

Work and Pensions Committee

Oral evidence: Child maintenance services, HC 587

Wednesday 16 November 2016

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[Watch the meeting](#)

Members present: Frank Field (Chair); Heidi Allen; Ms Karen Buck; James Cartlidge; Luke Hall.

Questions 34-72

Witnesses

Janet Allbeson, Senior Policy Advisor, Gingerbread, Michael Lewkowicz, Business Manager, Families Need Fathers, and James Pirrie, Board Member of Resolution and Director of Family Law in Partnership.

Written evidence from witnesses:

- [Gingerbread](#)
- [Families Need Fathers](#)

Examination of witnesses

Witnesses: Janet Allbeson, Michael Lewkowicz and James Pirrie.

Q34 **Chair:** Michael, will you identify yourself for the sake of the record?

Michael Lewkowicz: My name is Michael Lewkowicz. I am the Business Manager of the charity Families Need Fathers.

Chair: Janet?

Janet Allbeson: I am Janet Allbeson. I am the Senior Policy Adviser at Gingerbread, the single parent charity.

James Pirrie: I am James Pirrie, a mediator, solicitor and arbitrator, but I am here for Resolution, which is a family lawyers group with 6,000 members across England and Wales.

Q35 **Heidi Allen:** Thank you for coming. We are looking at the transition from the CSA to the CMS and hoping that it is an opportunity for a new and better system. I am interested in your views, so perhaps if we start with James and move along. In your experience, what is the CMS doing better, where is it going wrong and what could we do to improve it?

James Pirrie: There are lots of things to talk about. I should own that our vision into the system is really through a bit of a keyhole, in the sense that because we are case-specific we do not have the wide experience that many people have. My particular specialism is really the interface between the court and the administrative system and the problems that that causes and where people fall into the gaps, so I probably should not take up too much time on this.

Janet Allbeson: Everyone knows that the CSA was a disaster. I think this Committee had quite a lot to do with its eventual demise and clearly a better system was needed. One key very practical thing that the new system promised was better IT, because that is where the last model went spectacularly wrong. To be fair, the IT started very slowly and they have taken their time and the IT, at least, does seem to be working.

Chair: In the new system, Janet?

Janet Allbeson: Yes. But when it comes to trying to devise a system that works, I think there are big questions about the extent to which a focus on just having it administratively simple and working has lost sight of what is fair for children and whether more children are getting maintenance as a result. The system has been set up essentially to try to keep people out of the statutory system, so there are charges and a gateway interview designed to divert them away from the statutory system. Even if you come through the door of the statutory system, there is this anteroom, direct pay, where it is very light touch, a minimalist statutory form and you do your calculation and pay it yourself, with a much smaller collection service. Collection charges are designed as a sort of threat to keep people on direct pay in a collection service that in



HOUSE OF COMMONS

theory would be smaller and more focused. They are getting revenue income. They have had £8.8 million in collection enforcement fees since June 2014. There was hope that they would have a more streamlined, effective regime.

In practice what has happened in our experience is that the £20 fee has worked to discourage parents who need the new system, and the whole emphasis on family-based arrangements can work for some but we do not think there is much evidence that a lot more people out there are making family-based arrangements. Some people are put off by the cost. People say they have had to borrow the money and set a weekly food budget. Also there are low expectations of what the new scheme can offer. We think not enough is being done to promote child maintenance and make single parents aware that it is there, whatever arrangement suits you; if you can arrange it yourself that is brilliant, but if you cannot there is a scheme that will help you get it. That is not promoted at all.

There has been a big increase in the people who do go into the system of direct pay—70% of cases now are on direct pay, compared with about 25% under the old scheme. That would be seen as a success because of course it is much cheaper for the Department, but the message we get from single parents is that they are frustrated that if the non-resident parent does not pay there is a lot of prevarication around taking the case into collect and pay, and parents are put off direct pay because it has not been their choice; it is the non-resident parent's choice. There is a much smaller collection service, but that has not led us, or we do not see from what single parents tell us, to a much speedier, more effective enforcement action. I think we had expectations but so far there seem to be problems.

Michael Lewkowicz: We have had some reports that some of the additional factors that are taken into account are a positive feature, but that is relatively limited in number. Most people have said that they do not really detect a big difference. Perhaps tonally we are getting a mixed picture. Some people have shown a lot of frustration, like they did with CSA. Some people are finding tonally maybe that they are getting a little bit more politeness.

The biggest missed opportunity seems to be that both the old system and the new system have a formula that for particularly those on lower incomes just does not work. It is a formula which for many of the non-resident parents is simply unaffordable. The effect of that is we have picked up a lot of that in the human reporting of the consequences of people not able to afford their rent or to look after themselves properly.

Q36 **Chair:** Is that because they use gross rather than net income?

Michael Lewkowicz: I do not think that has been the key factor insofar as we have had any reporting on that. On balance it has been that the new system is somewhat better, because it is consistent and it takes it from an authoritative source, so there is that little bit less opportunity for



HOUSE OF COMMONS

dispute. That has not come out of the significant complaints in terms of that change, albeit there will be individuals who will be more affected than others by it. It is really that those who are on low incomes simply cannot always afford to maintain their payments.

