimson, Christine Skinner and Julie Williams, *Absent Fathers?* London, Routledge, 1999, pp.165–6

20 What was actually happening, of course, was the government was paying the mother and was then clawing some of this money back from the father. But to many men, it looked simply as if the government was making money out of them for itself.

21 See footnote 8, above

22 Fehlberg and MacLean (2009), p.15

23 Bradshaw et al (1999), p.125. The authors claim the legislation's 'fundamental flaws' included its complexity, the absence of a 'disregard' for mothers on welfare, and the attempt to apply the new

rules retrospectively. In addition, implementation became a 'fiasco' due to poor management, inadequately-trained staff and an expensive and useless new computer system.

24 Edward Leigh, MP, quoted in Gerri Peev, 'Child support agency one of biggest public administration disasters in recent history' *The Scotsman*, 5 July 2007

25 A 2006 National Audit Office report found that it was costing 54p to collect every £1 of maintenance, and that 'This largely reflects in part a policy that requires the Agency to collect and transfer relatively small amounts of maintenance from, and on behalf of, relatively poor customers' (quoted in Christine Skinner, Jonathon Bradshaw and Jacqueline Davidson, *Child Support Policy: An International Perspective* Dept for Work and Pensions, Research Report No.405, HMSO 2007, p.8)

26 'This [Blair] government has less interest in pursuing the "welfare" dads to secure the transfer of a very small sum from a poor father to reduce the cost to the state of a poor mother's welfare entitlement. The present government is willing to simply let the welfare population alone... In a government more concerned with child poverty than the behaviour of irresponsible dads... there is little interest in continuing to try to do the impossible, i.e. pursue the welfare population through an administrative

In 2003, the CSA was reformed. Recognising that a major cause of the CSA's high overhead costs was the insistence on chasing relatively poor fathers for small sums of money,<sup>25</sup> the Blair government moved away from Thatcher's original aim of forcing fathers to take more responsibility for their children, and emphasised instead the aim of raising the incomes of single parent families in order to reduce child poverty rates.<sup>26</sup> The result was that, again, the focus shifted to those easiest to target, concentrating on obtaining child support contributions from absent fathers who could most afford them.

The complex rules for assessing people's capacity to pay were simplified and a child maintenance premium of up to £10 per week (later raised to £20) was introduced to allow parents with care to keep a proportion of the money paid by the non-residential parent. This was intended to boost the net incomes of single parent households and to encourage more parents to co-operate with the system. Maintenance payments were also disregarded in the assessment of eligibility for tax credits.<sup>27</sup>

But many of the basic problems went unresolved. As a result of the 2003 reforms, the rate of collection of child support improved slightly, and more money got transferred to single mothers, but still none of the performance targets was met, and the arrears burden still hung around the Agency's neck. By 2006, 40% of new cases were still at pre-calculation stage, 31% of cases were non-compliant, 39% of the money owing was still outstanding, and only 38% of mothers on Income Support were receiving child care payments, compared with a target of 65%.<sup>28</sup>

### The Child Maintenance and Enforcement Commission and the move back to private child care arrangements

In his 2006 review of these problems, Sir David Henshaw concluded that the CSA was not fit for purpose and should be scrapped. The

government accepted his recommendations, and in 2008, the CSA was swallowed up by a new Child Maintenance Enforcement Commission (CMEC) which took over responsibility for it from the DWP. The CSA is due to disappear altogether in 2014 when the CMEC's new child maintenance scheme (the third such government scheme in 20 years) becomes fully operational.

The CMEC has a broader remit than the CSA, for in addition to calculating and enforcing child maintenance payments for the 1.1 million families that currently make use of the CSA scheme, it seeks to increase the use of child maintenance arrangements across all the 2.6 million separated families in Britain.<sup>29</sup> Fewer than half of all separated families have effective financial support arrangements in place (whether through the CSA, court orders, or private agreements),<sup>30</sup> and more than one million absent parents (most of them fathers) still fail to accept or acknowledge any regular financial responsibility for their children's support.<sup>31</sup> Where arrangements have been put in place, they are often ignored. Nearly a quarter of absent fathers fail to make payments for which they are liable, and total CSA arrears have built to £3.8 billion, much of which, it is now acknowledged, will never be paid.<sup>32</sup>

The CMEC's desire to expand the number of effective maintenance arrangements is partly driven by economic concerns (including the government's commitment to reduce child poverty), but also reflects a broader desire to strengthen family life in order to improve child wellbeing. One in five children of separated parents loses all contact with the absent parent within three years, and ministers say they want to improve child outcomes by strengthening the commitment of both parents to continuing involvement in their children's upbringing.<sup>33</sup> The families Minister has recently stated that "staying in contact with both parents is absolutely critical to give a child the best start in life". The government also believes that children are more likely to remain in contact with both parents if an effective maintenance arrangement is in place.<sup>34</sup>

system to secure the transfer of small sums of money effectively to the state' (Fehlborg and MacLean, 2009, p.16)

27 Before April 2010, welfare parents with caring responsibility were allowed to keep only £20/week of child maintenance before it began to reduce their benefit entitlement – CMEC *Business Plan*, p.22

28 Skinner et al, *Child Support Policy: An international perspective* p.7

29 CMEC *Business Plan*, March 2010, p.8

30 About one-quarter of separated families have arrangements organised through the CSA, and another quarter have arrangements made privately or through the courts. The remainder have no arrangements in place – CMEC *Corporate Plan 2009/10–2011/12*, p.8

31 CMEC *Corporate Plan*, p.3

32 DWP, *Child Support Agency Quarterly Summary of Statistics* 27 April 2011. The government now intends to give the CMEC powers to write off part or all of arrears where it believes they cannot be recovered and the parent with care agrees. See Child Maintenance and Enforcement Commission, *Consultation on draft regulations: The Child Support Management of Payments and Arrears (Write off and Part Payment in Full and Final Satisfaction) Amendment Regulations 2012*

33 Maria Miller, families minister, quoted in *The Guardian* 13 January 2011.

34 'We know that if effective financial arrangements are in place, those parents are much more likely to stay in contact and are much more likely to have a strong relationship with their children.' Maria Miller, families minister, quoted in *The Guardian* 13 January 2011. It is certainly true that fathers often link the responsibility to pay with their right to regular access, even though the law treats the two issues entirely separately. See, for example, Todd Shackelford, Viviana Weekes-Shackelford and David Schmitt, 'An evolutionary perspective on why some men refuse or reduce their child support payments' *Basic and Applied Social Psychology* vol.27, 2005, 297–306

35 The new, simplified system is being phased in over three years. Assessment will be on gross income as calculated by HMRC. Non-residential parents with a gross weekly income less than £800 will pay 12% for one child, 16% for two, and 19% for three or more. On any income over £800 per week, these rates fall to 9%, 12% and 15%, Child Poverty Action Group, *Child Support Handbook* 18th edition, 2010/11, p.9

36 CMEC *Corporate Plan*, p.7

37 Section 9 of the Child Support Act 1991 required parents on benefits who were caring for children to use the CSA to organise and redistribute payments from non-residential parents. This

With the creation of the CMEC, the calculation of child support payments has once again been overhauled and simplified.<sup>35</sup> A new link to HMRC tax records should enable better information to be collected on fathers' incomes, and sanctions for non-payment have been tightened with new powers to impose curfew orders and confiscate passports (see later). From April 2010, parents on benefits have also been allowed to keep all of the child maintenance they receive.<sup>36</sup> The most controversial change, however, is a 180 degree about-turn from requiring mothers on benefits to use the CSA to deterring them from doing so. The rule that used to require parents claiming benefits to use the CSA to collect their child support has been scrapped,<sup>37</sup> and charges are to be introduced for those who still choose to do so.<sup>38</sup> The hope is that this will reduce the burden on the new agency, freeing it to focus on the most difficult cases.

Under this new system, parents are to be encouraged to make their own agreements without involving the CSA. Reflecting David Cameron's 'Big Society' theme, the idea is that parents should be encouraged and cajoled into jointly agreeing the arrangements covering their children's welfare following a relationship breakdown, and that the state should only get involved in cases where this proves impossible.

Assuming the change eventually becomes law, the main mechanism for achieving greater parental autonomy and responsibility will be user charges. Anybody approaching the CMEC will have first to negotiate a 'gateway' which will try to deflect them into making their own arrangements. Those that insist on making an application will be charged a one-off access fee of around £100 (£50 for those on benefits), plus another £20 or so if they want to use the 'calculation service' (which involves the CMEC accessing HMRC records to calculate an appropriate rate of child maintenance which it recommends as the basis for an agreement). If, in addition, they also want the agency to collect and pass on the money each week (rather than organising transfers directly between them

through the 'Maintenance Direct' system), this will incur 'collection charges' of up to 12% for the parent with care, and up to 20% for the non-resident parent.<sup>39</sup>

Obviously the introduction of user charges partly reflects the government's desire to save money (one telling criticism of the system is that it still spends 50p in administration costs for every pound it collects and passes on to parents caring for children).<sup>40</sup> Charges will bring in some revenue, but more importantly will also deter many people from using the service, thereby lowering running costs and (in theory) allowing the agency to concentrate on the most difficult cases.

The government insists that savings are not its only, nor even its main, concern. Rather, the aim is to push parents into taking responsibility for sorting themselves out when relationships break down, rather than taking responsibility away from parents by automatically defaulting to the government to mediate.<sup>41</sup> To this end, the existing Child Maintenance Options Service, which dispenses advice free to anybody, is to be beefed up to enable more parents to arrive at an agreed solution, rather than heading straight for the more confrontational atmosphere of a CSA-imposed arrangement.

