



The disregard of child maintenance payments

Alan Marsh

1) Introduction

This paper makes a case for the total disregard of child maintenance payments against income-tested social security benefits. While the Government has recently announced future increases in the amount of the ‘maintenance disregard’, this paper argues that there is now no sensible reason for not disregarding maintenance entirely.

Presently, parents-with-care receiving Income Support whose maintenance was calculated under the ‘old’ pre 2003 rules see the whole amount of their maintenance payments deducted pound-for-pound from their benefit income. Income Support families receiving maintenance under the ‘new’ rules may keep just £10 a week; the rest is lost in the same way¹. Sir David Henshaw’s review of child maintenance (*Recovering Child Support: routes to responsibility*) looked at these rules and set out arguments for a full disregard that would allow income support families to keep all of any maintenance they received. He settled instead on a recommendation for a ‘high threshold’ before maintenance would be taken into account.

The Government first agreed in principle to “significantly increase” the amount disregarded (*A Fresh Start: child support redesign – the Government’s response to Sir David Henshaw*). There then followed a long internal debate within Government on the level a significant increase should reach. Arguments were finely balanced: the highest possible disregard would maximise the impact on child poverty but too high a disregard would have an impact on lone parent’s incentives to work, it was said. The outcome favoured the retention of some level of withdrawal of Income Support on the ground that too great an out-

¹ In the case of Housing Benefit and Council Tax Benefit, £15 of any child maintenance payments is ignored and the rest is counted as income.



of-work income will reduce recipients' incentive to enter or remain in paid work. In the end, the amounts chosen for a new threshold were cautious: the PBR report announced that '.....the disregard will rise from £10 to £20 per week from October 2008, and then to £40 per week in April 2010.'²

While the increase in the disregard is welcome, this paper will argue that the gains from a total disregard of child support will far outweigh any disadvantages.

2) Background: the receipt of child maintenance

Still only a minority of lone parents and eligible step-parent families receive child maintenance payments from non-resident parents. Even fewer receive regular payments and these are confined largely to those who were formerly married and now retain at least some contact with the Non-resident Parent (NRP) or those who were formerly cohabiting with the NRP and retain close contact (Table One).

Table one: Percent of lone parents paid child maintenance in two consecutive years by former marital status of mother and non-resident parent's contact with child.

Cell percentages

Rate of contact between NRPs and children	Single, never partnered	Separated from cohabitation	Separated from marriage/divorced
Weekly	14%	31%	38%
Some contact but less often	7%	20%	29%
None	3%	6%	13%

Source: Families and Children Study (FACS) 1999 to 2001

Just over two-fifths of assessments made by the CSA are 'nil assessments' – that is, the non-resident parent is not required to make any payment at all. Thus, three-fifths of Non-resident Parents (NRPs) assessed by the Agency should be paying something. However, the CSA is not effective at enforcing compliance and just 57% of parents with an assessment were 'fully compliant' in the latest figures, which means that just over a third of all NRPs assessed by the Agency are paying maintenance.³

² HM Treasury 2007 Pre-Budget Report and Comprehensive Spending Review, page 254.

³ Figures from 'Child Support Agency Quarterly Summary of Statistics – June 2007'



The proportion receiving maintenance is even lower among lone parents on Income Support but in their case it is more difficult to be certain how many are 'paid' any child maintenance because, if the CSA's administrative statistics are used, it assumes any parent with care with a 'maintenance direct' arrangement is being paid in full. Conversely, survey estimates may not include all the CSA-collected payments. Survey respondents are often unaware of what happens to such payments and forget they are factored into their Income Support formula⁴. Most estimates indicate that no more than a fifth of IS recipients receive regular payments through one route or the other.