Q37 **Chair:** Can you give us an example, Michael?

Michael Lewkowicz: An example would be parents who are currently struggling to maintain their payments because the formula does not give them enough for themselves to live on, at a subsistence level, so they are the people who are probably falling behind with payments under the old system and continue to fall behind under the new system. You may have seen the submission made by Dr Christine Davies that is a mathematical calculation that effectively is backing up what we are saying from our non-resident parents' evidence, which is that as low-income, non-resident parents' pay increased from £100 to over £200 per week so they find that they might be penalised and are taking home less money under the entire tax system, including CMS, than they would if they were not working or earning the additional income. The result is that they end up in debt, they accumulate debt, and it becomes a Wonga system where in effect a low-income, non-resident parent ends up with their debt being increased. As a result the parent with care asks for the collection service to be brought in and they have an additional 20% imposed on them, which pushes them further into poverty and inability to pay.

Q38 **Chair:** Can you give us an example—a real person with real income—to illustrate what you are saying, please?

Michael Lewkowicz: It is hard for me without digging into—we have had lots of individual reports. Basically if somebody is earning £10,000 or £15,000 a year, the effect if they are making payments with two children—they may also have two children from another family arrangement who they are looking after—is that they are paying 20% of their net income, it is less now on their gross, and they might end up, after their various expenses, with £100 or £200 a week. We have had one or two reports where what they have to live on is sometimes as low as that per month.

Q39 **Ms Karen Buck:** Michael and Janet, I think you both listened to the previous panel and we were talking a little bit—and Janet, you have already touched on this too—about the issue with the family-based assessment process. What we were hearing was the extent to which a sound principle is much more difficult in practice, where one party either cannot be contacted or does not want to make that system work. What is your assessment of the ability to make the family-based assessment process work? Perhaps starting with Janet, as you have already touched on it.

Janet Allbeson: Certainly there is a message that is repeatedly churned out by the Department. I think staff are drilled to keep telling parents, not just at the gateway process but throughout their contact with the



HOUSE OF COMMONS

service, that family-based arrangements are best. We had one parent being told she is using her child as a weapon if she goes to the CMS. Clearly, if you can make arrangements everyone would say to go down that route if you possibly can. Gingerbread has a quality mark from the Department, because that is what we do, but the reality is—

Q40 **Chair:** It is a starting point for the Government, isn't it, to say that one should have a family-based arrangement, and so on?

Janet Allbeson: I think it is a one-size-fits-all solution.

Q41 **Chair:** I see that, but not to begin there seems that the alternative is the norm, and I think the Government is right to say that a family-based arrangement, if you can do it, is the most effective and proper way to do it: "You are grown up, we expect you to be grown up and we do not expect the state to take over your role". What we are interested in is where that cannot work.

Janet Allbeson: Yes, and also you want the assessment that family-based arrangements work best to be backed up by real investment in infrastructure to make that possible for parents. The truth is, if you look at what has been behind, at the same time as they are introducing charges and encouraging people to go away and do it themselves, there is not all that much out there for parents.

For example, the Department funded a helpline called Sorting Out Separation. Their own evaluation showed that it was pretty lukewarm. Few people used it and I think the latest figures are 61,000 unique users over the last few years, at a cost of £400,000. They have also funded 17 pretty small-scale projects called Help and Support for Separated Families, which is aimed at trying to work out what works to help parents collaborate. There has just been a big evaluation published on that and what all the projects say is that there will not be much economy of scale if they have to scale up. In reality there isn't the investment to scale up some of those projects on a national level to really help people.

In a way we all agree that family-based arrangements are good. If they work they are helpful, but also part of child wellbeing is about ensuring that both parents are properly supporting the child financially. It is not just about the parents getting on; it is also about money, because money matters for child wellbeing. Children of single parents are two times at risk of being in poverty compared with coupled families and maintenance is needed to help with shoes, clothes, heating—all the basics that give a child a decent life.

We know that there are a lot of parents who cannot make family-based arrangements. The Department's own survey showed that half the people who used to go to the CSA in the past had experienced domestic violence. One third were using it because they had already tried a private arrangement that had broken down. Something like 60% had either not at all friendly relations with their ex or had absolutely no contact at all.



HOUSE OF COMMONS

Q42 **Chair:** In summing up your evidence, Janet, is it that the Government are right to emphasise a family-based approach but when that is not possible there is not much to offer people?

Janet Allbeson: No, and there is very little evidence that parents are going off and making family-based arrangements at the moment. The Government are relying on long-term surveys to see if that has happened. A baseline survey published this October showed that the number of family-based arrangements had gone down until 2014. The statistics on family-based arrangements that people are making via the option service after contact with the option service has gone down from 15% in 2013-14 to 12% at the end of March 2016. Our worry is that people are being encouraged to go off and try it—things like the £20 application charge—but they are not really succeeding. That is a worry, because this is about ensuring that more children are supported financially by both parents, and at the moment the jury is out on whether that is happening.

Michael Lewkowicz: We agree that the principle of family-based arrangements is sound and good and that it encourages responsibility and parents should be responsible for maintaining their children. We understand that there are some issues with domestic violence and abuse and coercive behaviour by some parents, and those are important things but those are not the norm. The problem is that for low-income families the formula simply does not work.

