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PRIME MINISTER

13 July 1990

CHILD MAINTENANCE

Much progress has been made since your last meeting in February. Further work has shown that a new system for assessing, collecting and enforcing maintenance - along the lines you suggested - is a viable proposition.

Not all the details have been sorted out: but these are essentially second order questions. You should be in a position now to take decisions on the main planks of a new policy.

The timetable is crucial. The advice is that legislation is possible on all aspects of the package in the next session. From a political point of view, this offers the only chance of doing something this side of an election. If we are to publish a White Paper in the Autumn, work needs to start almost immediately.

Nr Newton's Proposals

The main features are:

- (a) to establish a child support unit, as an executive agency, with responsibility for assessing child maintenance and enforcing its payment;
- (b) to make its scope universal. Those on benefit will be required to use its services. Everyone else will have access to it also, for payment of a fee;
- (c) to use a standard formula to assess the amount of maintenance due in each case. We do not need to decide the details

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of the formula at this stage but it would have the following general features:

- it will reflect the ability to pay. Every absent father will be allowed an exempt income on which he will not be liable to pay maintenance. This will be set at a level which (i) gives him enough to live on (ii) maintains his incentive work. In effect this would be set at a level equal to the personal allowance in income support plus an allowance for reasonable housing. The maintenance bill would be met from the non-exempt income.
 - the maintenance bill to be met will reflect the basic day to day living costs of children and the parent as carer. Again income support rates would provide a convenient benchmark. Absent fathers would be expected to provide as a minimum (resources allowing) maintenance for their family equal to the amount of income support for which the family would qualify if they were wholly dependent on means-tested benefits.
 - the formula would allow children to share in their fathers' rising standards of living. The aim would be that all those on average earnings would in general meet the minimum maintenance bill (outlined above) in full. This merely reflects the real world where families with average earnings (and which stay together), would not be dependent on benefits in any way. Children would receive a proportion of any earnings above the level of the minimum maintenance bill.
- (d) to provide for an appeals procedure. This could either be done by a specialist tribunal (analogous to the tax commissioners) or through the courts.

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(e) to include a mixture of carrot and sticks to encourage lone parents to pursue maintenance. This would include: sanctions on women who failed - for no good reason - to co-operate with the child support unit; improvements to family credit to ensure that the extra maintenance lone parents received is not automatically docked off their benefits.

Detailed analysis (See Annex C of the report) indicates that these measures would:

- increase the proportions of lone parents receiving maintenance from around 30 per cent to 50 per cent (this is a conservative estimate: a similar system in Australia approximately doubled the number of fathers providing maintenance to around 70 per cent);
- increase the amount of maintenance collected for those on benefit by nearly £300 million a year in the longer term. At present only £180 million is collected a year. Just 7 per cent of the cost of means tested benefits paid to lone parents;
- take 100,000 lone parents off income support.

The rest of this note discusses the main issues which Minister's need to decide at this stage and makes firm recommendations on each.

Child Support Unit

If we are to tackle the problem of the low levels of maintenance paid and to make absent parents face up to their responsibilities then firm action is required.

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The existing system works badly because:

- pursuit of maintenance is given a low priority by DSS officers, who not unreasonably see their main priority as paying benefits;
- there is no incentive for lone parents to claim maintenance. Means tested benefits are available irrespective and some 95 per cent of claimants would be little or no better off with maintenance;
- even where maintenance is claimed it is rarely updated regularly to reflect changing circumstances;
- using the courts to claim maintenance is slow (50 per cent of cases in Magistrates' Courts, for example, took more than 7 weeks);

The approach proposed is an interventionist one. This is inevitable if the primary objective of reform is the moral one of re-establishing traditional family values.

Moreover the proposals have four clear advantages:

- a new unit would be dedicated to a single function with less scope for distraction;
- the onus on lone parents to pursue alone recalcitrant fathers would be removed;
- the process would be a much easier alternative to long-drawn out court procedures;
- the burden on the courts would be reduced.

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There can be little doubt this is the right approach. There are two further points, however, worth noting.

First, size. A unit of this sort will mean additional civil servants: a figure of 2,400 has been mentioned. Size should be kept to the minimum necessary. On the current costings total enforcement costs of the unit are 14 per cent of the expected yield. This is better than the existing system (17 per cent), but high compared to DSS fraud work (12 per cent).

Advice from the private sector on how best to organise this unit might be wise.

Second, location The report indentifies DSS and Inland Revenue as the two main candidates. We originally argued for the new unit to be located within the Inland Revenue for two reasons:

- it was unattractive presentationally for the unit to be associated directly with DSS (it would send the signal that we were only interested in saving money);
- access to confidential Revenue information on incomes was necessary.

A free-standing Next Steps Agency gets over the first problem. As regards the second, DSS propose a solution that does not rely on revenue income data. Where individuals fail to produce the necessary information, an assessment for the full amount of the maintenance will be made automatically. The individual will then have the choice of paying this amount or (if he considers it too much) co-operating with the system.

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Recommendation

A new separate agency should be established to assess, collect and enforce maintenance.

Universality

The arguments against restricting the system to those on benefits - by making it open to all - are strong:

- two different systems running parallel would be unnecessarily costly;
- it would be more difficult to reduce dependency on benefit. Lone parents moving off benefits would suddenly be faced with the sole responsibility for pursuing maintenance, whereas if they were back on benefit the unit would be there to help. Moreover, the unit could prevent people becoming dependent on benefits in the first place;
- it will encourage public support for the system. Universality avoids creating the impression that the Government's main aim is to save on benefits.