3) The argument for increasing the disregard

The continuing low rate of financial contribution from non-resident parents means that the main issue in getting child maintenance to children remains one of compliance and child welfare. However, a key feature of the current legislative proposals contained in the *Child Maintenance and Other Payments Bill* currently before Parliament is the abolition of Section 6 of the Child Support Act 1991 that places a requirement on Income Support recipients to initiate a child support claim. The new statutory scheme will apply solely to those who voluntarily initiate an application to the Child Maintenance Enforcement Commission – the new body responsible for administering the new scheme. Although the new proposals seek to strengthen enforcement of statutory child maintenance liabilities where payments lapse by invoking new and stronger sanctions, the most likely outcome will be to weaken the pressure on NRPs to pay where the parent with care is on benefit.

Reviewers of the new proposals pointed to this new reliance on voluntary initiation as a potential weakness. Unless the child maintenance disregard is raised to levels where the cash benefits of initiating the pursuit of maintenance were too obvious to overlook, lone parents on Income Support would have little financial incentive to seek child maintenance however much they were encouraged to do so by the Child Maintenance Enforcement Commission. They have little enough incentive even to comply with the present compulsory rules. Really the only way to increase that incentive is to increase to the maximum amount

⁴ The DWP discuss these shortcomings in reports of child maintenance: "*Firstly, those cases who are nil-assessed often classify themselves as having no arrangement in place. Similarly, those cases on the old CSA scheme, who are also on benefits, do not receive a maintenance disregard and therefore, often report having no maintenance arrangement. And finally nil-compliant cases can also be reported as not actually having an arrangement in place.*" (Chris Bullen (2007), *Child maintenance: The eligible population in Great Britain*, DWP Working Paper No 41. pp31)



available, which in most cases is the full amount of maintenance non-resident parents will pay.

The most rational way to approach the question of a disregard would be to apply the same logic that applies to the current formula for calculating child maintenance liability - which increases the amount of liability for one, two and three children – to the application of the disregard. Over half the households potentially entitled to receive child maintenance payments have two or more children (Bullen 2007, Figure 3.4). The effect of this ought to be to restore the incentive to pursue maintenance that will be reduced by the abolition of Section 6. At this point, however, the disregard would certainly approach or even exceed the amounts of maintenance typically paid now. The case for a 100 per cent disregard then becomes compelling: it simply would not be worth keeping it at all.

4) Additional benefits of a total disregard

i) Administrative simplicity

Removing the receipt of child maintenance from the calculation of Income Support would be a substantial gain in administrative simplicity and DWP costs, in three ways:

- 1) It would remove from the system the difficulty of dealing with the restoration of Income Support payments to periods of lapsed payment. At present, parents on IS who receive maintenance through Maintenance Direct and have their benefits reduced accordingly are in a difficult position when the maintenance is not paid but the benefits are reduced anyway; the system is too slow to respond to changes and intermittent payments. This difficulty might well increase in future, given that the expectation is that more lone parents will in future be receiving maintenance paid directly by the non-resident parent on a voluntary basis rather than using the collection service of the statutory scheme.
- 2) It would avoid the necessity of Jobcentre Plus fraud activity where a parent with care is receiving maintenance directly which exceeds the disregard level, but is not declaring it to Jobcentre Plus
- 3) In cases where the parent with care is being paid via the CSA collection service, but then goes on to benefit, Jobcentre Plus must notify the CSA, who must then divert all but £10 of any weekly child maintenance paid to the Secretary of State. Similarly, when the parent with care ceases to claim benefit, Jobcentre Plus must notify the CSA who have to 're-divert' the maintenance so it all goes to the parent with care. A recent Parliamentary question indicated that delays in the CSA acting



on Jobcentre Plus notification that a lone parent was now claiming benefit had led to overpayment of benefit in around 11,000 cases. (Lords Hansard, 23 May 2007)

As set out in a recent briefing paper, the reform of the administrative complexities attending the payment of child maintenance is anyway urgent: "*The rules governing the process for translating a payment of child maintenance into weekly amounts of income, for ignoring it completely, or treating a payment from the non-resident parent as capital are so complex that they were described by one perplexed Court of Appeal judge recently as '...obscure to the point of near darkness'*"⁵.