Secondly, there is inconsistent application of what most parents will see as the authorities, which is not just the CMS or the Department for Work and Pensions; it is general. We heard earlier from a father who told this Committee he had a court order, for example that he was to see his child two nights a week, so through that process—

Q43 **Ms Karen Buck:** Janet gave some figures on the characteristics of families, including the proportion of domestic violence.

Janet Allbeson: Half of parents who went to the CSA had experienced violence or abuse.

Q44 **Ms Karen Buck:** When you say it is not the norm, do you dispute those figures?

Michael Lewkowicz: I think this is not the norm and I would dispute the level at which it is being reported, yes.

Q45 **Ms Karen Buck:** I think it is quite important that the Committee tries to understand whether these figures are robust and whether you accept them, because it does make a difference.

Janet Allbeson: Not just the CSA; there is a wider sea of people who do not go to the CSA who potentially at least may be—at the moment there are a large number who do not—

Q46 **Chair:** There are two things. One is your national survey, Janet.



Janet Allbeson: The DWP survey?

Chair: Yes, and then there is the membership survey, and as MPs we always have to keep questioning whether the people we see are representative of the whole sample. Clearly the people who come to my surgery do not come along and say, "I am committing domestic violence". They present themselves as rather beautiful creatures who have been wronged by the system. So you would not naturally, Michael, would you? It may well be you attract the righteous who feel that an injustice has been done to them. That does not dispute Janet's figures that the DWP survey shows that half of mothers in the situation are up against domestic violence.

Michael Lewkowicz: We have seen a big increase in reporting of domestic violence and we have also seen a big increase of reporting of allegations of domestic violence. I do not want to in any way take away from those people who are suffering it and coercive behaviour; we hear reports the other way around as well. At the moment we have had a change in the system for family child arrangements and the lack of legal aid that is happening at the moment in the family court, which has resulted in a big growth in reports of domestic violence. We cannot prove the figures at this point but certainly the numbers suggest that there has been a big increase, perhaps at least because it is a route to getting legal aid. I am not suggesting that that is for all cases, but if you look at the numbers you will see legal aid going up very strongly and particularly through applications by mothers for legal aid in family courts. Yes, we do have a different sample—

Q47 **Chair:** If you take it the other way, Michael, if you are subjected to domestic violence, you did not have to declare it because you received legal aid. One of the entrances to legal aid is if you are on the receiving end of domestic violence and you have to declare it.

Michael Lewkowicz: That is possible. What I would say, though, is for example when a family court makes a court order, a child arrangement order for contact, the issues that are raised about domestic violence and other risk factors for both child and mother are then taken into account. That court makes the decision based on what it considers to be the best interests of the child. What we are seeing is huge numbers of non-compliance with child arrangement orders that have been made, having taken into account the two parties putting their stories together as to what the situation is. The judge's primary concern in family courts is the interests of the child. Where they have made those orders for child arrangements and then they are not complied with, what they are seeing is a lack of any effective enforcement.

Q48 **Ms Karen Buck:** Can we hear James's response to this?

James Pirrie: Family-based arrangements are non-binding, so our experience is that there is a drift away from what one might see as a CMS entitlement.



Q49 **Chair:** Can you explain that a little more, please?

James Pirrie: One starts off with an agreement as to the level of maintenance that is paid. Then payments are low for a month, and then they are missed for a couple of months. There are promises and the situation drifts on and then eventually maybe a payment is made, or maybe it isn't. I cannot now go back and ask for those payments to be caught up. Behind this is the policy of self-determination. In court when we self-determine we reflect it in an order and 12 months later that order can be set to one side because the CMS arrives.

DWP denies that this is a significant issue. It happens to me every week. In fact, I brought a mother with me today who started with a court order of £3,500 a month. She has now had the father turn the CMS to £11 a week, so we have gone from £3,500 a month to £11 a week. We wanted to make our own decisions about child support and that has been taken away. While one hears there are difficulties at one end of the demograph, there are definitely difficulties at the other end.

This mattered less until we arrived with CS3. Under CS2 we were allowed to look at lifestyle. We could go to the Child Support Service and we could go on appeal and say, "His tax return may show small income, but his lifestyle is this or his assets are that." We could have all of that taken into account and now we cannot. You are now stuck with the tax return. For those who have complex finances it is very easy to have a very low figure.

The DWP says in its submission that it is addressing it. It is addressing it because it sees it as a problem of misreporting, or lying, about income or diversion. That is not really scratching the surface. There is a whole well of people who just have complexity, and with complexity you can have very low income and very high ability to pay. My concern about the system that we ought to get across is that because of this very crude vision of capacity to pay one can now have very low awards—£3,500 a month down to £11 a week.

Q50 **Chair:** James, can you give me an example of people on a very low income but with a high capacity to pay?

James Pirrie: Yes. I would have enormous amounts of assets that produce no income and I am getting by in quite a modest way, so one has millionaires paying £7 a week or less. A very easy one is that I have a lot of money offshore in a trust and I borrow off the trust. My tax return would say nil, my award would therefore be nil or £7, but the kids would go to Eton. Very frequent.