Critics, including many in the single parent lobby, are not convinced and have been highly critical of the introduction of charges. In the House of Lords debate, many leading Tories and Crossbenchers expressed great concern, and on the left there has been outrage. Polly Toynbee in *The Guardian* has accused David Cameron of hypocrisy,<sup>42</sup> and on the face of it, she has a point. On the one hand, the Prime Minister has said he wants all fathers to face up to their responsibility for their children,<sup>43</sup> yet at the same time his government is introducing charges which will deter some mothers from approaching the CSA when they cannot track down the father of their children, or he refuses to pay them what he owes.<sup>44</sup>

It obviously makes sense to push some people into accepting greater responsibility for their own affairs, and there is evidence that perhaps

requirement was repealed in October 2008. CMEC *Corporate Plan*, p.7

38 At the time of writing (February 2012), the introduction of charges has been rejected by the House of Lords, but the government insists it will reintroduce them when its welfare reform bill returns to the Commons. Patrick Wintour, 'Welfare Bill defeated in Lords' *The Guardian* 25 January 2012

39 DWP, *Strengthening Families, promoting parental responsibility: The future of child maintenance*, January 2011, Cm 7990, Chapter 2. In special circumstances, such as families with a history of domestic violence, charges will be waived.

40 The 2011 White Paper says the CSA costs £460 million per annum to run, and it collects and transfers £1.1 billion of maintenance per year, which works out at 40p per £1 collected (*Strengthening Families*, p.17). However, the total cost of running CMEC in 2009–10 was rather higher at £572 million, which works out at 50p for every £1 collected (Work and Pensions *Committee, 5th Report, The Government's Proposed Child Maintenance Reforms* House of Commons, 2011). Whichever figure we prefer to use, administration costs are still clearly very high.

41 It is argued that charges will give parents a financial incentive to cooperate. Maria Miller, 'Our child maintenance system has clearly failed. It must be reformed' *The Guardian* 14 July 2011



42 Polly Toynbee, 'This doublethink on absent fathers will hurt mothers' *The Guardian* 20 June 2011

43 The Prime Minister recently called for 'runaway fathers' to be stigmatised and reviled to 'ram home the message that what they're doing is wrong.' David Cameron, 'Dad's gift to me was his optimism' *Sunday Telegraph* 19 June 2011

44 The sole parent pressure group Gingerbread notes that, when parents with care using the CSA were asked whether they would continue to use the CSA if a fee was charged, only 36% of existing users said they would use it if a £50 fee was charged, and just 13% if £100 was charged. Among parents with care on benefit using the CSA, only 24% said they would use the Agency if charged £50. *Gingerbread Response to the Consultation*, April 2011, p.18

45 Of the 1.2 million current CSA caseload, 20% use Maintenance Direct and a further 10% make full payments without the CSA having to deduct money from wages or bank accounts. So about one-third are already making payments without an intermediary. The Green Paper also cites survey evidence suggesting that 51% of parents with care, and 74% of non-residential parents, say they would be likely to make a family-based arrangement provided they were guided by a trained, impartial adviser. *Strengthening Families*, p.20

half or more of the families currently in the CSA system could probably handle payments and other arrangements by themselves quite successfully.<sup>45</sup> But for many parents on welfare, this almost certainly is not the case.<sup>46</sup> Some people can handle autonomy, but some require greater support to help them run their chaotic lives.<sup>47</sup> Many in this latter group are likely to be single parents who are on benefits themselves, and whose former partner is also living on welfare.

The implications of this new system for absent fathers on welfare remain to be seen, but it seems likely that many more of them will now be able to avoid paying even the flat rate £5 of weekly child support that was previously deducted from their benefits. In three steps over the last ten years, successive governments have gone from enforcing at least some minimal financial responsibility upon these men to effectively absolving them of any.

First, in 2003, Blair's government decided the CSA should devote less of its time to chasing fathers for small amounts. Then in 2008, Brown's government removed the obligation on single parents claiming benefits to use the CSA to recover child support from the fathers of their children. Finally, today, the Cameron government is imposing charges which are likely to deter women from using the CMEC collection service, particularly in cases where their former partner is also on welfare and the most they stand to gain is just £5 per week.

The government denies that women will be deterred from pressing their child support claims. In its 2011 Green Paper, it points out that the average CSA award is worth £1,800 pa and runs for nine years, so even after the introduction of fees, the costs incurred in gaining access to this money should pale into insignificance against the rewards.<sup>48</sup> But for people on welfare, this average figure is very misleading.

Mothers whose former partner is on benefits stand to receive only £260 per year (£5 per week) if they ask the CSA to deduct child support from their former partner's benefits, so for them, it may well seem not worth applying (this will rise to £365 pa when the new, enhanced flat rate of £7 per week is introduced). Even if they (like the father of their

child) are on benefits, and therefore qualify for the reduced charges for using the CSA, they will have to pay an upfront application charge of £50 (roughly equivalent to a week's Income Support), plus a collection charge of between 7% and 12% of the child support received. If their relationship with the father is difficult (and this is often the case among low-income and welfare-dependent households), the disinclination to pursue child support will be all the stronger.

### Can non-resident fathers on welfare afford to pay child support?

We have a lot of detailed information about the numbers and circumstances of single mothers, for many of them depend directly or indirectly on government services and payments, so they are an easy group to identify and count. Much less is known about absent fathers.

Although it is now quite dated, the best source is a survey conducted by Jonathon Bradshaw and his colleagues back in 1995.<sup>49</sup> Given that the rate of lone parenting has continued to rise since then, the numerical estimates derived from this survey are probably somewhat on the low side as indicators of the situation in Britain today, but many of the patterns reported in this analysis almost certainly still hold true.<sup>50</sup>

The first point to note from the survey is that the vast majority of single parent families today have an absent father somewhere in the background. Only 4% of lone mothers are widowed, which means that 96% of the children being raised by single mothers have fathers who are still alive.<sup>51</sup> In principle, therefore, there are men around who could be held financially responsible for 19 out of 20 children in single parent households.

One of the complicating factors in extracting child support from these men is that a significant minority of them has taken on responsibility for new children. Four out of ten absent fathers in the 1995 survey were living with a new partner,<sup>52</sup> and 30% were living

46 In its *Response to the Consultation*, Gingerbread points out that existing voluntary arrangements are much more common among higher income groups, and that the CSA clientele has more than its share of low-income people who have a bad or no relationship with their former partners. The DWP Select Committee similarly notes that parents on benefits are most likely to be deterred by the new charges, yet they are the ones who probably have the greatest need for assistance in collecting their child support (DWP, *The Government's Proposed Child Maintenance Reforms*, para 36). The Select Committee recommends that only the non-resident parent should have to pay fees in cases where the resident parent has tried to come to a voluntary agreement, but the CMEC has enough on its hands without having to establish whether mothers really have tried to reach a genuine agreement with absent fathers.

47 I have discussed this distinction between people whose autonomy should be respected, and those who need paternalistic government intervention to assist and direct them in organising their lives, in Peter Saunders, 'Declaring Dependence, Declaring Independence', Centre for Independent Studies *Occasional Paper*, 2008

48 *Strengthening Families*, p.21

49 It was actually a compilation of answers to

questions included on two omnibus surveys. Almost 44,000 men were screened, from whom 1,650 non-resident fathers were identified. 619 of these were eventually included in the analysis. For more details, see Bradshaw et al (1999), chapter 2

50 The survey estimated there were between 2 and 5 million non-resident fathers in the UK at that time (Bradshaw et al, 1999, p.4)

51 Bradshaw et al (1999), p.3. The principal route into absentee fatherhood was divorce (66%), followed by the end of a cohabiting relationship (23%) and paternity while single and unattached (11%). 15% of absent fathers had never lived with their children, and another 22% had only lived with them for a year or less (Bradshaw et al, 1999, p.24–6)

52 Bradshaw et al (1999), p.43

53 Ibid Table 3.11. Of those with new partners, 17% had new children with these partners, and 19% had taken up with partners who already had children (i.e. with single mothers) – p.47. Overall, 11% of non-resident fathers said they had had children with more than one partner, and 3% had fathered children with three or more partners (p.3)

54 In most countries, including Britain, children's claims are treated equally regardless of whether they are in the original family, or a later one. This means existing child support payments are reduced if the absent father

in a household which included children other than those born to their original partner.<sup>53</sup> As in the past, so too still today, a key question that has to be resolved when thinking about child support policy is whether children from later partnerships should have less, more or an equivalent claim on the finances of their father than the children of his original partnership.<sup>54</sup>

A further complicating factor is that a substantial minority of absent fathers appear to have no earnings. Only two-thirds (66%) of the non-resident fathers in the 1995 survey were in employment, compared with 84% of all fathers (17% of non-resident fathers described themselves as 'unemployed', 8% were 'sick or disabled', and 5% said they were students).<sup>55</sup>

Significantly, fathers whose former partner is on welfare benefits are even less likely to be working than other absent fathers. The 2005 Select Committee inquiry into the CSA found that, among non-resident fathers whose ex-partner was receiving Income Support, 45% had no employment income themselves.<sup>56</sup>

It is also striking that, when non-resident fathers who are on welfare benefits find a new partner, she also tends to be on benefits. Two-thirds (65%) of the fathers in the 1995 survey who were living with new partners had found partners who worked,<sup>57</sup> but most of these men also had jobs themselves. Non-resident fathers who were not employed were much more likely to be with new partners who were also jobless. Indeed, none of the partners of men claiming Income Support had any earnings themselves.<sup>58</sup> There was a clear polarisation between the 56% of new households in the survey where both partners were working full-time, and the 17% where neither partner was working at all.<sup>59</sup>

None of the households where both the absent father and his new partner were working had equalised net incomes below the 'poverty line' (defined as the Income Support threshold). But 58% of those where neither was working were below this poverty line.<sup>60</sup> So while dual-earner households can probably afford to pay some

child support to former partners (and many of them do), few households where nobody works can realistically be expected to pay much if anything to the children of former relationships.

