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Dear Sir/Madam,

This note summarises CPAG's views on the options being discussed following the reporting of the Henshaw review into child support policies.

Firstly let me emphasise CPAG's appreciation of the central role given to child poverty reduction in discussions around reform options. In our submission to Sir David's investigation, CPAG argued that for child support to effectively assist the reduction of child poverty the following principles should be reflected within reform:

- Deliver adequate and stable maintenance, even if it is difficult to enforce collection;
- Consider the needs and ability to pay of second families – reform should not reduce poverty for one group of children by increasing it among another;
- Minimise conflict between parents – conflict is acknowledged to be highly damaging for children's wellbeing.

CPAG further argued that the Child Maintenance Premium should be extended to those in receipt of benefits (not just the (then) new scheme cases) and that all

maintenance should be disregarded for purposes of income support assessment as it is for child tax credit.

We also emphasised the importance of effective advice provision in delivering child support: the proposals laid out by Sir David lead us to emphasise this point more strongly. Whilst we welcome the importance given to the third sector within the Henshaw review, we have already commented on the lack of capacity to provide this advice. If the department is to build this capacity, sufficient funding will be required to ensure growth in advice provision, and provided in a manner that does not compromise the sector's sustainability or independence.

Our initial evidence also emphasised the often unrecognised poverty in second families. CPAG argued that serious thought be given to the use of an advance payment, or 'guaranteed maintenance' system for child support. Though we understand that there are cost and incentive issues associated with such a change, we believe that this an important mechanism to protect the financial security of vulnerable children. We are concerned that this has been rejected and in a document which argues that child poverty should be placed at the centre of the proposals.

Finally, CPAG's initial letter to Sir David concluded by noting that in our experience services to poor people usually become poor services. We believe that an agency with a small number of families on its books, who may be poor and have complex needs, risks becoming a poor quality service in the long run. We urge that the need for high quality service provision be placed at the forefront of policy makers' thinking in designing the delivery and management of any new agency.

The remainder of this letter outlines some comments from CPAG on the Henshaw proposals and on the Government's response to Sir David. These are grouped under the questions outlined in the Government's response.

Question 1: Is this the correct balance of support to ensure that parents fulfil their responsibilities?

The first aim of child support policy should be to ensure child wellbeing and reduce child poverty. Ensuring that parents fulfil their responsibilities is clearly important to achieve this aim, but focusing on responsibilities ahead of child wellbeing may generate conflict between the objectives.

The use of private agreements. Though CPAG agrees it is important to facilitate the choice to make or maintain private arrangements, we are concerned that this may embed an imbalanced power relationship between ex-partners. One partner may settle for less than children have a right to expect in order to maintain a harmonious relationship with the other partner. We therefore propose close monitoring of how private agreements are made and maintained, both in

the macro sense – through statistics showing the level and regularity of income transfers – and also at the micro level - with parents with care having effective speedy redress where things go wrong.

In terms of making sure that private arrangements ‘stick’, both in terms of the level at which maintenance would be paid and also in the frequency and regularity of the payment, we do see a need for some official recording of the arrangement. This has both a symbolic and a practical importance. In symbolic terms it demonstrates an arrangement has been reached and sets out the terms; in practical terms it is likely to encourage greater compliance by non-resident parents and offers a speedier route to enforcement if non-payment occurs. A quick route to enforcement is vital to protect children and is necessary if parents with care are to have confidence arrangements made outside the agency will be held to. Wherever a register is held (and CPAG is open-minded on this point) the speed of access to data by the agency needs to be fast. Though a register does potentially draw the state into an involvement with a ‘private’ arrangement, where these have broken down, CPAG believes this to be in the child’s best interest. The risk of the state washing its hands completely of these cases is not only that this is unlikely to encourage parental responsibility and risks child well-being where non-resident parents do not pay, but that cases where this occurs will end up back in the agency and do so after a pattern of non-payment has been established.

