

PRIME MINISTER

## CHILD MAINTENANCE

Minute of 12 July from the Secretary of State for Social SecurityMinute of 13 July from the Lord Chancellor

1. Mr Newton's minute discharges the remit given to him at a meeting you chaired on 20 February. It proposes that maintenance should be determined by an automatic formula, that there should be a Government unit responsible for making assessments and pursuing payments, that the necessary legislation should be introduced next Session and that the new system should be phased in over 3 years beginning in April 1993. The minute proposes an early announcement in your speech to the 300 Group on 18 July followed up by consultation with the judiciary and the legal profession and a detailed White Paper in the autumn, paving the way for the introduction of legislation early in the New Year.

2. The Lord Chancellor's minute supports the proposals, but draws attention to a number of concerns on how they would interact with court procedures. He proposes that there should be further analysis on these points and detailed consultations on the proposals, and considers that in advance of the outcome of consultations it would be premature to decide to legislate next Session.

## DECISIONS

3. Mr Newton's proposals, on which decisions are required, are set out in paragraph 23 of his minute.

(a) Assessment of maintenance

4. The key proposal, on which the whole structure depends, is that maintenance should be assessed by formula becoming so far as possible a virtually automatic administrative process. This

would replace the present wide discretion of the courts. The advantages claimed are greater speed, certainty and fairness and it is expected that the general level of awards on a formula basis would be higher. The Lord Chancellor points out that there are bound to be cases where a formula would not necessarily work - for example where provision has to be made about property or a lump sum financial settlement would be in the interests of the child, or where some variation in the formula is required to deal with special circumstances. These are matters which at present can be handled within the discretion of the courts. As the officials' report makes clear, further detailed work will be required on the operation of the formula, and at this stage you will wish to keep the discussion to general points of principle. You will wish to decide whether the Lord Chancellor's comments cast sufficient doubt on the practicality of the formula approach to make a decision at this stage impossible, before further work has been done.

(b) Establishment of a Child Support Agency

5. The key decision is whether, as proposed by Mr Newton, there should be a new child support agency to handle the assessment of maintenance on the proposed formula basis as well as the process of collection and enforcement. The argument in favour of the proposed agency is that it would relieve the courts of a large and increasing burden in assessment, collection and enforcement. There seems little doubt that a specialist unit, with trained staff and with statutory powers carefully designed for the task is likely to be more effective than seeking to respond to the ever increasing burden within the present framework. The functions of the unit would include identifying and tracing liable relatives, obtaining information on the parents' circumstances, raising an assessment under rules laid down and reviewing assessments regularly; and its powers would be correspondingly wide, including power to decide on method and frequency of payment, and power to take enforcement action to recover arrears, such as distraint of goods. There are difficult

issues here, which will need to be followed up by officials. The Lord Chancellor draws attention to possible difficulties arising from parallel involvement of the agency and the courts in particular cases. He questions in particular whether it would be desirable to have a separate appeal mechanism (such as a tribunal) in relation to agency cases, when the general thrust of family policy is towards having all disputes concerning a child and his family heard together. You will need to decide whether the outstanding issues about the detailed powers and operation of the proposed agency, and in particular its relationship with the courts, are likely to prove sufficiently difficult to call in question a decision to now proceed, or whether colleagues agree in principle that an agency on broadly these lines is desirable.

6. You will need to decide on the scope of the unit's activities. There are two choices:-

6.1 To cover only benefit recipients. This would cover the bulk of cases, and secure the bulk of the savings, but there would be problems as caring parents moved in and out of benefit, with responsibility for maintenance matters shifting between the unit and the courts.

6.2 To allow access to the unit to all parents, those not on benefit being able to obtain its assessment and/or collection service for a fee. Mr Newton argues that this approach is essential if parental responsibility for all children is to be reinforced, not just those whose caring parent is on benefit.

You will wish to explore how the unit's workload would be built up - whether, for example, benefit recipients would be taken on first with the option for others to use it only becoming available later.

7. You will need to decide which Department should be responsible for the unit. The choices lie between the Department of Social Security and the Inland Revenue and Mr Newton favours the former. There is likely to be no serious challenge to that. The issues are discussed in detail in paragraph 15. below.

(c) Work incentives - reducing dependence on benefit

8. The issue is what effect maintenance should have on the recipient's entitlement to benefit. Mr Newton proposes that maintenance should not be disregarded in the assessment of income support, which means that substantial benefits from increased maintenance payments would accrue to the taxpayer. But he argues for adjustments to the operation of benefits available for those in work (for example, family credit, housing benefit and community charge benefit) so that there is an incentive for lone parents receiving maintenance to work, at least on a part-time basis. The Treasury are unlikely to object in principle to the provision of incentives, but will wish to look in detail at the proposals in the course of the forthcoming PES round. They will also have worries about the timing of payment, and would be concerned if the incentives were introduced before the benefit savings resulting from the new approach began to come through. You will wish to decide in principle whether the provision of some incentives is desirable, leaving the details to be settled in the forthcoming PES round.

(d) Deduction from absent parent's benefit

9. You will need to decide whether to accept Mr Newton's proposal that benefit recipients who are liable to support their children should not have maintenance payments deducted from their benefit. Mr Newton's argument is that their benefit is only sufficient to support them in their present circumstances, which may include responsibility for a second family, so that deductions would often disadvantage the second family at the expense of the first. It can be argued on the other hand that

they should be brought within the system, even if only by a token amount, so that they recognise their liability and so that they have less incentive to go on benefit, thereby avoiding maintenance payments, rather than working.