The problem, therefore, is plain to see. There is a minority of men who live apart from their children, who have no earnings of their own, and who – if they find a new partner – often form new, welfare-dependent, households, possibly with further dependent children. Call them ‘feckless fathers’ or ‘deadbeat dads’, but these are men who lack the financial means to support even the children of their new relationship, still less those born to earlier ones.

### How many absent fathers are on welfare?

How many men are we talking about? The British Household Panel Study suggests that about one in six fathers lives separately from their dependent children,<sup>61</sup> and the CMEC Corporate Plan puts the number of separated families in Britain at 2.6 million.<sup>62</sup> The 1995 survey of absent fathers by Bradshaw and his colleagues estimated that about 30% were on benefits. If this figure was correct, and assuming it still holds today, this would suggest that about 30% of an estimated 2.6 million absent fathers are on benefits – a total number exceeding three-quarters of a million.

This may, however, be too high an estimate. According to Child Support Agency records, about one-third of the 1.1 million parents on its books are single mothers living on benefits. The Secretary of State for Work and Pensions reported in January 2011 that one-third of these welfare mothers were receiving the minimum £5 per week in maintenance from the fathers of their children.<sup>63</sup> This suggests that there are around 150,000 absentee fathers who are living on benefits and who are paying the £5 ‘flat rate’ to former partners who are also on welfare.<sup>64</sup>

The actual number of absent fathers on welfare is almost certainly higher than this, however. For a start, some will have former partners who are working, who have re-partnered with a man who is

starts a new family. As we shall see, however, in the USA, original children take precedence, and child care is unaffected by the father assuming new responsibilities with a new partner.

55 Bradshaw et al (1999), p.50

56 Jonathon Bradshaw, *Child Support* Joseph Rowntree Foundation 2006, p.9

57 Bradshaw et al (1999), p.53–4. Of those partner who had jobs, 2/3rds were in full-time employment.

58 Bradshaw et al (1999), p.60

59 Ibid Table 4.6

60 Ibid Table 4.10

61 ‘Fathers and fatherhood in Britain’ Joseph Rowntree Foundation, *Social Policy Research* No.120, July 1997

62 Child Maintenance and Enforcement Commission, *Corporate Plan 2009/10 – 2011/12*, p.4

63 Reported in *Gingerbread Response to the Consultation*, April 2011, p.3

64 There are also likely to be other men on benefits whose former partners are not on welfare, so the total figure could be larger still.

working, or who are not in the CSA system for some other reason. In addition, an unknown number of fathers will have avoided paying even the minimum £5 levy (especially since 2008, when the requirement that single mothers on benefits should use the CSA to collect their child support was dropped). We know that on average, more than half of all separated couples have no child maintenance arrangements, and if this proportion were replicated among fathers on benefits, it would raise our estimate of their numbers to between a quarter and a third of a million. The 1995 survey found that 63% of non-paying fathers were on Income Support, and that mothers on Income Support were the least likely to receive maintenance from their former partners,<sup>65</sup> so a figure towards the upper end of this range is probably appropriate.

Another way of estimating numbers is to start with the 2005 Select Committee Inquiry finding that 45% of absent fathers whose ex-partners were receiving Income Support had no employment income themselves.<sup>66</sup> We know that there were around 1 million lone parents on Income Support at that time,<sup>67</sup> so this would suggest a figure of almost half a million absent fathers with no job. Presumably, the great majority of these would be reliant on benefits.

The safest estimate, therefore, is that there are at least a quarter of a million absent fathers out of work and living on benefits, that their numbers are probably closer to half a million, and that the actual total could be as high as three-quarters of a million. Some of these will only stay on benefits for a short term, but many will be long-term claimants.

### The right thing to do

Despite the decision in recent years to stop chasing them for small amounts of child support, there are a number of good reasons why absent fathers on welfare should if at all possible be required to make a more significant financial contribution to the cost of maintaining their children than they currently do:

<sup>65</sup> Bradshaw et al (1999), pp.131 and 141

<sup>66</sup> Reported in Bradshaw, *Child Support*, p.9

<sup>67</sup> DWP, *Income Support Quarterly Statistical Enquiry* February 2005, Table IS.1.1

- Getting them to pay more means taxpayers (including other parents) will be burdened less (although the heavy costs of CSA administration will inevitably bear down on any savings made).
- Increasing their contribution will help their children stay out of poverty (especially since all money paid in child support is now passed on to the parent with care with no deductions from their benefits).
- Demanding that they discharge their financial responsibilities to their children may over time discourage men in non-committed relationships from fathering children they do not want, and should therefore reduce the number of children with absent fathers.
- And (as the Prime Minister has suggested) a more serious financial commitment from absent fathers to their children might also help strengthen their emotional commitment to them.

All of these are valid reasons. But there is also another, overriding, reason why we should explore ways of increasing the financial contribution made by these men. Quite simply, as Margaret Thatcher recognised when she first set up the CSA, it is morally right that parents should wherever possible pay for the costs of raising their own children. This means we should run a child support system which enforces this obligation.

I have argued in a previous report for Policy Exchange that the welfare system must not be allowed to operate purely on pragmatic grounds – it must also embody clear ethical principles which most citizens recognise and believe in.<sup>68</sup> If it fails to do this, it ends up undermining what Emile Durkheim called the ‘collective conscience’ rather than supporting and reinforcing it.<sup>69</sup>

In the case of child support policy, we have seen that pragmatics have been allowed to eclipse ethics. Because it is difficult and costly to extract any meaningful sums from absent fathers on welfare, we have effectively given up trying. But allowing these men to ignore their obligations will erode the crucial principle of parental

68 Saunders P and Oakley M (2011)

69 ‘The totality of beliefs and sentiments common to average citizens of the same society forms a determinate system which has its own life; one may call it the collective or common conscience’ Emile Durkheim, *The Division of Labour in Society* London, Collier Macmillan (1933), p.79

70 Daphne White, *Attitudes towards child support and the Child Support Agency* Department for Work and Pensions In-house report No.100, 2002, Table 4.2. Among separated parents, opinion shifted somewhat, with almost 60% accepting that parents had the main responsibility and 40% saying the responsibility should be shared with the government (Fig.2.1).

71 *Attitudes towards child support and the Child Support Agency*, Table 2.1

72 *Attitudes towards child support and the Child Support Agency*, p.21. Opinion softens somewhat in cases where the parent with care (generally the mother) marries a new partner. In this case, only half of the public believe the non-residential parent should continue to pay, while 38% think it should depend on the new step-father's financial circumstances.

73 Qualitative research with focus groups bears this out. 'Ultimately, taking responsibility for step-children was viewed as a choice, rather than an obligation. Thus, there was generally a view that one should only do so when one could be sure that one was financially able to, without affecting child support payments to existing children' William O'Connor and John Kelly, *Public attitudes to child support issues* Dept of Social Security, HMSO, 1998, p.32

responsibility and will send out a message to men and women alike that irresponsible fatherhood is both normal and acceptable in the eyes of the wider society. To avoid this, it is essential that men's child support obligations should be fully enforced wherever practicable.

There is a strong public consensus in Britain that parents, and not the state, should bear the lion's share of the cost of raising their children. In research commissioned by the government in 2000 as part of its reform of the child support system, a sample of the public was asked who should bear the main responsibility for maintaining children when couples separate. More than three-quarters (76%) thought it should fall on the parents, and less than a quarter (23%) thought it should be shared between the parents and the government. Just 1% thought the government alone should become responsible.<sup>70</sup>

The same survey also asked whether non-residential fathers should always be expected to make a financial contribution towards the cost of their children. 88% of the public thought that they should, although 46% of non-resident parents disagreed with this.<sup>71</sup> Asked whether fathers living on welfare benefits should still be expected to contribute, 69% of the public said that they should. Lack of money, in other words, is not accepted as a legitimate excuse for men to neglect their financial responsibilities to their children.

Nor, according to most people, does taking on new family responsibilities exempt fathers from the duty to pay maintenance to their previous family. Only three in ten (31%) people believe that absent fathers should even be allowed to reduce their child support payments when they start a new family, still less stop them altogether, and 69% think they should be required to continue paying the same amount.<sup>72</sup> This is a remarkable finding, given that the courts and the CSA have for many years routinely allowed men to reduce their payments if they take on new family obligations. Public opinion on this question is, it seems, much less indulgent than judges and the CSA have been, and is more in line with the policy followed in the USA, where children from an original relationship take precedence.<sup>73</sup>

Most people agree, therefore, that absent fathers should continue to support their children financially, even if they are on welfare, and even if they have a new family to support. The question is, how might this be enforced?

Most British social policy analysts shrug their shoulders at this point and tell us that it cannot be done. Writing for the Joseph Rowntree Foundation, York University poverty expert Jonathon Bradshaw warns that “very few” non-resident parents have “any significant paying capacity”.<sup>74</sup> In his research on absent fathers, he finds that men on welfare have “no paying potential” and he worries that deducting child support – even a sum as small as £5 per week – from their benefit will leave them short of even a basic, safety net income.<sup>75</sup> Other commentators have similarly sought to assure us there is no point in “pursuing ‘welfare dads’ because they have no money. They warn that extracting a meaningful contribution from them towards the costs of their children’s upkeep is “impossible.”<sup>76</sup>

“There is a strong public consensus in Britain that parents, and not the state, should bear the lion’s share of the cost of raising their children”

### How to get blood out of a stone: learning from the US and Germany

Fortunately, policy-makers in other countries have not given up so easily, and there are important lessons we can learn from abroad.