Ms Karen Buck: I think we have probably covered the family-based arrangement, so could we just return to the issue of charges and again in your instruction—

Chair: Before we move on, James has a question.



HOUSE OF COMMONS

Q51 James Cartlidge: Your previous point is quite interesting, about to what extent for some parents the court is a better option and to what extent the CMS maybe effectively delays something that may be better for them. I am trying to understand this. It is not a simple question, but starting with you, James.

James Pirrie: It would be simple. You change the 12-month rule or you move back to a system where one can see lifestyle. The problem is that as the CMS has been built for efficiency's sake it cannot perceive capacity to pay. All it will look at is a tax return.

Janet Allbeson: It has been developed as an administratively simple model for the Department. It does not yield fair results, but it is simple.

James Pirrie: That is really the problem. With CS2 we liked it; it worked and you got quite sensible outcomes. I would have liked a bit more enforcement, but I thought we were moving towards that. I suppose just moving away a little bit, my worry over the enforcement is that if, as we are now seeing CS3, CMS is not being effective in enforcement, then we may not even have that either. The culture that we have tried to instil, which is you pay in, as DWP is trying to suggest, for a long time all the time, if the CMS is not effective at ensuring payment then that policy starts to be undermined.

Janet Allbeson: Also just to explain the point that James is making about the 12-month rule, basically you can only go to court now for child maintenance. You cannot go to court normally for child maintenance. You can only go to get what is called a consent order, which is essentially an agreement endorsed by the court, but there is a rule that says that after 12 months either party can approach the CMS, and it then supersedes the court award. One of the issues that seems to be arising is that better-off, non-resident parents make a really good agreement but 12 or 15 months later they trot along to the CMS and all of a sudden that award goes down enormously.

James Pirrie: This whole structure has been built upon an assumption of a certain level of maintenance. This was the fair structure and now suddenly this component has disappeared so one is left with £7 and an inability to fund it. It is particularly a problem for the never-married, because one cannot then use spousal support to back it up. So the never-married mother reached a very happy agreement in court, £60,000 a year, maybe even figures as high as that, and they then will drop down to £7. It feels like lambs to the slaughter because there is no legal aid so many people are walking into this trap and they are assuming that they have a bankable structure. Maybe it will bob up and down a bit if circumstances change.

Q52 James Cartlidge: Sorry, you mentioned legal aid. Are you talking about higher net worth individuals?

James Pirrie: Indeed.



HOUSE OF COMMONS

James Cartlidge: What about the position of people of much more modest means who still have to go to court?

Janet Allbeson: As I say, child maintenance does not go through the courts anymore, unless it is a consent order.

Q53 **Chair:** Do you think it should, Janet?

Janet Allbeson: There is one area that I think would be interesting to look at, which is about enforcement of arrears. At the moment it is settled through case law that only the DWP has the right to take legal action for arrears, for debt collection. In our experience there can be a lot of prevarication and foot dragging. They are only willing to do it in the most exceptional case. It is not an ideal solution for the reason that James Cartlidge is saying, that unless you can afford to pay solicitors there are enormous cost barriers to using the courts, to be honest. Ideally you want the CMS to do its job and we should not need to go to court.

Michael Lewkowicz: I do not think we have that many of our services for whom the issue is around determining child maintenance through courts and other such means. Mostly for the dads we are working with the issue is about having relationships with their children. They want to be good fathers. They are saying they would pay more if they could. Some of them do pay more than CMS requires. Their main problem is there is not an equal application, so when child arrangement orders are not being complied with there are no sanctions of a similar kind that the CMS can use in relation to that. They end up losing the relationship and, generally speaking, dads who have a good relationship and can maintain relationships after separation are also better payers, in better health, working better, earning more money and contributing more. That is not to take away from the fact of some of the cases that we have heard about where people are taking action to avoid even though they have large incomes.

Q54 **Ms Karen Buck:** To go back to the question of charging and the extent to which, as you said, Janet, people are being guided away from the statutory systems as far as possible, tell us what the evidence is of the impact of charging and how it is playing out as a potential deterrent, if it is.

Janet Allbeson: If you look at the whole process of closing CSA cases, there has been a surprisingly small entry so far of people transferring into the CMS. The figure is 16% of people whose liability under the CSA has gone into the CMS. You can speculate about why, but I think one of the things that has fed through to us from single parents is it is not just the cost; it is because they have had a bad experience of the CSA and they say, "Why would I pay good money when they cannot do their job?"

There is very little explained to parents about what is different about the new service that it might work. For example, the Department's own impact assessment said that about 50,000 people who currently under



HOUSE OF COMMONS

the CSA had a nil assessment would get a positive assessment under the scheme. In other words, they qualify for some maintenance, but they were never told that. In the warning letters that they were sent they were never given that information and when we asked the Department why they said they could not say in an individual case whether they would positively benefit.