We understand however that the Department has reservations over the principle of registering and in particular the difficulty of registering a range of complex arrangements. We would like to see all cases where parents agree a settlement at or higher than the child support formula registered for the reasons of “stickability” already outlined, but if this is felt to present too great an administrative burden, one route might be for registration only to be permitted where the arrangement adopts the child support formula to work out maintenance. We do not believe parents should be encouraged to settle for less than the formula so registering may also in itself help establish the formula as the norm (and the minimum contribution expected of non-resident parents).

The maintenance disregard. Perhaps the clearest anti-poverty component within the Henshaw report is the proposal to increase the size of the disregard. To increase the disregard, or to disregard all child support maintenance for purposes of benefits assessment (this is already the case for tax credits) would have a direct impact on poverty. It would increase some lone parent families’ incomes above the poverty line, and reduce the depth of poverty for others and support both paid work and tax credits in tackling child poverty. We understand that Government has not reached a settled view as to the size of the disregard, and that concerns exist over possible incentive effects, either around work disincentives (if out of work income were higher than in work income), or around financial incentives for couples to separate. CPAG’s experience suggests both concerns are misplaced. We note that the argument that a higher disregard acts

as a disincentive was rejected by Henshaw (see para. 26-30), in part on the basis of the empirical evidence of the Wisconsin child support programme which found that both full and partial disregards had no impact on employment. Given that an unstable income currently acts as a barrier to work we believe that increasing the disregard would actually increase the likelihood of parents with care going into and sustaining paid work. A higher disregard could therefore combine the double benefit of reducing poverty and supporting employment. Henshaw also largely rejected the argument that changes in the disregard would be likely to encourage relationship breakdown (or that if it occurs the effect would be negligible, see para. 31-35). CPAG also rejects this theoretical argument as having no basis in empirical fact. We do not believe that relationship breakdown is caused by simple balance sheet calculations - parents' lives are more complex than this and attempts to use the disregard (or lack of it) to incentivise relationship structures is likely both to fail and to disadvantage children.

We urge that any improvement in the disregard applies to all cases whether they are being dealt with in the residual body or under new arrangements.

The quality of advice services. The proposed shift towards private arrangements heightens the importance of advice provision. As a second tier advice provider (advising on welfare benefits and tax credits; we do not currently advise on the child support agency directly although we publish a handbook on child support¹) our experience is that current levels of advice provision on child support are much more limited than on welfare benefits or broader money advice. The welfare rights sector is already stretched in providing advice on benefits and tax credits, and it is much less used to dealing with child support and its very different legal basis. Though such agencies are good at advocating on behalf of clients they are unused to dealing with cases where two (resident and non-resident parent) private individuals are involved and potentially in conflict with each other. For example how easy is it for one parent to seek advice from a local agency where the other has already visited this service? Though CPAG's experience is anecdotal (itself indicating the need for study to underpin any attempts to grow advice provision) we emphasise that sustainable investment is needed to build the sort of first and second tier provision necessary to make the Henshaw plans work.

Staffing and resource requirements. CPAG was supportive of the Department for Work and Pensions' decision to maintain CSA staffing levels whilst the Gershon review was being implemented. The Henshaw proposals imply the creation of a new body alongside the residual CSA (though still required to deal with whichever cases remain within it – presumably on the (current) 'new' and 'old' schemes). Running two bodies in parallel in the near future requires sufficient resourcing for each. Without this we fear that this third 'make or break' attempt at child support policy will not deliver the promised benefits.

¹CPAG, *Child Support Handbook 2006/2007*, Child Poverty Action Group, London, 2006

Enforcement. Much of the recent discussion around the reform of child support policy has emphasised the need to ensure effective enforcement where non-payment is occurring. CPAG agrees with this and would like to see the agency and whatever body replaces it use existing powers much better to pursue those refusing to pay financial support on behalf of their children. However alongside this need to ensure a firm collections and enforcement policy, we urge that the publicity which accompanies the introduction of the new arrangements needs to establish it as being seen to be a 'fair' as well as a 'firm' process. Current enforcement is often ineffective and needs to be strengthened but we would urge any publicity to couch this in terms of helping ensure non-residents can provide adequately for their children, not in terms of tackling feckless parents shirking their responsibilities – if the publicity stigmatises non-resident parents who want the opportunity to adequately provide for their children, we fear a backlash in non-compliance with future arrangements.