(e) Naming the father

10. You will need to decide whether there should be a requirement that a caring parent receiving benefit should claim maintenance. In the bulk of cases this effectively means a requirement on a single mother to name the father of her children. The argument for this is that a mother should not be able to transfer responsibility for maintaining her children from the absent father to the taxpayer without good cause. This is a sensitive area, and Mr Newton recognises that provision will have to be made for exceptional circumstances, while the officials' report notes the need for sensitive handling by specially trained officials. Mr Newton proposes that there should be a sanction on caring parents who refuse to name the absent parent and claim maintenance, involving a reduction of up to 20% in the caring parent's adult income support personal allowance. You will wish to decide whether this general approach is acceptable.

Timing

11. You will wish to decide whether the proposals are sufficiently well worked out for you to refer to them, as proposed, in your speech to the "300 Group" on 18 July. As noted above, a great deal of the detail has still to be worked out including important questions about the formula, benefit incentives, coverage and phasing and the Lord Chancellor has mentioned significant difficulties. But the advantage of an early announcement is that it will help clear the way for consultation and further detailed work.

12. You will need to decide when and on what basis the Lord Chancellor should consult the courts and the judiciary. Mr Newton proposes that this should happen after the 18 July announcement. You will need to consider whether there are any difficulties or questions of propriety vis-a-vis the judiciary about this sequence of events. The Lord Chancellor appears to envisage wide-ranging and detailed consultations.

13. You will need to decide on the target timetable for implementation. It is proposed that the unit should be fully operational by April 1993, and should take on case load over a 3-year period. You will wish to test how robust these assumptions are and whether there is a significant risk of slippage. If the timetable is accepted, legislation will be required next Session. To ensure a smooth passage, it will need to be ready for introduction no later than immediately after the Christmas Recess and you will wish to seek assurances from Mr Newton that this is possible. It is not a matter for this meeting, but you should note that the Business Managers would need to find an offsetting cut in the provisional programme.

#### DEPARTMENTAL RESPONSIBILITY FOR CHILD SUPPORT AGENCY

14. Mr Newton says there are strong arguments for the proposed unit being a Next Steps agency. This seems sensible. The whole thrust of the proposals is to enable maintenance to be handled more efficiently as an essentially routine administrative task, and Next Steps principles seem highly relevant. The body could in theory be an NDPB but that might make it somewhat more difficult to justify release of Inland Revenue information. You will wish to confirm that the proposal that the unit should be an agency is acceptable.

15. The question then arises of Ministerial responsibility. It is important that there should be an early decision on this point, so that the lead responsibility can be clearly identified

in order to carry the remaining work forward with all speed, in particular the preparation of legislation for next Session, if that timetable is agreed. There are two choices:-

15.1 Department of Social Security. The arguments for responsibility to DSS are that it is their public expenditure programme in respect of which the major savings will be achieved, that DSS are already in contact with a high proportion of the agency's client group and have considerable expertise in dealing with related issues. The argument against DSS is that, because it stands to make savings, the creation of the agency might be seen as primarily, if not solely, for that purpose, with a loss of credit for the more fundamental benefits of the change.

15.2 Inland Revenue. The main argument for placing responsibility with the Inland Revenue is that they hold information on names and addresses, which would be important to help trace absent parents, and on incomes, which would be helpful in making assessments of maintenance. Also, they have powers for tax collection similar to those envisaged for the unit, though these would, of course, have to be extended to cover maintenance. There would be no problem for the Inland Revenue in providing information about names and addresses to a DSS agency, something which is already precedented. There would be difficulty about providing information on taxpayers' incomes without their consent, but the Inland Revenue advise that such information would not, in any case, normally be particularly helpful for maintenance assessment since it is generally about 2 years out of date. The Revenue consider that, in cases where an individual wished information on his tax position to be passed to the child support agency, for example where he was contesting their assessment, it would be perfectly straightforward for him to authorise the Inland Revenue to do so.

The balance of these arguments seems to point towards allocating responsibility to DSS and you will wish to seek the agreement of colleagues that they are content with this.

COSTS AND SAVINGS

16. The following estimates of costs and savings have been agreed between DSS and the Treasury and are broadly consistent with the figures presented in paragraph 9 of Mr Newton's minute. The following table summarises the expected level of annual costs and savings once the system is up and running, and gives details of start-up costs on items such as computer equipment.



Benefit savings to DSS

1.	Savings from measures initiated this year <sup>(1)</sup>	£85m
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2.	Further savings from formula/ agency proposals	£295m
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		£380m

Net of

1)	Incentive measures for lone parents	£80m
2)	Running costs <sup>(2)</sup>	£40m
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		£120m

Net benefit savings to DSS

£260m

Start up costs:  
£90m spread over 6 years

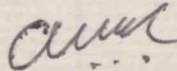
Note (1) The measures initiated this year involve the deployment by DSS of increased resources to chase up absent fathers, including pressing benefit recipients more strongly to name the fathers of their children and assistance from the Inland Revenue in identifying the employers of absent fathers, so that attachment of earnings can be more efficiently accomplished.

(2) Gross additional running costs falling on DSS are estimated at £60m. Savings outside DSS and income from fees bring the net figure down to £40m. The amount of additional running costs cover which DSS will require will have to be negotiated with the Treasury.

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HANDLING

17. You will wish to invite Mr Newton to introduce his proposals. You will then wish to invite initial comments from the Lord Chancellor. You may then wish to work through the matters requiring decision as set out above.



A M RUSSELL

13 July 1990

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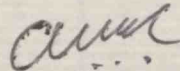


COMMISSION

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