Some may question using the power of the state to enforce entirely private obligations. But there is an implicit contract between parents to provide for their children. It is in the public interest to see that this contract is fulfilled. Moreover, where benefits are not an issue, the Unit will only become involved when one of the parents request them to do so.

Recommendation

The new system should make access to the services open to all.

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Formula

The arguments for a formula are straightforward: awards will be fairer (no longer subject to the vagaries of the courts) and will be quicker.

The objective must be to have a relatively simple formula. This should nevertheless not be so crude that it provokes an avalanche of appeals. This would defeat the whole object of the exercise. The DSS approach of basing the formula on income support levels strikes the right balance.

There are also important second order questions which need to be resolved in the context of the White Paper. The Lord Chancellor's minute refers to some of them. They include how to deal with property, lump sums, variations in the formula and how stepchildren are to be treated. None of these are show-stoppers. I have confirmed this with the Lord Chancellor's Department this evening. They agree that:

- a formula approach is practical;
- it could be administratively applied.

Recommendations

A formula for assessing maintenance should be introduced.
It should be operated administratively and be based on Income Support rates.

Incentives

Tony Newton proposes a maintenance disregard for in-work benefits only. He also proposes to reduce the hours which lone parents have to work to qualify for family credit from 24 hours a week to 16. The total cost would be £80m a year in the longer term.

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He is right to argue for this:

- at present there is little incentive for lone parents to pursue maintenance. Family Credit claimants keep less than a third of their maintenance at the margins because of the 70 per cent taper;
- the only way in which the welfare dependency of lone parents will be substantially reduced is if it is easier for them to combine some work with looking after their children. At present for all practical purposes they have to work full-time to be eligible for Family Credit. A relaxation of the hours rules will make it easier for lone parents to work part-time.
- there is a presentational attraction to being able to demonstrate that the package includes carrots as well as sticks.

The Treasury may accept the need for some incentives, given that overall this initiative will produce considerable net savings. They are concerned about the high net cost of establishing the system in the early years. A possible compromise might be:

- Timing: the Government could announce its proposals on incentives in the White Paper. But implementation could credibly be left to the moment when the new system was fully up and running. This would coincide with the moment when savings had started to come on stream. It would certainly ease the pressure in the early years.
- size of disregard: the DSS costings assume a £20 disregard. It may be too generous. The earnings disregard for

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lone parents on income support is, for example, £15. This should be left for DSS to sort out in negotiations with the Treasury.

Recommendation

Incentives along the lines suggested by DSS should form part of the package. Treasury and DSS should be left to negotiate their size and timing of implementations.

Naming the father

Tony Newton proposes sanctions where lone mothers fail to co-operate in pursuing maintenance. This is particularly important where there is a refusal to name the father.

The evidence from the United States is that sanctions are seen as an essential part of the systems operated in Massachusetts and Wisconsin. Their effectiveness is similar to that of the nuclear deterrent. It is the threat of their use, rather than their actual use, which does the trick.

It is obviously right that there should be exceptions where there is a genuine fear of violence etc. But it will be important that the Unit is seen to use its discretionary powers reasonably. As you know, the decisions of DSS officers on the Social Fund have been subject to judicial review. The rules on what can be taken as evidence of non-cooperation by lone parents will, therefore, need to be carefully drawn.

Recommendation

The Unit should be given the power to reduce the benefits of a lone parent who refuses to co-operate for no good reason.

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Deductions from Benefit

Tony Newton argues against making a nominal deduction from the benefits of absent fathers.

The grounds on which he does so are unconvincing.

First, he argues that income support does not include any element for the expenses of children not living in the household. He says that to deduct for such expenses would be seen as illogical and unfair. This misses the point. Income support does not contain an element for fines either. But if a benefit recipient commits an offence, the resulting fine is deducted from benefit. So there is no great issue of principle here.

Second, he argues that any sum which is deducted will benefit the DSS, not the caring parent and his children. This is a red-herring. The whole point of a nominal deduction of benefit is to send a clear signal that no-one should think they are able to escape their parental responsibilities. Without such a deduction these reforms will have little effect on the future behaviour of all those on Income Support who might otherwise become absent fathers.

There is a further argument for making deductions from benefit: it lowers the barrier to work. If someone on Income Support is at least paying something towards the maintenance of his children, he will not suddenly be faced with an entirely new obligation if he moves off Income Support.

Recommendation

A nominal sum should be deducted from those absent fathers on income support.

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The Timetable (See Annex O of the report)

The timetable proposed is tight, but feasible. If it is to be achieved early decisions are required on the issues outlined in this note.

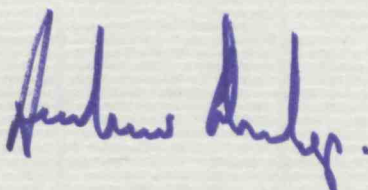
My understanding is that the Lord Chancellor has no difficulty with the timetable insofar as we should:

- trail the broad outlines of the policy in your speech to the 300 Group (indeed this idea was encouraged by his Department) as it would allow for early informal consultation with the Law Society and the judiciary);
- publish a White Paper (with green spots) in the Autumn;
- aim for legislation next session and work towards that end.

His difficulty may come with introducing a bill as early as January. If we are to do that Parliamentary Counsel will need to receive initial instructions in September. At the end of the day this decision is a political one. Do you want to legislate before the next election? In support of this objective, it is not unknown for the Government to put down amendments to its ^w on bills! Moreover much of the detail of the formula etc can be dealt with by means of secondary legislation.

Recommendation

Work should proceed on the basis that we aim to stick to the timetable outlined in Tony Newton's paper.



ANDREW DUNLOP

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