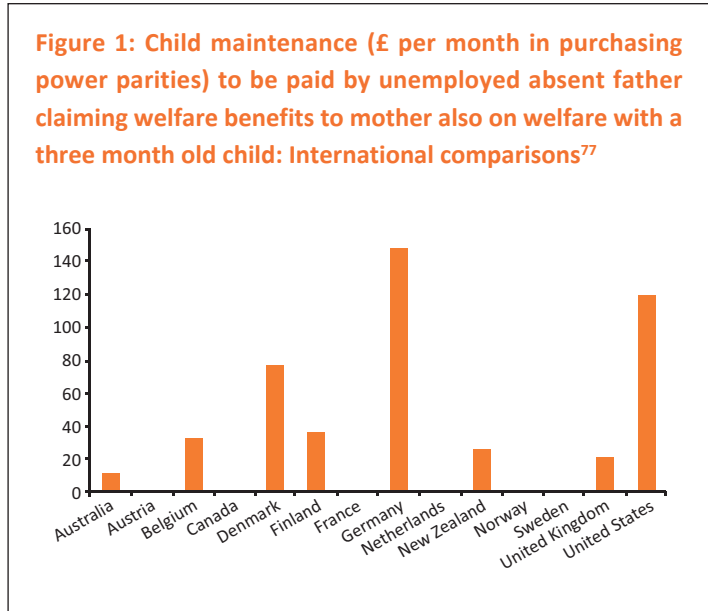
In their review of international child support systems, Christine Skinner and her colleagues provide a bar chart, reproduced here as Figure 1, which calculates the typical value of the child maintenance award (expressed in UK pounds per month) which would have been made in 2005 in 14 different western countries in a hypothetical case involving two unemployed parents in their twenties, both of whom are claiming welfare. They are assumed to be living apart and the mother is bringing up their three month-old child.

74 Bradshaw, *Child Support*, p.9

75 Bradshaw et al (1999), p.141 and 231

76 Fehlberg and MacLean (2009), p.16





In the UK, the chart shows the father would have been required to pay the mother £20 per month (the £5 weekly flat rate deduction from his benefit). This is a pathetically small amount, of course, but it is more than he would have to pay in Australia, and in several countries (Austria, Canada, France, the Netherlands, Norway, Sweden) he would not be required to make any contribution at all. In New Zealand, Belgium and (possibly) Finland, absent fathers on welfare generally pay a little more than they do in Britain, but the differences are small.

Three countries, however, stand out in this chart. In Denmark, the father’s payment would be almost four times that in Britain (almost £80 per month). In the USA, he would pay six times more (£120 per month). And in Germany, it would be more than seven times more (almost £150 per month). Given our policy experts’ advice that even £20 per month is unaffordable, how do these other countries succeed in getting so much more out of men on welfare?

<sup>77</sup> Source: Skinner et al, *Child Support Policy*, fig 5.1, p.72. The US calculation is based on the state of Wisconsin.

The Danish figure, it turns out, is illusory, for although the non-resident parent notionally pays a large amount, this is massively reduced by tax and social benefit transfers. The net result, as in Britain, is that the taxpayer ends up footing the bill.<sup>78</sup> In the USA and Germany, however, this award is real. So how do these two countries do it?

### Get fathers working: the US solution

Ever since the 1975 *Social Security Act* established Child Support Enforcement (CSE), the US federal government has been strengthening financial obligations on absent fathers. The 1975 Act required mothers applying for welfare to cooperate with CSE in identifying the father of their children, although parents not claiming welfare were left free to make their own arrangements. In some states, the CSE agency was given the power to impose orders on these absent fathers itself, but in most it has to bring cases to the courts. Most of the money collected through CSE goes to the government, with a small disregard going back to mothers.<sup>79</sup>

These rules were further tightened by the 1988 *Family Support Act*, which set new federal standards for enforcement and made collection much easier.<sup>80</sup> Since then, collection of child support payments has doubled, largely as a result of automatic deductions from earnings.<sup>81</sup> This was in turn followed by the radical reform of welfare in 1996, which reinforced the child support obligations of absent fathers by setting work participation requirements, and imposed a cap on benefits for mothers who have additional babies when they are already claiming welfare.

Two key elements in the US system combine to ensure that low or no-income men are required to pay much more in child support than is commonly the case in Europe. The first is that, provided an absent father is not permanently disabled and incapable of working, his child support liability will in most states be assessed on the assumption that he is working full-time at the minimum wage, even

78 Skinner et al, *Child Support Policy*, p.71

79 Sara McLanahan and Marcia Carlson, 'Welfare reform, fertility and father involvement' *The Future of Children*, vol.12, Winter/Spring 2002, 147–63; Earl Johnson, Ann Levine, Fred Dolittle, *Fathers' Fair Share*, Russel Sage Foundation, 1999, p.8

80 Earl Johnson, Ann Levine, Fred Dolittle, *Fathers' Fair Share*

81 Lawrence Mead, 'Why we need work programs for fathers' *Journal of Policy Analysis and Management*, vol.29, 2010, 610–16

82 McLanahan and Carlson, 'Welfare reform, fertility and father involvement', p.156

83 'Later partners are assumed to know about the obligations of a non-resident parent, and thus if they choose to have a child, they are assumed to be aware of the financial constraints imposed by a pre-existing child support order. This approach is consistent with the thinking of many in the US public' (Daniel Meyer, Christine Skinner and Jacqueline Davidson, 'Complex families and equality in child support obligations' *Children and Youth Services Review*, vol.33, 2011, p.1808–9). Meyer and his co-authors provide a detailed comparison of policy across 14 different countries. They show that in the USA, primacy is always given to the children of first families, whereas in Britain, money is always shared equally between all children from all partners, former and current (so if the father has children with another partner, his existing children have their child support entitlement cut). In many other countries, the rules vary according to specific circumstances.

84 The mean personal income of US non-resident fathers in 1995 was between \$26,900 and \$33,400, compared with \$40,700 for resident fathers. Almost a quarter were below the poverty line. Irwin Garfinkel, Sara McLanahan, Daniel Meyer, Judith Seltzer, 'Fathers under fire: The revolution in Child Support enforcement in the USA' *Centre for Analysis of Social Exclusion Paper*, no.14, August

if he has no job.<sup>82</sup> The courts in these states are required to base awards on an assumption of full-time, year-round employment.

Secondly, if a man starts another family, or moves in with a woman who already has children of her own, this has no effect on the maintenance he is required to pay to his existing children. Under US rules, financial obligations to a previous family are unchanged by entering a new one. Prospective partners are expected to know this, so if they form a relationship with a man who already has paternal responsibilities, they must accept that his existing children will have first call on his income.<sup>83</sup>

Of course, simply assuming that a man has a job and can afford to pay child support does not make it so. As in Britain, so too in the USA, absent fathers tend to have lower incomes than other men with family responsibilities.<sup>84</sup> Compared with resident fathers, many are poorly educated, in poor health and/or have substance abuse problems. One-third of them are supporting new families with children. These are precisely the kinds of men whom British experts like Jonathon Bradshaw assure us have little or no capacity to pay.

Nevertheless, US law still requires them to do so. There is some evidence that this can create a virtuous circle of behaviour, not only by pushing men into recognising their financial obligations, but also by changing the way they relate to their families. Strong enforcement of maintenance obligations gives fathers more incentive to spend time with their children, for example. Just as important, it also deters them from having more children with other women to whom they are not committed, and from forming partnerships with women who already have children from a former relationship.<sup>85</sup> In this way, the American system helps deter future irresponsible behaviour, in contrast with the British system, which appears to condone it.<sup>86</sup>

The glaringly obvious problem in the American system nevertheless remains that many men cannot afford to pay the awards levied upon them by the courts because they are not working.<sup>87</sup> They are told to get a job, but this does not mean they do. Various

programs have been developed over the last twenty years to try to get these men into work, but the results have been modest.

The best-known is the federal Parents' Fair Share demonstration program (PFS), which was set up as a result of the 1988 legislation. It recruited unemployed or low-wage fathers who were in arrears and who would otherwise have been sentenced to jail terms, and it offered them job search assistance, skills training, on-the-job training and training in 'responsible fatherhood' (including family mediation and attempts at modifying their sexual behaviour).<sup>88</sup> The scheme was moderately successful, in that the total amount of child support collected increased relative to a control group of fathers not in the program, and the compulsory participation helped flush out many men who were working but hiding their earnings in order to minimise their child support obligations.<sup>89</sup> Some fathers also established closer relations with their children (although conflict with former partners rose slightly in consequence). But the impact on work participation was disappointing. Some of the least employable men were helped to find work and increase their earnings, but there was no change in the employment rate of more skilled participants.<sup>90</sup>

Other similar work programs have produced similarly modest results – about half the US states had voluntary or mandatory programs for absent fathers in place in 2009, but most of these schemes were small-scale and ad hoc, and few seem to have achieved strong employment outcomes.<sup>91</sup> Lawrence Mead argues persuasively that this is often because they have failed to enforce actual work, as against skills training, job search training, and other preparatory employment activities. These programs have not generally been very demanding (PFS, for example, typically involved just 45 hours of activity over a period of several months),<sup>92</sup> and none of them has guaranteed participants a job.