Nevertheless, if you put the odds, which at that time would be about half of the people who fell into that group of cases to be closed, it might have encouraged them and they might have been better off. I think a lot of people have very low confidence in the new system. It is presenting a barrier, although the CMS is now getting quite a lot of people who want their arrears collected, which we will come on to later. The collection charges have had quite a big effect in that there are 70% of cases within the CMS that are now direct pay. That is much more than the Department itself had anticipated. They thought it would be about 40%.

Is it encouraging payment, which is a separate matter? Certainly what we get from single parents is that they can get stuck on direct pay and there is quite a lot of prevarication about transferring them over. Staff have to apply what is called the "unlikely to pay" test. They have to decide whether the NRP is a "might pay", and that can seem to take a lot of telephone calls, warning letters, giving people a bit more time. There is a delay and we have asked them to publish the guidelines for the "unlikely to pay" test, but that is not in the public domain, so we do not know. It seems to be quite a subjective thing by staff.

One single parent I met the other day was saying her partner has said he will never pay unless he has to, so she is on direct pay. Each month she has to wait for him not to pay to ring the CMS. They then ring him, and eventually he pays. Perhaps again the next month she has to ring them again and she said it is just very wearying. The onus is totally on her to keep ringing them and they will not put the case into collect and pay.

Q55 **Chair:** How much is she getting as a result of that activity, Janet?

Janet Allbeson: She said it is quite a modest amount. It is not a vast amount that is going to transform her life. Her view was that she felt it was important that there was a contribution.

Q56 **Chair:** If I play devil's advocate, it does not seem to me that bad that you make a phone call to get a maintenance payment.

Janet Allbeson: I think the point is that unless you—

Chair: Not desirable, but it is not the worst thing in the world.

Janet Allbeson: If you have to keep on doing it month in, month out it seems a really odd system. It would be much simpler, for instance, if there was a better system of direct deductions from earnings, or what have you, and that it is just paid in. The fact that all the onus rests on



HOUSE OF COMMONS

the receiving parent to take all the steps and nothing will happen, that CMS themselves will not take any action—

- Q57 **Heidi Allen:** Can I just come in on that? Janet, in your view, and anyone else's for that matter—yes, it is a very simple thing, a phone call. I would argue if the CMS wants this nice, easy and cheap system to run with everyone on direct pay, that the administration time spent by the DWP staff doing the phone calls and ringing up will probably cost more than if they just do not put them on in the first instance. But my question really is that, given that we have talked about domestic violence and how many of those people come to the CSA or CMS system, is there an element of control there, of making that payment wait every month so that the mother has to ring up, ask for it, it is not coming, and that is no good for the mental health of the mother?

Janet Allbeson: Domestic violence is quite an interesting thing because it does include this element of financial control. I think the view that is taken by the Department and the collection service is that it does little to improve relations, it makes collaboration less likely, and they have said that forcibly removing money from one parent to the other is inefficient. I think the problem at the moment is a single parent who is being messed around in itself can constitute abuse, particularly when there is no backup, in that she is being told, "You should wait a bit longer. Okay, he paid short this week but he said he will make it up next week". It gives a degree of control to that arrangement and the other thing is that—

- Q58 **Chair:** It is a form of bullying, isn't it, Janet?

Janet Allbeson: Yes, and the onus is on them to report non-payment. They then are to blame for the extra cost incurred and that can sour relations and can lead to retaliation. These are not necessarily the most spectacularly heavy end cases. It is just that knowledge that you will get retaliation for the fact that he then has to pay 20% extra. We have even had one case where the single parent wrote in and said, "I really need the collection. Can I pay his fees because I am so afraid of what would happen if he does have to pay, but I need the money?" The collection charge does act as a barrier to people who need the service but are worried about—of course it is also the CMS itself that is saying, "Don't use it. It is going to make collaboration worse. It is going to foul up relations" and you have the non-resident parent. So you can end up in a very isolated position there.

Michael Lewkowicz: A good proportion of the parents who have difficulty with paying are low-income parents. They have genuine problems and difficulty in paying, and consistently paying; they may not have the ability to manage their finances in a better way or just do not have enough of them. In that situation, having the additional burden of the child becomes a problem and it just accumulates. I have hinted at that already.



HOUSE OF COMMONS

The other thing about the control thing is that we also hear from a lot of dads where control can be used the other way. We have some dads who, for example, are told that if they do not pay on top of what they have already been asked to pay by CMS then they will not see their children next weekend. That is completely coercive control the other way round, where contact denial is being used in that respect as a form of control.

It is also a form of abuse of both the child and the father where there is meant to be a proper arrangement for a relationship and that relationship is being frustrated, eroded and undermined for reasons that may be financial, may be nothing to do with it, or may be just because they do not get on very well. Coercion and control can and do happen both ways and unfortunately we hear about an awful lot of them, and the denial of the relationship is probably the single biggest factor that we hear about.

We have talked about court orders. Our survey from last Christmas said that half of the people who responded said that they had a child arrangement order to see their children last Christmas and 57% of them told us that the arrangement order was not obeyed and not implemented.

Q59 Chair: That is the very nature of your organisation, isn't it, Michael? Dads who are satisfied and it is all working well do not join your organisation.

Michael Lewkowicz: They are not all members. You are right, it is the nature of our organisation and that is our focus, but the numbers that come through suggest that this is a significant problem and the problem might be in only 20% or 30% of the worst cases of this agreement in separated families, but that represents tens of thousands of children every year.