ii) Greater compliance

Ridge, O'Flaherty and Deasley (2007) begin their review of evidence of the incentive effects of a change in the maintenance payment disregard by acknowledging that it will "...increase non-work income and may potentially increase child maintenance compliance by non-resident parents – further increasing income for parents with care (PWCs)." Many studies cite non-resident parents' resentment of the pound-for-pound reduction as the main barrier to compliance among the NRPs of Income Support families and a likely cause of payments and support-in-kind given covertly to get around the rule. There is no direct evidence that a total disregard would increase compliance but commonsense suggests it is likely. Even if it only legitimised existing covert payments, it would then be far more likely to be recorded by the surveys that calculate the HBAI estimates. One way or another, a total disregard combined with greater compliance would make a huge contribution to the child poverty target.

iii) Fairness

Allowing lone parents to keep more, or all, of the maintenance paid for their children also chimes well with public opinion. A recent survey by the Office for National Statistics found that 51% of people said that mothers on benefits should be allowed to keep all of the maintenance paid by the non-resident father, and a further 29% said that they should be able to keep some (Peacey and Rainford, 2004).

The current absence of any significant disregard of maintenance payments is associated with a view of child support that in the later 1980s focussed on the apparent unfairness to taxpayers that they should somehow stand in for non-resident parents unwilling to pay for their children. But it is really part of a legacy of the time before 1982 when non-resident parents received tax relief on their payments, originally at the marginal rate, so that the Treasury was already contributing to children's income in this way and giving very large amounts in forgone taxes to the upbringing of the children of the richest

⁵ See May LJ in *Sec of State v Menary-Smith* [2006] EWCA Civ 1751 (at para 10)



separated families. Nowadays, significant child maintenance payments are made from taxed income and the rest, quite a large number, see £7 a week taken from their corresponding Income Support⁶.

A valid alternative view is that maintenance payments should be legally redefined as the children's own income and therefore exempt from common taxation and especially exempt from the withdrawal of their mothers' Income Support. Many maintenance orders anyway carry on into adulthood to cover support during higher education. It is also unfair and illogical to treat payments from NRPs in this way while disregarding entirely an allowance from a different non-resident relative, typically a grandparent, who may make the children an independent allowance. In families receiving Child Tax Credits, as most now do, and provided the children's accumulated payments do not grow to breach the savings rules, this money is untouched.

iv) Incentives and policy goals

Before getting to grips with the details of the impact of child support payments on parent' likelihood or participating in paid employment, there is an important point to be made about the work incentives of the mothers of young children and the Government's policy goals. Policy has rightly concentrated on child welfare and continues to acknowledge that mothers - those with younger children at least - ought to have a choice whether or not to take paid jobs. It is also widely acknowledged that Income Support is set below the level at which a family is judged to be in poverty. It is not enough money to maintain child welfare and prolonged spells on Income Support alone are detrimental to families. Healthy family life requires more income than that provided by Income Support, and paid work is promoted as the best source of greater income.

For many non-working mothers (and a few non-working fathers) in couples the source of that necessary and better income is a working partner. Separated non-working mothers whose former partners, willingly or otherwise, provide the larger amounts of child maintenance, may be seen in the same position as united single earner families. Their new problem is that their costs, particularly their housing costs, have suddenly inflated beyond their means. In this light, Income Support, Child Tax Credits, and Housing Benefit/CTB then become simply the Government's contribution to maintaining child welfare in circumstances

⁶ Under the 'old' rules, which provide no disregard at all, this has been a particularly unfair penalty: as a very poor separated family, they simply lost £7 of their joint Income Support. It is true that if they lived together they'd get even less, but it adds to the argument for a higher disregard for all payers, which is now accepted.



where a family's total costs have inevitably risen beyond their joint means as a result of separation.