Mead proposes the development of a genuine, work-based employment program guaranteeing fathers public sector minimum

1998, London School of Economics

85 Garfinkel et al, 'Fathers under fire' p.16; McLanahan and Carlson, 'Welfare reform, fertility and father involvement', p.157

86 The UK authors of 'Fathers under fire' see this is a bad thing, since the reluctance of men with heavy child care obligations to re-partner reduces the likelihood of single mothers finding new partners to help them raise their children. But it is better understood as a strongly positive outcome, for it suggests that men are made cognisant of their existing responsibilities and are discouraged from producing or taking on more children whom they cannot afford to support properly.

87 McLanahan and Carlson, 'Welfare reform, fertility and father involvement', p.156

88 *Fathers' Fair Share*, p.149; Dan Bloom and Kay Sherwood *Matching Opportunities to Obligations: Lessons for Child Support Reform from the Parents' Fair Share Pilot Phase Manpower Demonstration Research Corporation*, April 1994, chapter II

89 Cynthia Miller and Virginia Fox, *The challenge of helping low-income fathers support their children* Manpower Demonstration Research Corporation, November 2001

90 Ibid

91 Lawrence Mead, 'Toward a mandatory work policy for men' *The Future of Children*, vol.17, 2007, 43–72

92 Elaine Sorensen, 'Rethinking public policy toward low-income fathers in the Child Support Program' *Journal of Policy Analysis and Management*, vol.29, 2010, p.607

93 See Mead, 'Toward a mandatory work policy for men'; 'Why we need work programs for fathers'; and *Expanding work programs for poor men* Washington DC, AEI Press, 2011

94 Elaine Sorensen, 'Rethinking public policy toward low-income fathers in the Child Support Program'

95 Some local third sector initiatives have aimed to help men clear their arrears while on work programs. In North Carolina, for example, a 13-week Responsible Fatherhood Program is run by volunteers from the Men's Empowering Resource Center and aims to help men clear arrears ([www.myfox8.com/news/whhp-story-dads-101005,0,5681794.story](http://www.myfox8.com/news/whhp-story-dads-101005,0,5681794.story)). Unemployed fathers with child support liabilities can join the program and are given general labouring and cleaning work at a local shopping mall. For as long as they fulfil their work obligations, their child support arrears are gradually paid off by the Program using charitable donations.

96 *Fathers' Fair Share*, p.10

97 Sorensen, 'Rethinking public policy toward low-income fathers in the Child Support Program' p.605

wage jobs for a limited period if they cannot find other employment, so they can pay their child support obligations and begin to clear their arrears. He accepts that such a program could be costly, but argues that much of the expense could be clawed back through enhanced child care payments going to the Treasury, and by the huge savings gained from sending fewer men to prison (see below). Those fathers who refused to join such a program would still be referred back to the courts to be given custodial sentences.<sup>93</sup>

As things stand in the USA, an absent father who claims that he is unemployed, and that he cannot therefore afford to pay the award that the family court has laid down, will usually be ordered by the court to look for a job and to start payments as soon as he finds one, or to join a local work program if there is one available.<sup>94</sup> Neither of these outcomes exempts him from his continuing obligation to pay, so if he remains unemployed, his arrears will continue to be totted up.<sup>95</sup>

The financial responsibilities of absent fathers begin at the birth of their child (they may be charged the cost of the mother's Medicaid expenses incurred at the birth). If they are not working regularly, or if they try to dodge their payments, total arrears can therefore build up fairly quickly.<sup>96</sup> When this happens, men who are traced by state or local agencies may be subject to various sanctions including loss of driving licence and withdrawal of a passport, and money may be sequestered from their personal bank accounts, savings, pensions, non-means-tested benefit payments and income tax refunds. In cases where fathers persistently refuse or fail to pay, they may be referred back to the courts which can impose a prison sentence of up to six months.

In 2002, it was estimated that about 10,000 American men were in jail at any one time for non-payment of child support. This accounted for 1.7% of the total prison population.<sup>97</sup> But this was only a tiny fraction of all the absent fathers who were failing to pay the maintenance they owed. In 2003, about one million absent

fathers who should have been paying child support were actually paying nothing, or less than the full amount, and only 36% of single mothers on welfare were receiving any child support payment.<sup>98</sup> Fewer than half of all parents with care receive the full child support payment to which they are entitled.<sup>99</sup>

Clearly, therefore, the US faces many of the same problems as regards arrears and non-payment that have dogged the UK. Having said that, America can nevertheless teach us some important lessons.

In particular, the principle that absent fathers should pay a significant amount to support their children, even if they are not working, is a crucial foundation on which to build any effective child support system. By refusing to condone non-payment (except where men cannot work due to genuine disability), the question becomes how to help absent fathers who are not working enough so they can discharge their paternal responsibilities in the same way that other fathers are expected to do. In Britain, by contrast, no demands are made on these men, their behaviour goes unchallenged, and the taxpayer has to sign an open-ended cheque.

Britain is actually better placed than America to enforce work obligations on absent fathers, because most of the men in Britain who are not working receive welfare benefits. In the USA, once Unemployment Insurance has expired, jobless men have no right to welfare (although they can qualify for rent assistance and food stamps), and this severely limits the 'leverage' which can be brought to bear on their behaviour. It is only by bringing them to court for non-payment of arrears that they may be referred to a work program, for example. But in the UK, these fathers get welfare benefits, and this opens up the possibility of imposing conditions on their receipt of future benefits. In other words, the introduction of rigorous 'workfare' rules for absent fathers in Britain is possible in a way that is not available to the Americans.

A second lesson which can also be taken from the US experience concerns the assessment of ongoing child support liabilities. In

98 Mead, 'Toward a mandatory work policy for men' p.55

99 Ibid p.611

100 Men who move in with a woman who already has children from a former relationship are not expected to pay anything towards the costs of raising their new step-children, for the child maintenance payable by the biological father does not change. The same is true in all the other countries included in Fig. 1 (Skinner et al, *Child Support Policy*, p.79). In the USA, this is consistent with the principle that men remain responsible for supporting their own children, and they have no responsibility for supporting other men's children. In Britain, however, it creates an inconsistency, for men are allowed to reduce their payments to the original family, even though they are not required to pay towards the new one. In Britain, it is the taxpayer who fills the gap.

101 'Parent Liability Child's Act', *Encyclopedia of Everyday Law*, 2011, [www.enotes.com/everyday-law-encyclopedia/parent-liability-child-s-act](http://www.enotes.com/everyday-law-encyclopedia/parent-liability-child-s-act). The age of emancipation is the age of majority in a given state, but may be earlier if the person marries or joins the armed forces.

102 The other court-based systems are Belgium, Austria, Canada, Sweden and France. The UK, Australia, New Zealand, Denmark and Norway have administrative agency-based systems, and Finland, the Netherlands and the USA have hybrid systems with collection agencies operating together with the courts. Private arrangements for parents outside the welfare

America, if a man who already has financial responsibilities for one set of children with a former partner goes on to father more children with other women (or if he moves in with a new partner who already has children of her own), this is not accepted as a reason for reducing his payments to his original dependents.<sup>100</sup> This is likely to make women more cautious about entering new relationships with men who already have child support responsibilities.

**Mobilise extended family responsibility: The German solution**  
A little-known change introduced by the US Welfare Reform Act was that the parents of a young man who becomes a father may become liable to pay his child support liabilities if the mother of his child is on welfare. This grandparent liability lapses, however, once their son reaches the 'age of emancipation'.<sup>101</sup> In Germany, grandparents' responsibilities are much more extensive.

Unlike the UK and the USA, Germany is one of a clutch of European countries which has no specialised agency handling child support. It relies instead on the courts.<sup>102</sup> There is a national set of guidelines setting out appropriate levels of payment for children of different ages (the *Düsseldorfer Tabelle*), and this is adjusted periodically for inflation.<sup>103</sup> But the courts retain discretion in applying these guidelines, which enables more flexibility than in a rule-governed administrative system like Britain's.

The law on child maintenance (*Kindesunterhalt*) is set down in the German Civil Code, the *Bürgerliches Gesetzbuch*, or BGB). The rules on child support form a sub-category of the broader concept of maintenance for relatives (*Verwandtenunterhalt*), which is governed by an overarching principle of "solidarity of the generations".<sup>104</sup>

Section 1601 of the code stipulates that "lineal relatives" (*Verwandte in gerader Linie*), by which it means children, parents and grandparents, are under a legal obligation to maintain each other wherever one party is in need (*Bedürftigkeit*) and another has the

ability to pay (Leitungsfähigkeit). In-laws, step-parents/step-children and other extended kin are not covered by this obligation, which applies only to the relationship between biological progenitors and successors.

Children are deemed to be in need for as long as they cannot support themselves. The primary obligation to pay for them falls on their parents, but where they lack the financial means to do so (whether because of the death of a parent, the absence of a parent, or simply inadequate parental income), grandparents become liable. The children of women whose partners fail to meet their maintenance obligation, for example, become the financial responsibility of both the maternal and paternal grandparents. The same applies in cases where parents live together but lack sufficient funds to bring up their children unaided. The children of single mothers who do not know or divulge the name of the father become a charge on the mother's parents alone.<sup>105</sup>

Both maternal and paternal grandparents are held liable (assuming the father's identity is known). Even if financial fault clearly lies with only one parent (e.g. the father defaults on his child support payments), both sets of grandparents are required to pay, although their liability will vary according to their incomes. If parents and grandparents fail to pay the maintenance due to a child, direct payment may be demanded from the parents' debtors.<sup>106</sup> Wherever possible, the family pays rather than the state, but where no payment can be extracted, a standard minimum 'ordinary amount' (Regelbetrag) will be paid by the state which will then issue a reimbursement claim against the debtor/s.