Chair: I do not dispute that. It is just that as MPs, thank God people who are satisfied do not come and see us, or we would never get back to Parliament. Our group is not necessarily representative. People may have real grievances, but they may not be represented.

Q60 Heidi Allen: Just following on from that, and James's point earlier about what this system is about, what we are building here, because you cannot build a system for the extremities in life, for the real rotters out there, because life is just like that. We have talked about quite extreme examples and the job that James does and how the new CMS system has some real flaws compared to the previous. How should the system be? What should its role be with the courts? Who does it need to work for and how can it be improved to achieve that? Quite a big question.

James Pirrie: One of the problems was that its policy goal has gone through 180 degrees. Back in 1991 we knew that it was going to take over every single child maintenance arrangement in the land, including historical ones. Its goal now is to do nothing. It would prefer to have no arrangements at all, so it is hardly surprising that you have some flaws. When Sir David Henshaw reviewed it in 2007 he said there were eight proposals we should take on board. The only one that was not put in was



HOUSE OF COMMONS

to give back to the courts the power to manage the court cases. It is hardly surprising that that demographic then does not work.

I felt what we were being promised with the new system was very fast enforcement so, going back to the previous discussion, I think it should be much more automatic. I would prefer to see "If you do not then we are straight into enforcement." That is what we were being promised and I think that is what would have worked for this demographic that I know. I wonder if one of the problems is that once you enter the collect and pay you are in it for a year and the CMS is thinking to itself that that is rather a big sledgehammer. Perhaps, therefore, they are going to be reluctant to do it. I think that philosophy is not working.

So what we wanted was a backup system for the "run of the mill" case, if I can call it that, and trying to find a way of allowing the outliers to manage their own stuff themselves. Mediation cases cannot do it because that would be overridden by the CMS. Courts cannot do it, because that would be overridden by the CMS. We need to find a way of segmenting these harder cases out.

Q61 Heidi Allen: Janet, what do you need the CMS to do? Who should it be working for?

Janet Allbeson: If you look back—Frank, you will be aware of this—the reason why the CSA started at all I think was an initiative by Mrs Thatcher because the courts were failing. They were simply too slow and they were very bad at enforcement. People got very mixed treatment, depending on the individual case, and the idea was to have something that was more consistent that could use the powers of the state, for example to fine people, to look at their income and to enforce liability. That clearly is still needed and it seems to me that the idea is still a sound one. It is right to try to ensure that the right people who are using it are using it. I think that requires much more investment in services to help people collaborate, mediate, make their own agreement, sort out conflict. All that is part of the picture of child maintenance, but we still do need a good statutory system. The model at the moment is too simple, too crude, does not deal with the complexities, particularly of income, and I think what we would like to see is a review of the formula.

Once everyone is on the new scheme, a review, perhaps involving HMRC, DWP and some outside experts, could look at essentially: are the contributions fair; are they giving realistic and reasonable amounts for children; do they cater properly for low income parents, where the thresholds at which you get a reduced assessment have not been altered since 2003; are they dealing properly with the complexity of self-employed cases, where at the moment what they do is just take taxable earnings? That is what the machine produces and the receiving parent has to fight to even get them to look at anything beyond that—dividend income, company loans—let alone the problem of people whose source of income is invisible and they are not declaring it.



Q62 Chair: Are you saying that if we married the two systems, the current system would satisfy many parents and then we have a sort of CSA system to deal with where there are real difficulties?

Janet Allbeson: With this system there has been an attempt to reduce people using it, to make it more streamlined, but the corollary for that is that it should have released resources to deal with the more complex cases. They have made £11 million, I think, in the last 18 months from charges, and we do not agree with charges for single parents, particularly the collection charge. There are resources there and they have a smaller collection and pay unit, so in theory that should be more streamlined, more efficient, but we are not seeing that. You have this very simple HMRC data—it works very straightforwardly for PAYE people—so there should not be a problem there. Why not devote some of the resources that have been freed up to deal with those more complex cases? They just seem to have put this simple model and walked away and it has left a whole lot of gaps.

Michael Lewkowicz: The system should be changed to promote and encourage shared parenting arrangements and collaboration, and it does the opposite at the moment. It encourages parents to fight over the precise number of days by being based on the exact number that a child spends overnight with a parent. If one has, by court order, 52 nights of the year, if the parent with care makes them unavailable for four of those nights the adjustment disappears. If the assessment as to what the payment should be was based on the child arrangement order, for example, that they are spending two nights or one night a week with the non-resident parent, then at least it would not create the incentive to flout the order that is in place and encourage shared parenting.

The same sort of thing goes for the benefit system, which I know might not be the primary focus of this inquiry. A dad who recently came to us said that he had 40% of the time with his children but the parent with care received 100% of the £14,000 child-related benefit. While there is legislation in place to promote and encourage shared parenting among separated families, the CMS and the benefit system act to create friction between the parents and to discourage it. The test of the system, which is where I agree here, is that it is not how well it deals with the co-operative parents; the test is how it deals with the difficult ones.