At present, policy is unconcerned about the right of single-earner two-parent families to remain single earners and, indeed, provides the low earners among them with large amounts of Working Tax Credits. In contrast, policy urges and, indeed, policy may soon insist that the inflated costs incurred by such a family on separation be met solely by the non-working parent hastening off to work, even at the cost of giving her children expensively into the care of others. This insistence is maintained by Government even if there is a willingness on the part of the NRP to continue to share family costs through maintenance payments, which are presently blocked off by a punitive tax on the family by withholding Income Support and other benefits. The recent PBR amendment will make it easier for the NRP to share the load but a further issue now arises: given the modest levels of nearly all maintenance payments, even a £40 disregard is likely to be sufficient to act as a full maintenance disregard in around 80 per cent of cases⁷. A legitimate question is whether money recovered for the State will be sufficient to offset the administrative cost of clawing back the excess.

A new view that recognises in this way the all-round advantages of fairly sharing with separated families the extra costs of separation between the State and the family, places the arithmetic of work incentives for lone parents in a quite different light. Given the forthcoming increase in the disregard to £40, the argument about the effects of a full disregard on work incentives is now relevant only to a narrow band of lone parents who receive payments that are large enough to effect their judgements about work but are too small to live on without benefit. What evidence do we have?

5) The balance of incentives

Ridge, O'Flaherty and Deasley's (2007) study reviewed the evidence around the impact of maintenance receipt on work participation, and concluded that *"There is very little evidence on the impact of changes in child maintenance on work incentives."* The sole attempt so far directly to model this effect by Paull et al (1999) found that a £20 disregard would have a broadly neutral effect. They cite American evidence that *"...increasing the level of the disregard had no adverse effects on employment rates."* They acknowledge too that neither the standard theory of labour supply nor the arithmetic of an empirical model may take into account effects introduced, for example, by lone parents' jaundiced view of the likely reliability of maintenance payments and the effects of this view on their judgements about the value of working.

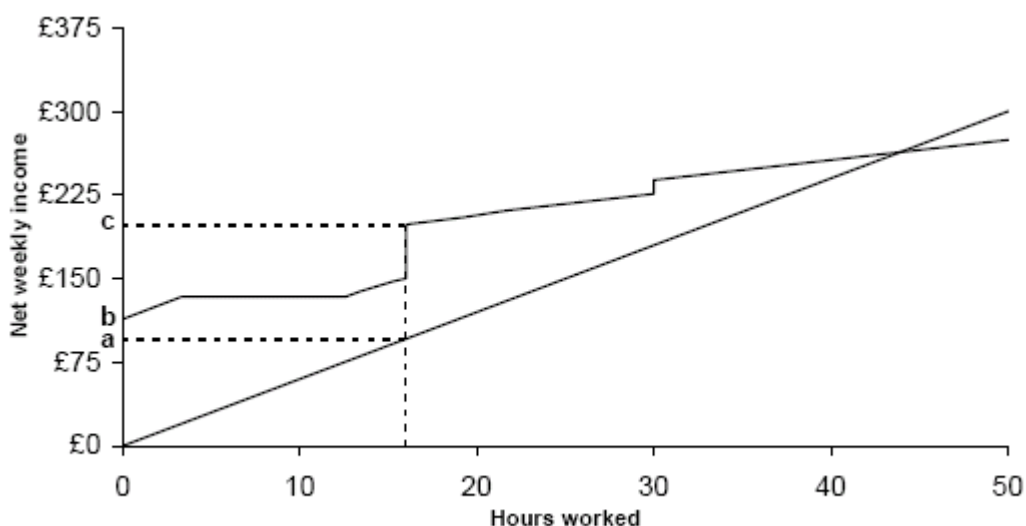
⁷ See table 15 of the CSA quarterly statistics which shows child maintenance liability in bands according to the value of the liability.



The structure of incentives

The Institute of Fiscal Studies provide a typical budget constraint graph for a lone parent with one child aged three earning £6 an hour with no formal childcare costs but liable to average council tax, all under the 2005 tax and benefit system.