The principle, therefore, is clear. The German state is under a legal obligation to "respect the self-responsibility" of the family.<sup>107</sup> This means that before taxpayers contribute to the costs of maintaining a child, the extended family is required to mobilise its own resources. This represents a practical example of how public policy can express and underpin strong family ties, for while British

system are possible in all countries. See Skinner et al, *Child Support Policy*, p.35–9

103 Dieter Martiny, 'Family law' in Joachim Zekoll (ed), *Introduction to German Law* Kluwer Law International, The Hague, 2005

104 This discussion draws on Martiny, 'Family law', and on Sandra Harbich, 'Großeltern zahlen für ihre Enkel' [www.eltern.de/beruf-und-geld/recht/unterhalt-grosseltern.html](http://www.eltern.de/beruf-und-geld/recht/unterhalt-grosseltern.html)

105 Germany is not alone in this. In the Netherlands, babies born to teenage mothers are assigned a legal guardian, who is usually one of the mother's parents. Child benefit is paid to this guardian (not to the mother), and if the mother is under 18, she is expected to continue living in her parental home and to raise the child there. The perverse incentives that reward single motherhood among teenage girls in the UK are in this way avoided in the Netherlands. See Joost van Loon, *Deconstructing the Dutch Utopia*, London, Family Education Trust, 2003

106 Helen Xanthaki 'The judiciary-based system of child support in Germany, France and Greece' *Journal of Social Welfare and Family Law* vol.22, 2000, 295–311

107 *Ibid* p.296



politicians voice platitudes about strengthening family life, the German legal code gives extended families real duties to recognise and real functions to discharge.

The German system demonstrates how family dynamics may be mobilised to bring about positive social outcomes, for where grandparents know they may become financially liable for their grandchildren, we may be sure that they will do all they can to ensure that the parents discharge their responsibilities diligently and to the best of their ability. According to press reports, the mother of Jamie Cumming (“Britain’s most feckless father”) despairs of her son. “I give up,” she told one reporter, “It is humiliating for me that the son I raised is not doing his duty in raising his own kids.”<sup>108</sup> If she lived in Germany, she would be expected to put her money where her mouth is.

“In 2010, one thousand people were given prison sentences for non-payment, but nearly all of these were suspended, and only 35 were actually locked up”

### When fathers won't pay

The CMEC says it wants to change social norms so that non-payment “is no longer considered socially or morally acceptable”,<sup>109</sup> and the Prime Minister recently called for ‘runaway fathers’ to be stigmatised and reviled to “ram home the message that what they’re doing is wrong.”<sup>110</sup> Fathers’ groups have often complained about the “Big Brother” tactics used by the CSA (and now the CMEC) to track them down and force them to pay up, but for many men, the payments regime has been getting tougher, and this is set to continue.<sup>111</sup>

Like many other countries, there are powers in Britain to allow arrears to be recovered by compulsory deductions from fathers’ earnings.<sup>112</sup> In 2010, the CMEC set up around 56,000 of these orders, deducting up to 40% of net earnings directly from non-resident parents’ wage packets.<sup>113</sup> The last government also authorised direct deductions from bank accounts, and about 600 of

<sup>108</sup> Quoted by Donna Bowater, ‘Seventeenth child on way for “jobless predator” Daily Telegraph 28 November 2011

<sup>109</sup> CMEC *Business Plan*, p.14

<sup>110</sup> David Cameron, ‘Dad’s gift to me was his optimism’ *Sunday Telegraph* 19 June 2011

<sup>111</sup> The CMEC *Corporate Plan*, for example, talks of linking to credit reference agencies so that non-payment will lead to reduced credit-worthiness – p.13

<sup>112</sup> All 14 countries covered in the review by Skinner and her colleagues (*Child Support Policy*) deducted arrears from earnings

<sup>113</sup> DWP, *The Government’s Proposed Child Maintenance Reforms*, para.71

these orders were made in 2010, mainly in the case of self-employed people who do not receive a wage or salary.<sup>114</sup>

If money remains unpaid after attempting direct deductions from wages and bank accounts, the CMEC also now has the power to revoke passports and driving licences without having to apply for a court order, to apply to a court to impose a curfew, and to recover arrears from deceased estates. As of 2011, however, these powers appear not to have been used.<sup>115</sup> Magistrates can also order property to be seized, and the latest figures indicate that CMEC has commenced 800 court seizures of houses, although only 12 have actually been taken so far.<sup>116</sup> In all these cases, the aim is to punish and deter non-compliance without undermining the ability of the father to earn money from which he can make further child support contributions.

All of these powers are important, but many of them are obviously irrelevant in the case of welfare fathers who have no earnings and no savings. They do have income from benefits, of course, but if significant deductions are made here, they will be left with too little to live on, and the result could be recourse to crime or a slide into destitution. The final sanction has, therefore, to be imprisonment, and most countries reserve the right to lock up persistent defaulters, although most use it sparingly for obvious reasons.<sup>117</sup> In Britain, if a court decides there has been a wilful refusal to pay, it can issue a warrant for imprisonment for up to six weeks, although execution of the warrant is usually postponed to give the perpetrator the opportunity to start paying.<sup>118</sup>

Prison is an essential last resort, but once a man is incarcerated, he costs taxpayers even more money and (unless put to work in some way) he is rendered incapable of contributing financially himself. And even after the sentence has been served, the arrears still remain to be paid. In 2010, one thousand people were given prison sentences for non-payment, but nearly all of these were suspended, and only 35 were actually locked up.<sup>119</sup>

114 CMEC *Business Plan*, p.24; DWP, *The Government's Proposed Child Maintenance Reforms*, para.71

115 DWP, *The Government's Proposed Child Maintenance Reforms*, para.72

116 *Ibid*, para.71

117 Apart from the UK and USA, prison is a sanction for non-payment in Belgium, Canada, Denmark, France, Germany, New Zealand and Norway; Skinner et al, *Child Support Policy*, p.88

118 CPAG, *Child Support Handbook*, p.423

119 DWP, *The Government's Proposed Child Maintenance Reforms*, para.7.

120 The government puts the proportion of single parent families at 27% of all families with children (Cabinet Office Strategy Unit and Dept for Children Schools and Families, *Families in Britain: An evidence paper* London, December 2008, p.26). According to Gingerbread (<http://www.gingerbread.org.uk/content.aspx?CategoryID=365>) single parent households make up 23% of all households with dependent children, and 10% of single parents are men. The 23% figure excludes step and 'blended' families, where children are living with two adults, but one is not their biological parent. Gingerbread suggests that 7% of births are only registered in the mother's name, and another 10% give the names of 2 parents who are living at different addresses.

121 For reviews of this evidence, see Norman Dennis and George Erdos, *Families without fatherhood*, Institute of Economic Affairs, London, 2nd edition, 1993; Patricia Morgan, *Farewell to the family?*, Institute of Economic Affairs, London, 2nd edition (1999); Barry Maley, *Family and Marriage in Australia*, Centre for Independent Studies, Sydney, 2001; Social Justice Policy Group, *Breakthrough Britain, vol.1: Family Breakdown*, Centre for Social Justice, July 2007; Layard R and Dunn J, *A Good Childhood*, The Children's Society, London, 2009

122 Myron Magnet warns that behaviour which can be accommodated within a

## What should be done?

Around a quarter of British children – 3 million in all – are growing up in single parent households.<sup>120</sup> In 90% of these households, it was the father who left, or who was never present in the first place, and the mother is raising the children. In many cases, children raised without a father are not unduly harmed by the experience, and in a few (e.g. in cases where men are violent or abusive), they may be better off without him. Nevertheless, when we inspect statistics on various aspects of child wellbeing, including emotional adjustment, educational achievement, physical health and success in later life, it is clear that on average, children raised by their two natural parents do better than those raised by only one.<sup>121</sup>

By and large, middle class families are reasonably well-equipped to protect their children from the worst effects of family break-up. This is not always the case, of course, but CMEC statistics confirm that the more educated and the more financially secure the parents, the greater is the likelihood that they will achieve relatively amicable arrangements regarding access to, and financial support for, the children. Most of the people who comment on family policy are themselves middle class, of course, which explains why many academics, politicians, journalists, and policy advisers find it difficult to accept that Britain's high rate of single parenthood is a problem. For them and people like them, it often isn't.

But in other sections of our society, single parenthood can signify chaos. Many couples can cope with the emotional and financial problems associated with separated parenting, but young, vulnerable, poorly-educated parents who have little experience in managing their everyday lives those with problems of substance abuse or mental instability, and those whose own family backgrounds may well have been chaotic, often cannot.<sup>122</sup>

David Cameron has recognised the need to tackle this problem of incompetent and irresponsible parenting. Aware that married parents remain together much more successfully than those who merely

cohabit, for example, the 2010 Conservative Party manifesto promised to restore tax relief to married couples with children as a way of encouraging and endorsing committed parenting. As I have suggested elsewhere,<sup>123</sup> such a policy is certainly welcome, if only to restore the fiscal balance between married parents and single parents, but on its own, it is unlikely to achieve much in reducing rates of relationship break-up (and non-formation) among those who do not work and who therefore pay no income tax in the first place. To affect their actions, we have to use the welfare system to enforce paternal responsibility.