Janet Allbeson: One thing I would add is that if you go to the calculation, I agree with Michael that there should be a look at those shared care rules where at the moment it is just a source of dispute between parents.

Chair: Yes, it encourages it.

Q63 Luke Hall: There are parents who persistently miss payments, and we have heard some examples from our earlier session. Does CMS have sufficient powers to pursue these parents? Is it using them? If it does not have sufficient powers, what more does it need?



HOUSE OF COMMONS

James Pirrie: Yes, no. Yes, enough powers. Does it use them? No. Could I do an “and”?

Luke Hall: Yes.

James Pirrie: I am very sad that the transition from CSA to CMS has not been used as an opportunity to broker deals. I do not see that happening. £4 billion of arrears; no real effort to find a way of saying, “Okay, instead of just trying to find the perfect figure and seeing if we can enforce it, could we just agree something?” That has to come from the administration and it is not. Once the case has gone from CSA to CMS that endeavour stops. That is a shame.

Janet Allbeson: Certainly it has a wide range of powers and there is no evidence that it is using them to any great extent. There has been no information published so far on the CMS and its use of enforcement powers. This is four years after the scheme took over. I think a PQ last week said they are going to do it from early 2017, but it has been a long time waiting to find out what is happening.

Chair: We are going to do a PQ on all their powers. Don’t worry; we are talking about it.

Janet Allbeson: You won’t get it till early next year because they are not publishing any figures.

To give you some examples about how slow the progress is in taking this seriously: Minister Steve Webb announced with enormous fanfare that they were going to crack down on irresponsible non-payers and introduce referral to credit reference agencies for bad debtors. That came into effect in March 2015 and a recent written answer has shown that up until November there had been no cases referred. What they say is that they are still waiting to put appropriate processes in place to transfer the data. In the interim they say they continue to issue warning letters to prompt action by NRPs.

Chair: Janet, the CSA was not that good at using its powers, from the PQs I used to table.

Janet Allbeson: That is what is so disappointing, because if you are going to create a new culture where you have expectations on parents that they do pay and that if they do not pay it will be forced, you have to create boundaries where people know if they do not pay action will be taken.

Chair: I agree.

Janet Allbeson: One of things that we have recommended in the report we wrote was that—it is expensive—why not have a three-year really intensive push on enforcement action to create the right climate, the right culture for this new system to operate in? Unless you do that, put some real resources behind it—because at the moment there is this view that it is all a bit too expensive and people should just be encouraged to



HOUSE OF COMMONS

pay at least something. It is not just about contributing to your liability; that isn't a success. It is about paying the amount, the liability that has been set.

The figures are pretty misleading at the moment. The CMS say seven out of eight people are contributing to their liability. They are assuming in that that all direct pay cases are paid in full and on time. We all know that when you report that your direct pay is not being paid, that isn't recorded. It is only recorded once they agree to take the case into collect and pay. We think there is a lot of non-payment going on in direct pay that is not ever being recorded as an example.

Q64 **Chair:** Pushing down the average payments, as James has said?

James Pirrie: And your compliance if you have paid in the last quarter is the other point on the statistics, isn't it?

Janet Allbeson: Yes.

Michael Lewkowicz: I don't think we know enough about the makeup of those non-payers and irregular payers in terms of whether they are those who are genuinely suffering issues of affordability and poverty versus those who are simply trying to avoid their responsibility in paying. The biggest frustration, though, for those people who come to us is that there is this unequal approach. There are powers available to CMS; they can collect directly based on your pay. That happens quite often where they can go to the employer and ask the employer to collect on the primary carer's behalf, but those kinds of powers are not available or used by family arrangement orders for courts so contact with children is then frustrated and relationships are broken and destroyed needlessly.

There is a real weight of feeling that the system is unfair and unbalanced. That then permeates even to the charging system. Then it becomes, "I have always been good and have always paid but because there has been some dispute with this agreement or I had a period when I couldn't afford to pay regularly, something went wrong and now I am going to be penalised in a way that isn't equal." That creates a lot of frustration.

Q65 **James Cartlidge:** I am interested in what you said about HMRC and this gross income method. Obviously there is some dissatisfaction with that but I presume it is there to be simple and quick to expedite matters. If you weren't to use that, given that so many people are self-employed and the potential complexity of casing limited companies, what process could we have instead that might possibly work?

Janet Allbeson: The obvious thing that could be done is that at the moment HMRC will only look in the first instance at taxable earnings. If you are a non-PAYE person and you are submitting your self-assessment returns, you are also putting down there details of your other income, your dividend income, income from rental properties. It seems ridiculous to me that it is left to the parent with care to go back to CMS and say, "Hang on. You've only got a bit of the picture." The classic is a company



director who is paying themselves a low wage as an employee so it is only their low wage as the employee that shows up and it is left for the parent with care to go back. That process is supposed to be easier under the new system but we seem to be finding a lot of single parents who are still told that they have to prove it before they will go back to HMRC. The information is there: why isn't it automatically collected as part of the initial contribution?