Figure One: the relationship between earnings and income for a lone parent



At 16 hours work, wages are shown at (a) and total income at (c). The contribution to total income from benefits and tax credits at each incremental hour of work varies along line (b) and at 16 hours is (c) minus (a). Essentially, crossing the 16 hour a week threshold doubles her income compared both to the value of her earnings alone at 16 hours (£96 a week gross) and to the value of her income from benefits if she did no work at all. She still has to pay her rent, though if her rent were very high she would retain some entitlement to Housing Benefit. As it is, she would have to work 45 hours a week before she attracted any net tax, which is the point at which her income falls below her wages. It is interesting to note, on the other hand that she would exhaust her benefit entitlement (ignoring rent for the moment) at about 13 hours a week.

Figure Two below estimates a similar budget constraint graph now confronting a lone parent contemplating entering work. This calculation asks for rent of £55 a week and factors this in. It offers her the new £40 a week bonus for her first years work. It also gives her £50 a week in maintenance payments and shows her income with and without a total disregard. On passing the 16 hour a week point, she becomes £100 a week better off with or without the disregard. It is also interesting to note that a combination of maintenance



payments and part-time work is an effective way of getting off Income Support, which adds a surprising dimension to the effect of a total disregard on work incentives.

This coincidence rests on her working part-time, or course. And for these reasons very few lone parents work part time for less than 16 hours a week unless they receive a very high rate of pay and in this case we have given her only the National Minimum Wage.

Figure three therefore reflects the more common circumstances whereby she does no work at all below 16 hours. Now her choice is much simpler: With a £10 disregard she has £129 a week (under the 'new' rules) and £169 with a total disregard. She may compare these two figures with the £231 a week, rent paid, she will get in work. An incentive of £62 a week greatly exceeds the level of incentive formerly thought enough to tempt lone parents into work

Figure Two Budget constraint graph, adding the new 12-month £40 in-work bonus, child benefit and Child Tax credit: final income by hours worked