Thatcher's instincts on this back in 1990 were surely right. We should insist that all absent fathers, including those with no job and no assets, accept financial responsibility for their children. Since 2003, however, this principle has been eroded. Men without the means to pay have increasingly been left alone as the CSA has gone after the bigger fish. For the minority of irresponsible fathers, this has been absolutely the wrong response, for it has sent out the message that their selfish and destructive behaviour is costless. A young man like Jamie Cumming can end up with 15 children from 12 different partners without being required to pay for any of them.

Yet having said this, the Blair government's pragmatic turn was understandable. With the CSA spending 50p to track down and collect every £1 of child support, it does seem daft to devote valuable time and money to chasing unemployed men for a maximum of £5 per week. But having recognised the problem, the Labour government drew the wrong conclusion from it. The sensible conclusion was not that we should stop chasing these men; it is that we should demand a lot more than £5 from them. If we are going to do this, we need some fresh and radical thinking about how to support broken families in the welfare system. We also need to re-examine some of the recent changes which have been introduced in our child support policy.

middle class lifestyle and income often proves disastrous when transplanted lower down the social structure: '... their remade system of beliefs, norms and institutions permitted, even celebrated behaviour that, when poor people practice it, will imprison them inextricably in poverty' (*The Dream and the Nightmare* New York, William Morrow & Co 1993, p.19). When middle class kids drop out of school, for example, they know they can drop back into college later on, but when poor children drop out of school, they stay out. Similarly, single parenthood may seem workable – even desirable – for a middle class professional woman with money and a good career, but for an unskilled teenage girl, it spells disaster.

<sup>123</sup> Peter Saunders *Reforming the UK Family Tax and Benefits System* Policy Exchange 2009, pp.91–3

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## 3. Eight Policy Recommendations to Strengthen Parental Responsibility

Following our review of historical and comparative evidence, the following proposals suggest themselves:

### 1. Revise the rules governing single parents' access to statutory child support collection services

Two recent changes threaten to reduce the financial demands for child support that are placed on absent fathers living on benefits, when we should be doing precisely the opposite. Both of these changes should therefore be reconsidered as a matter of urgency.

The first is the 2008 rule change that released mothers on Income Support from the requirement to claim child support from the father of their child via the CSA. The inevitable consequence of this is that men can offload their responsibilities onto the taxpayer if their former partners do not choose to pursue them for maintenance.

The second is the proposed introduction of charges for those parents (including those on welfare) who still choose to use the CSA collection service. As critics have suggested, this will certainly deter many single parents whose former partners are on benefits from making the effort to chase them for relatively paltry returns.

The current proposals to introduce charges are a sensible attempt to push those parents who are capable of making their own arrangements into doing so, and they represent a welcome retreat

from creeping state paternalism. But we still have to recognise that some people need more support to help them organise their lives and they should not be penalised for doing so. What works for the majority does not necessarily work for the marginalised minority at the bottom of our society.

Removing user charges for those on Income Support has clear financial implications. However, the other reforms set out below would offset this effect on the taxpayer.

**Recommendation 1: Restore the obligation on single parents claiming Income Support to use the CSA to assess and collect child support payments from their former partner/s, and exempt them from the charges which are being introduced for the use of these services.**

## 2. Impose work obligations on absent fathers claiming welfare

We have seen that most US states set the child support obligations of absent fathers on the assumption that they are working full-time and earning at least the minimum wage. Britain could similarly seek to ensure that men with child support responsibilities are encouraged to find employment so they can continue to pay the money they owe.

JSA claimants in the UK who have been out of work for more than a year are currently enrolled into the 'Work Programme' where they are provided with a mix of job counselling, work experience placements and training. However, American experience of work programs for absent fathers indicates that activities like skills training or family mediation do little to get these men into jobs. This suggests it would make sense to pilot a full workfare scheme targeted at this group if they fail to find employment within a specified period. This proposal links to, and is consistent with, Policy Exchange's broader agenda of strengthening 'conditional welfare.'<sup>124</sup>

<sup>124</sup> See, for example, Saunders P and Oakley M (2011)

The potential costs and benefits of full workfare are poorly understood in the UK. For this reason, previous Policy Exchange papers have argued for a series of pilots of full workfare among various different groups of claimants. Initial experiments look promising: according to the DWP roughly half of claimants placed on pilot programmes of four-week work placements either signed off or did not turn up to the placement.<sup>125</sup> If the alternative is working for benefits, people may be more likely to leave benefits and take paid work.

The case for imposing work requirements for absent fathers on welfare is even stronger than for other men on welfare, because when they return to work their earnings will go to support their families, and so reduce the burden on the taxpayer (see Recommendation 8 below). For this reason it is essential we ensure that absent fathers are doing all they can to ensure a speedy return to work. A compulsory work requirement may also be more appropriate given their financial incentives to work may be smaller than for men who are not fathers (because part of their earnings goes to their former partner/s). Given the widespread belief that men should wherever possible contribute to the costs of their children, such a policy is also likely to attract strong public support.

Should all absent fathers on benefits be put on workfare? Clearly such a policy would only apply to fathers who are not disabled and are capable of working. And even among those who are capable of working, a reasonable period of time should be allowed for them to find another job before workfare requirements kick in.

Roughly a third of male working age benefit claimants claim Jobseekers Allowance, which means they are completely capable of working (this proportion is likely to rise as reforms to Incapacity Benefit continue). So taking our range of estimates of the number of absent fathers on benefits, we could expect 80,000 to 250,000 of these men to be on Jobseekers Allowance. Around 75% of JSA claimants move off benefit within the first six months of a claim, so

<sup>125</sup> Half of benefits claimants refuse to do unpaid work, *Daily Telegraph*, 5 January 2012

we would look to start a workfare scheme for those absent fathers still on benefits after six months. Using the British Household Panel Survey we predict that, in 2008, there were around 65,800 of men who had been out of work for at least six months and had at least one of their biological children living in another household.<sup>126</sup> This represents 5.5% of all men with children in another household, compared to a national average of 2.2% and would be an upper-bound on the number of fathers this might apply to since not all those unemployed for over six months would necessarily be claiming Jobseekers Allowance.

Nevertheless, organising work activity for tens of thousands of men, many of whom may have forgotten (or never learned) routine work discipline would be expensive. In the longer term, however, such a policy should reduce the burden on taxpayers, both by getting at least some of these men back into useful employment (and flushing out those who already have jobs in the black economy which they are not declaring), and by ending the moral hazard problem that dogs the current system.

“it is essential we ensure that absent fathers are doing all they can to ensure a speedy return to work”

**Recommendation 2:** *The government should pilot workfare for groups of absent-fathers spending longer than six months on JSA. This should be done on a pilot basis in half of all Jobcentres and fully evaluated. Results from the pilot should be used to introduce a more sophisticated scheme of segmentation that targets absent fathers most likely to benefit from workfare. Men who refuse to participate should forfeit their right to benefits, and their child support liabilities should then be transferred to their lineal relatives (see Recommendation 4 below).*

### 3. Redraft CMEC efficiency targets

If the CMEC is to make absent fathers on welfare a priority, some of the efficiency targets by which it and its predecessor, the CSA, have been judged will have to be relaxed.

<sup>126</sup> Estimated as 6.39% of all men aged 18–64 multiplied by 18.76 million men.



This is probably the most difficult group of men to chase for money, which is why they have increasingly been left alone over the last ten years. CMEC performance targets like increasing total child support revenues relative to administration costs, or reducing the number of cases in arrears, should probably therefore be calculated excluding these most challenging cases. We cannot enforce child support obligations on men on welfare and reduce the amount the Commission spends collecting money and enforcing payment, so we need to be clear what our priorities are for the Commission and set its targets accordingly.

**Recommendation 3: Balance CMEC efficiency targets with an explicit recognition of the costs involved in enforcing child support payments on fathers with relatively low incomes.**

#### 4. Make maternal and paternal grandparents responsible for supporting the cost of grandchildren in cases where parents fail to discharge their responsibilities

Under existing arrangements, if parents fail to provide for their children, the taxpayer has to step in. It is obviously right that the state should act as backstop to ensure that children do not suffer unnecessarily through their parents' irresponsibility or misfortune. But before complete strangers are forced to pick up the tab, it is surely appropriate that relatives with much closer ties to the child should be mobilised to provide support, as they are in Germany.

We have seen that the German Civil Code places a legal obligation on 'lineal relatives' (children, parents and grandparents) to maintain each other. While the primary obligation to support children lies with parents, this means that both sets of grandparents become liable when parents fail to provide (where no father has been identified on a child's birth certificate, responsibility is limited to maternal grandparents). The key principle is that, before taxpayers are asked to contribute, the family is expected to pay for its own.

This is a policy which should commend itself to any government seeking to strengthen family ties, for it explicitly recognises the importance of mutual support within extended families and grants to grandparents a public, legal role in respect of their grandchildren.<sup>127</sup> It is also attractive as a way of mobilising informal social pressures to reinforce parental responsibilities. Rather than resorting straight away to formal rules and legal coercion, we would often be able to rely on grandparents who found themselves picking up the bills left unpaid by their wayward offspring to put pressure on defaulting parents to recognise their responsibilities.

Note that while this proposal would certainly apply in cases where absent fathers on welfare fail to pay adequate child support, it would not be limited to them. As in Germany, any instance of a family failing to provide for its dependent children for any reason other than disability would potentially trigger an extension of financial responsibility to the grandparents before taxpayer funds could be accessed.