Question 2: Do you agree that parents should jointly register the birth of their children? What steps could the Government take to support this outcome?

We do not offer a view on this question.

Question 3: What role should the courts have in a model where parents are encouraged to reach their own child support arrangements?

CPAG accepts there is a logical reason for including child maintenance alongside settlements where these are already in court, although the creation of yet another parallel child support process is not attractive in a simplified system. We emphasise that greater use of the courts for settling child maintenance must be matched by adequate funding of the currently strained civil legal aid budget. Without this we are concerned that the 'choice' of the courts based settlement, for those who need to use it, would be denied to the poorest families.

Question 4: Do you agree that these are the right areas to focus on in order to simplify the system further? What changes would you make in the areas identified above?

CPAG's continued support for the principle of advance payment of child support by Government was noted both in our initial submission to the Henshaw review and in the introduction to this letter. We continue to believe this model offers significant potential to ensure money gets through regularly to children and we are concerned at the rejection of this principle by Government.

We support the desire to keep the system as simple as possible – though not at the expense of its ability to adequately protect children. Although we do not have specific recommendations, we note the concerns raised over incomes data.

Discussions within both the Henshaw report and the Government's response document signify a possible shift in the types of incomes data which might be used.

If historical tax data were to be used as the basis of assessment (instead of income at the time of initial assessment), this should be refreshed annually so as to ensure it remains representative of the non-resident parent's income. A fixed income assessment has clear advantages for the stability of the income of parents with care, assuming that the non-resident parent's income does not go up. Equally parents with care would lose out if a non-resident parent's income is rising and the non-resident parent (and any potential second family) could lose out (possibly substantially so) if their income was falling. CPAG sees the need for the capacity to reassess settlements if either household circumstances change or if the income of the non-resident parent substantially changes in either direction.

Question 5: How can we best construct a charging regime that will incentivise parents to make their own arrangements?

Though we understand that any charging regime would be designed both to recoup expenditure and to incentivise private arrangements, we are concerned that this might create perverse disincentives for the poorest families, who may choose not to go through the agency even when this might be in the best interests of their children. If the new arrangements are to promote choice for all, it is important that charging policies do not put the poorest families off necessary use of the agency. We urge the Department to give serious consideration to not charging for use of the agency at all, or to find ways of ensuring that those reliant on benefits do not pay where they have to make use of the agency's services.

Question 6: What would be the most appropriate way to enable existing clients to either move to private arrangements or make a claim under the new system?

We refer back to comments made previously in this note around the need both to ensure that the shift to private arrangements does not lead to children receiving lower average maintenance settlements and to ensuring that an effective redress mechanism exists for parents with care if arrangements break down – without this we doubt parents with care will have the confidence to risk using the new system.

Question 7: Under what circumstances should we take powers to write off debts?

CPAG's guiding principle here is that the debt under discussion is debt to parents with care rather than to Government (though clearly Government would have benefited from fewer benefits payments). Government should therefore take extreme care in deciding to write off money owed to such families. Equally we

accept that there is little chance of some of this money being collected given the time which has elapsed and the past ineffectiveness of the agency in recovering such debt. If powers are taken to write off debt to lone parent families, we argue strongly that full compensation be paid to those families in recognition of the agency's past failure to recover this income.

CPAG recognises the need to reduce levels of outstanding debt, and to transfer this to a residual body to ensure that the future organisation is not bogged down by debt chasing. Clearly (and perhaps self-evidently) the new agency should not replicate the existing problem and so speedier collection and enforcement of current maintenance, alongside effective debt collection, is vital in the new system.

If you have any questions relating to this response, please get in touch with my colleague Paul Dornan at the above address or on pdornan@cpag.org.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kate Green', with a long horizontal flourish extending to the right.

Kate Green
Chief Executive