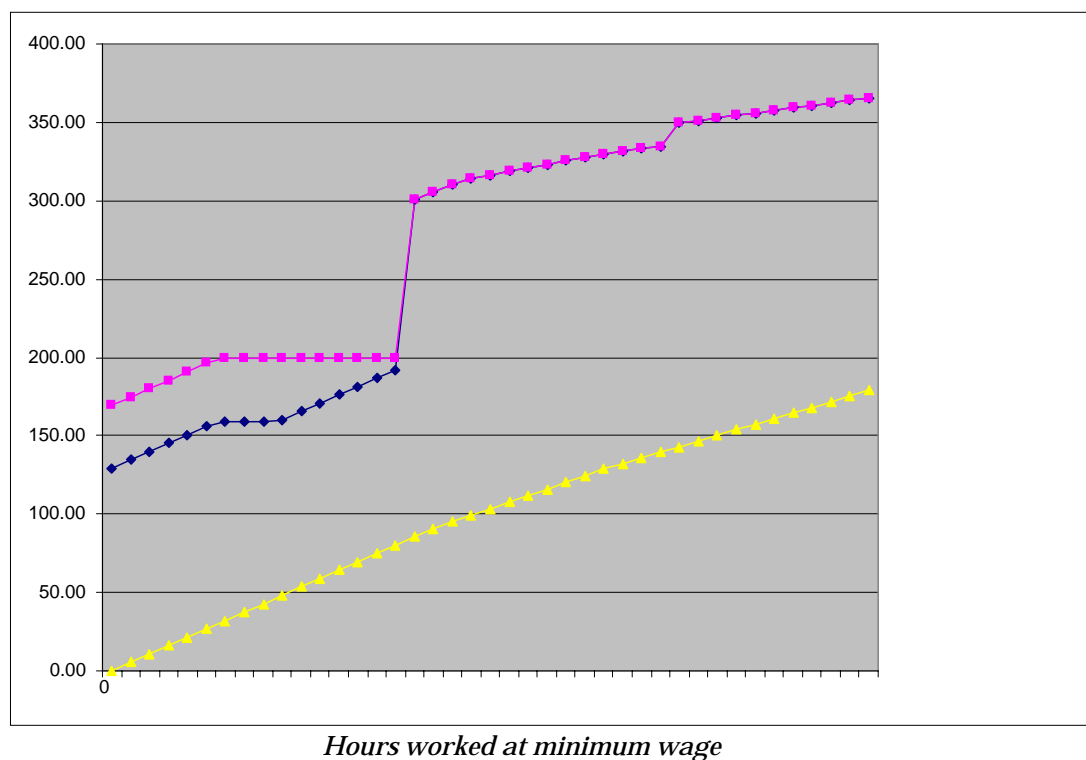
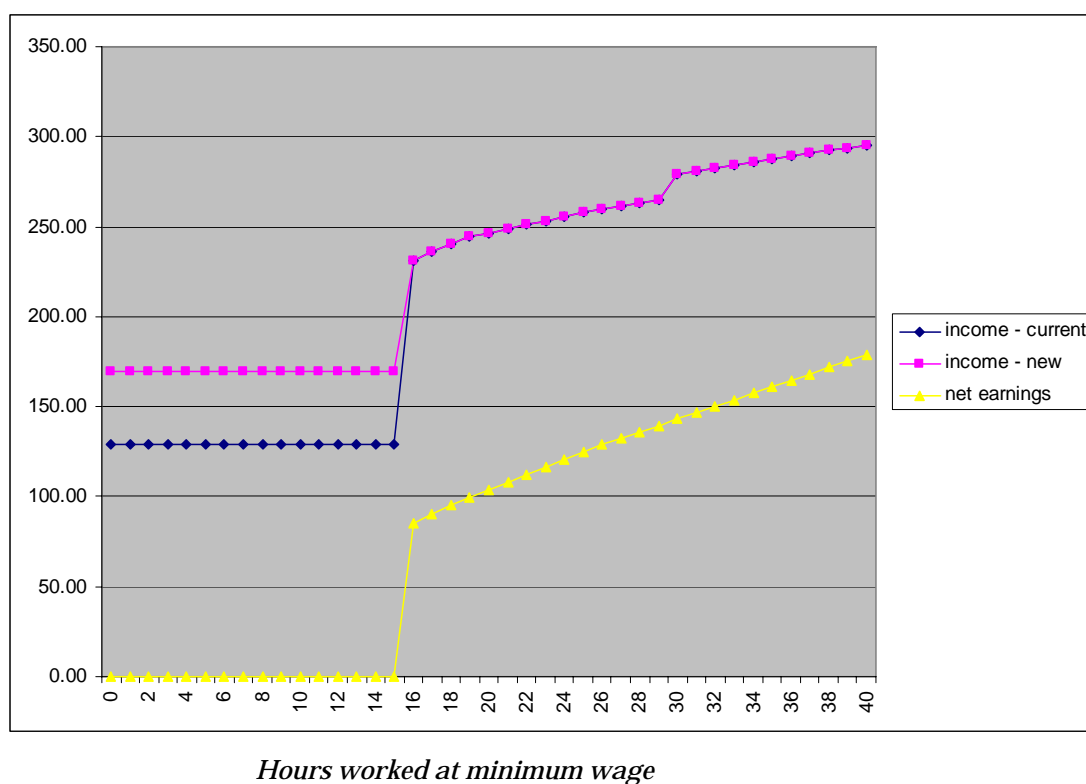


Figure Three: As Figure Two, removing earnings below 16 hours a week: final income by hours worked

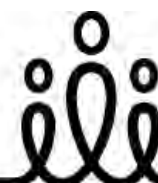


New analyses of the Families and Children Survey (FACS)

Lone parents who get child maintenance are much more likely to be in work. There are strong compositional factors underlying this finding: in-work lone parents receiving child maintenance are more likely to be better educated, work experienced, formerly married, and generally the kind of lone parent for whom a place in the labour market has long been reserved for her to take up as soon as she is ready. More likely, she never left it.