**Recommendation 4: A new Family Responsibility Bill should be introduced into the UK Parliament establishing maternal and paternal grandparents as sharing financial responsibility for children under 16. Where parents fail to make adequate financial provision, grandparents would be required to do so. Sanctions currently available to enforce compliance by absent fathers would be available to be used against grandparents too.**

## 5. Require joint registration of all births

Before fathers (or grandparents, for that matter) can be held responsible for the maintenance of their children, we have to know who they are. Currently, the law requires only that the mother's name be registered at the birth of a child, and more than 30,000 babies are born each year in Britain without the father's name being recorded on their birth certificate.<sup>128</sup>

<sup>127</sup> This proposal for enhanced grandparental responsibilities chimes with recent moves to enhance grandparents' rights, such as the suggestion in David Norgrove's review of the family justice system that grandparents should be given legal rights to apply to the courts for access to their grandchildren when couples separate. James Chapman, 'The legal right to see your grandchild: Action to end the heartbreak of relatives cut off when their children divorce' *Daily Mail* 31 March 2011

<sup>128</sup> David Millward, 'Fathers could be obliged to sign birth certificates' *Daily Telegraph*, 18 December 2011

Labour's 2009 Welfare Reform Act included a requirement that fathers' names be registered at the birth of a child, and mothers who withheld this information or gave a false name could be fined, and even imprisoned for seven days, under the perjury laws. But in 2011, the Coalition government announced it was not intending to implement this part of the legislation. As the Fatherhood Institute's Rob Williams wrote at the time, this apparent official indifference to the identity of children's fathers undermines the new Coalition government's stated desire to strengthen family life by sending out the message that paternal responsibility is still optional.<sup>129</sup> It also makes it much more difficult for the CMEC to demand payments from fathers if there is no officially-agreed record of their paternity. David Cameron is now said to be having second thoughts about the 2011 decision.<sup>130</sup>

**Recommendation 5:** *The provisions of the 2009 Welfare Reform Act relating to joint registration of births should be implemented so that all children know who their father is, and fathers can be held properly responsible for the children they have produced.*

## 6. Make full use of existing sanctions, including incarceration when all else fails

There is a clear principle embodied in Britain's child support system that men remain financially responsible for the children they produce, even if they break from the mother or never establish a relationship with her. But for many men living on benefits, this principle has ceased to have much, if any, practical import. Rules that are not enforced become meaningless and attract the contempt of increasing numbers of people who choose to flaunt them.

If these men are to be held financially responsible in any meaningful way, the CSA and the courts must be prepared to demand a significant contribution from them (Recommendation 2) and to

129 Rob Williams 'Why the DfE mustn't give up on joint birth registration' Fatherhood Institute Blog, 8 March 2011 <http://www.fatherhoodinstitute.org/2011/why-the-dfe-mustnt-give-up-on-joint-birth-registration/>

130 Millward, 'Fathers could be obliged to sign birth certificates'

impose punitive sanctions when it fails to materialise. We have seen that there is an impressive battery of sanctions available, including sequestration of bank accounts, confiscation of property, imposition of curfews, automatic deductions from wages and forfeiture of driving licenses and passports. But some of these powers are being under-used, and some appear not to have been used at all.<sup>131</sup>

Imprisonment has to be the last resort, for it is costly locking people up and it does nothing to rectify their failure to pay. Curfews might be a better option in many cases, with electronic tagging allowing defaulters to earn money during the day while keeping them incarcerated in their own homes at night, but we saw earlier that existing curfew powers have never been used. Sometimes, prison will be unavoidable. It makes sense to suspend sentences to give men one last chance to commence payments, but with 1,000 people handed prison sentences for non-payment in 2010, we might have expected more than 35 of them to be locked up.

**Recommendation 6: There appears to be no need for new sanctions, just a stronger determination to use the existing ones. The CSA and the courts should adopt a ‘zero tolerance’ policy to non-payment of child support once the current arrears logjam has been written off.**

## 7. Encourage responsible parenting by prioritising support for existing families

If you cannot afford to support the children you have already, it is clearly irresponsible to produce more. It is not fair on your existing children, and it is not fair on your fellow citizens who will have to pay even more tax to support the new ones.<sup>132</sup> Our system of support should therefore be structured to reinforce the message that we are responsible for the children we produce, and it should discourage people from having more children if they cannot look after those they already have.<sup>133</sup>

131 DWP, *The Government’s Proposed Child Maintenance Reforms*, para.73

132 As the great liberal philosopher John Stuart Mill recognised a century and a half ago: ‘To bring a child into existence without a fair prospect of being able, not only to provide food for its body, but instruction and training for its mind is a moral crime, both against the unfortunate offspring and against society.’ John Stuart Mill, *On Liberty*, Penguin Classics, 1985, p.176

133 Separately from the issues raised in this paper, the reform of benefits for children could have a role to play in encouraging responsibility. A poll for Policy Exchange found that 66% of people agreed that people who have more than three children should not get extra child benefit if they have a fourth. The UK could also learn from America by imposing a ‘cap’ on extra benefits for women who have additional children while on welfare. If you are already in a position where you cannot afford to raise your children, should you expect additional taxpayer assistance if you knowingly make your situation even worse?

The UK does not currently allow for the costs of supporting a new partner when a man leaves the mother of his children for another woman, but it does reduce his existing child support payments to take account of the costs of any new children (including step children) for whom he may become responsible, now or in the future. All children, in other words, are treated as having an equal claim on his income, so the more he has, the less his existing dependents can expect to be given. The state, of course, then makes up the difference.

In the USA, by contrast, primacy is accorded to the children of first families when calculating child support liabilities. Britain should adopt the same policy. We saw earlier that 69% of the British public would approve of this policy if it were introduced here.

In extreme and relatively rare cases, like that of Jamie Cumming, where men recklessly and repeatedly incur additional liabilities to child support payments with little or no intention of paying them, consideration might be given to bringing criminal charges of neglect.<sup>134</sup>

134 The NSPCC defines child neglect as: 'the absence of parental care and the chronic failure to meet children's basic needs' (*Child Protection Research Briefing*, October 2007, p.3). While child neglect is a criminal offence, the NSPCC wants the law amended to incorporate a 'positive duty of care' on parents in England and Wales to promote the welfare of their children (this already exists in Scotland as a result of the Children (Scotland) Act 1995. This would probably be enough to charge neglectful absent fathers who wilfully produce children while making no attempt to provide financial support for them.

**Recommendation 7: Child support entitlements of existing children should not be reduced if their father goes on to have more children with new partners. Extreme cases where men run up very large support liabilities that they cannot pay should be identified with a view to bringing charges of neglect.**

## 8. Review the 100% disregard of child benefit receipts for single parents on welfare

When the CSA was first set up, none of the money collected from absent fathers went to mothers who were on Income Support. Rather, the same principle that had been adopted under the Elizabethan Poor Law applied: taxpayers supported single mothers and their children and the state then attempted to recoup at least some of the cost from the absent fathers.

Over time, however, this principle led to problems. Fathers resented making payments which did not directly benefit their children, and mothers had no incentive to divulge the paternity of their children to the authorities. A ‘disregard’ was therefore introduced, first worth £10, then £20, and finally for the whole amount, so today, women on benefits keep all the child support paid by their former partner without losing any of their means-tested welfare. This raises the incomes of many single parent households, but it is inequitable and inconsistent with the principle of parental responsibility that we wish to reinforce.

The principle of parental responsibility demands that absent fathers should support their children, and that taxpayers should only be expected to contribute as much as is needed to top up these payments. Where funds are sourced from ex-partners, therefore, they should be taken into account when assessing the eligibility for benefits of the parent with care, so that taxpayers’ liabilities can be reduced accordingly.<sup>135</sup> As in America, a small disregard may be retained, but the present 100% is unfair and counter-productive.<sup>136</sup>

**Recommendation 8: Child support receipts should be used mainly to reduce taxpayer liabilities and disregards should be relatively small. Revenue gained from this top-slicing should be used to fund the abolition of CSA user charges for women on Income Support).**

135 As I put it in an earlier report: ‘Families should draw first on their own resources before seeking additional financial assistance from taxpayers, and this principle applies just as much to parents who live apart as to those who remain together. It is wrong that lone mothers claim financial support from taxpayers to replace income they should be getting from the father of their child, and it is wrong that tax credits get calculated disregarding child support payments from an absent partner’ (Peter Saunders *Reforming the UK Family Tax and Benefits System*, p.106)

136 An alternative might be to allow non-resident parents who contribute significantly to the costs of raising their children to share the custodial parent’s existing entitlement to Child Tax Credit. This would formally recognise their shared responsibility, and it would allow more of the child support they pay to be passed to their children without reducing the mother’s benefits. Under this arrangement, women would lose a portion of their current child tax credit in return for a more generous disregard on their child support.

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## 4. Conclusion

There is a limit to what any government can or should do to alter people's personal behaviour. But having said that, we must ensure that rules and systems that governments put in place do not make people's behaviour worse than it would otherwise be. For one specific group of men – absent fathers on welfare – this is exactly what has been happening, for they have effectively been exempted from discharging responsibilities which other fathers generally take for granted, and in this way, irresponsibility has been condoned or even rewarded.

For too long we have been told that nothing can be done to change this. Experts remind us that men on welfare have little money with which to pay child support, and we are assured that it makes more sense for the CSA to concentrate on fathers who have assets or substantial incomes, leaving to one side those who have no significant capacity to pay.

But these are fatalistic and unprincipled arguments, and they ignore the fact that in other countries, these men are expected to maintain their children. It is quite possible, given the political will, to enforce paternal responsibility on men on welfare, and public opinion would certainly be supportive of such an objective. In this report, we have outlined the basic elements of a realistic strategy to achieve this goal.



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