Q66 James Cartlidge: That seems extraordinary to me, because what you are saying is that they are declaring something that must, by definition, be different to what they are declaring for their taxable income, otherwise they are committing tax fraud in some way. When I was a mortgage broker, HMRC would ask people what their income was and they had their P60. It always seemed very odd to me. I don't know what the other two panellists think about whether there is a way you could make that and keep it simple?

James Pirrie: I think it was very unfortunate that we lost 15%, 20%, 25% and replaced it with 23 different percentages, because people got 15%, 20%, 25%. Segmenting out the complex cases would be important. Bringing back in the lifestyle is the crucial one. It is the loss of that. You can't hide lifestyle, whereas you can definitely hide capacity to pay behind a tax return. If all you are going to look at is, effectively, PAYE income and then the applicant has to know to apply to bring in the other income, it is a fraught system, isn't it?

Q67 James Cartlidge: To be absolutely clear, if someone has provided their income and all these other things, that must come into play on their actual tax liability in terms of HMRC and their tax?

Janet Allbeson: Not necessarily.

James Pirrie: It depends what cases you are looking at but in many cases if it is sitting on the tax return, the DWP wouldn't ask for it. It would effectively just say, "Tell me the PAYE income".

James Cartlidge: Okay, there is a difference between those two points.

James Pirrie: Yes, and we know that there are some cases where there has been misreporting of income, lying—and those obviously won't be picked up—but this is just a standard case. This would be very easy to change. Instead of having income narrowly defined, why don't you say all income on the tax return? That would be the—

James Cartlidge: To me that seems a completely common sense answer, I have to say.

Janet Allbeson: There is then the non-taxable income, so someone could be pretty wealthy with lots of ISAs. They can have trusts, and incomes not taxed in this country. You can be working as an oil worker and being paid in Norway, which means that you are resident in this country for child maintenance but your income is zero for child



HOUSE OF COMMONS

maintenance purposes. There are a lot of other bits around the edge where it doesn't quite work.

Q68 **James Cartlidge:** I would have thought they would be relatively exceptional, whereas generally if you are going by the manual tax document, that should at least encompass, for example, dividends.

Janet Allbeson: It is the most obvious thing. There is the whole issue of tax evasion, maintenance evasion and tax evasion, where there might be—

Q69 **Chair:** That is why, Janet, if you had lifestyle rules for income this would not be a problem. The Revenue would be interested in people who make a return, which is absurd given how they live.

Janet Allbeson: Yes. The problem at the moment is there is a fob-off saying, "Ring the tax abuse helpline if you say he is not declaring his full earnings." We have had parents ring our helpline to say that they have been told by HMRC, "We are getting inundated by these calls from all these mums and what do you expect us to do about it? We haven't got the capacity." It is like being sent down a vortex with no action being taken by anyone. We think there clearly should be a special track for single parents with children, because this is incredibly important money. They may not be the big, massive tax evasion cases but this country has committed, signed the treaty to the UN Convention on the Rights of the Child. The child has a right to be supported financially by its parents.

Q70 **James Cartlidge:** Michael, I see you are looking at me. Did you want to add anything? Have your members commented on this system, the new system, and are they generally—

Michael Lewkowicz: We are not hearing much complaint about it switching to a gross versus a net. It does affect some in various different ways, some negatively, some more positively, but that is not the main issue that is coming back. On the issue of lifestyle, we do hear from the other side of the equation that there is no consideration taken into account of the parent with care's income. Sometimes you have a situation where the non-resident parent is in relative poverty and struggling. When their children visit they find it hard to give them suitable accommodation and treat them respectfully and well and so on, whereas the other parent is taking them on six foreign holidays every year, having a lovely time, because they have a very high income.

It works both ways. A lot of people would like to see more consideration taken into account of both parents' incomes. While there is a respect and understanding that a non-resident parent, even one who doesn't have regular contact, should be making a proper contribution to the maintenance of their children, there should also be some account taken of the other parent's income so you do not have this disparity of one living in relative luxury and the other struggling from day to day.

James Cartlidge: I think we should speak to HMRC at some point.



Chair: I agree.

- Q71 **Heidi Allen:** Something I completely forgot to ask in the first session—I am hoping you can help me—is this: remind us what happens to the entitlement. What should be paid for the children when the partner goes off and has new children? Isn't there something about going down the pecking order for the entitlement, and that the parent is expected to look after the new children and your demands have less of a voice? Do I have that right? Janet is nodding at me.

Janet Allbeson: Where the non-resident parent perhaps moves in with a new partner who has existing children, because he is living with other children, their needs are taken into account in the assessment so his liability for his own children is reduced. That happens even if, in his second household, there is another non-resident parent somewhere paying maintenance into that household. Obviously it is complicated because he goes off and has other children; there is a practical issue about children's needs there. It is a very difficult issue. The other thing is where he says he has a private arrangement, he has made a family-based arrangement in respect of other children and that is now taken off. There seems to be very little investigation about how regularly that family-based arrangement is being paid.

- Q72 **Heidi Allen:** How would you improve that?

Janet Allbeson: I would like that to be put into a general look at whether the calculation is working, which is slightly fending off the answer. Certainly single parents take a very strong line that if you have children they should come first.

Chair: I am really grateful to you. Thank you very much for your evidence. We will now deliberate. Thank you.