However, even when these additional factors are taken into account, regression analysis shows that child maintenance remains a strong and statistically significant predictor of lone parents' chances of being in work.^{8,9}

⁸ Own analysis of FACS 2005 data, weighted with `ggrossw`, excluding widows and parents with a youngest child aged 4 or under. Logistic regression analysis including receipt of maintenance, age of respondent, age of youngest child, number of dependent children in household, sex of lone parent, disability status of parent and children, tenure, marital status



Interestingly, though, the association between maintenance and work is stronger in lone parents who are less educated (those who have no qualifications or only GCSEs below C) than in better-qualified parents. In Table Two, two thirds of the less qualified parents who got maintenance were in work, almost twice the rate among those who got none. Among better-qualified lone parents, 85% who got maintenance were working, compared with 64% of those who got none.

Table Two: Percent of Lone Parents with a youngest child over four years old, who are in work of 16 or more hours a week in 2005

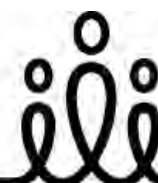
Educational qualifications	Cell percentages		
	Proportion of lone parents working 16 hrs or more		
	No child support received	Child support received	All lone parents
No qualifications or GCSEs only below Grade C	36.4%	67.1%	42.6%
GCSE grade C or above	64.3%	84.8%	72.7%

Source: 2005 FACS data – lone parents with a youngest child over 4. Checks in place to exclude widows and ensure that LP is the parent of the children in the house. Own analysis, weighted with ggrossw.

It is of course the case that receipt of child maintenance is relatively rare among the least qualified lone parents. Thus an increase in the numbers receiving payments among them will be likely to increase the flow of lone parents into work. The effect would be disproportionately stronger for less educated lone parents – who are traditionally a group further from work. In contrast, the majority of the better-qualified lone parents are already in work: as a group they are exceeding the Government's 70 per cent target. Logistic regression analysis confirms that this effect is unlikely to be due to other factors; taking other

and educational qualifications. Maintenance receipt significantly increased chance of being in work (odds ratio 2.24, $p < 0.05$).

⁹ FACS data was collected by the National Centre for Social Research and downloaded from the UK Data Archive. Neither the collectors of the data nor the Data Archive bear any responsibility for the analysis or interpretation presented in this paper.



factors into account, less qualified lone parents still showed a stronger association of maintenance with employment than the better-qualified parents.¹⁰

6) Conclusions

The proposed increases in the amounts of child maintenance that may be disregarded from entitlement to benefits, rising from £10 to £20 per week from 2008, and to £40 per week in 2010, are welcome. The evidence discussed above, however, shows that the arguments supporting these rises, compared with the remaining higher payments that will continue to be penalised, actually make the case for a total disregard.

The total disregard of maintenance payments in the calculation of entitlement to social security benefits would contribute greatly to the achievement of child poverty reduction targets. It would:

- Increase the incomes of many of the poorest families, who are mainly out of work lone parents and step-families, and improve the material standard of living of their children
- Impact most favourably on larger poor families, who are likely to have larger awards when they have one at all
- Restore the incentive to pursue such payments among families receiving benefits and thereby increase the number of families receiving maintenance payments
- Create an incentive for lone parents to work part time by helping them achieve a smoother transition to work, gradually increasing their hours adding to a secure base of income, in the same way as partnered mothers typically return to work
- Still leave non-working lone parents with a substantial incentive to work longer hours
- Provide much greater confidence to those considering entering work that they would retain their maintenance payments alongside their in-work benefits, tax credits and wages
- Have a disproportionately positive effect on lone parents with poor qualifications, who are traditionally the 'hardest to help' in terms of a transition into work
- Significantly reduce the administrative complexity, and costs, of continuing to operate a partial disregard.

¹⁰ Regression model as above but conducted separately for two groups. Maintenance receipt was associated with a significantly increased chance of being in work for both groups of parents, but the effect was stronger for less qualified parents. (Less qualified parents' odds ratio 3.27, better-qualified parents odds' ratio 1.77, $p < 0.05$)

