

A Butcher

Ref: VTR 1511

[request-15208-
xxxxxxxx@xxxxxxxxxxxxxxx.xxx](#)

Date: 25 August 2009

Dear A Butcher,

Thank you for your Freedom of Information request dated 26 July 2009. Your request has been considered under the terms of the Freedom of Information Act 2000 (FOIA). Please accept our apologies for the delay in responding. Please find below a copy of your request together with a corresponding response.

Request

On 03/03/03, CS2 came into being, using the much simpler method of either 15%, 20% or 25% of the non residents parents net income, depending on how many children they are liable for.

Some 6 years after the introduction of CS2, approx 300,000 cases still remain on CSCS. The far majority of people on CSCS would benefit from being on the CS2 computer system. I also have it on good authority that people currently on CSCS\CS1 calculations who are unemployed due to being unable to afford the assessment would find employment much more feasible under CS2.

It is extremely unfair that two non resident parents on the same wage, with the same number of children, should pay such different amounts. Especially given the fact that originally, CSCS cases were due to 'bulk migrate' in 2003 onto the new system.

It is worth mentioning that some CSCS\CS1 cases have been transferred onto CS2, this has happened when another CSA case has been applied after 03/03/03. In such cases, phasing onto 'new rules' has occurred, so quite obviously the IT system is able.

When an NRP on CS1\CSCS applies to be transferred onto the CS2 system they are told by the CSA that it is not possible due to computer system problems. This obviously is not the case as the same system deals with both rule sets.

CMEC and CS2 are also fundamentally the same system as their calculations are so similar. CS2 – 15% of NRP wages after tax and NI CMEC – 12% of NRP wages before tax and NI

My questions are:

You deny an NRP the right to be transferred over to CS2 and expect them to wait until 2014 until CMEC migrations have been completed. That means those CS1 cases where the QC has not expired before 2014 will have waited 11 years on the CS1 system. And those who have expired will have lost the benefit of two fairer Child benefit calculation systems.

May I also add that a CS1-CS2 migration is allowed if the PWC requests it or if a case is closed for 13 consecutive weeks then reopened.

My question is bearing in mind the above:

1. Does CMEC not find the above unfair and what is it doing since it's take over from the CSA with regards to NRP's and the children of their second families who are currently struggling to pay more child benefit than is necessary or being asked of a family on the same income.

2. Is it written in law that a CS1 case can not be transferred to CS2 at the request of the NRP or is it just a CSA\CMEC procedure.

3. Who authorised the decision to stop CS2 migrations and can some literature be released into the public showing the actual decision passing through a legal process.

4. Is there any way an NRP can request to be moved onto the CS2 assessment scheme which will result in their full case migration.

Response

The Child Maintenance and Enforcement Commission (the Commission) took over responsibility for the Child Support Agency (CSA) on 1 November 2008.

1. You asked us to comment on the statements made by you. Please note that the Freedom of Information Act a person may request any information 'held' in any recorded form by the Commission. Creating new information or forming opinions falls outside the scope of the responsibilities of public bodies under the FOI Act. Therefore, this part of your correspondence will not be addressed further.

You also asked: 'what is [CMEC] doing since it's take over from the CSA with regards to NRP's and the children of their second families who are currently struggling to pay more child benefit than is necessary or being asked of a family on the same income.' Non-resident parents receive an allowance for any children in their household where the maintenance liability is calculated. In the current scheme, both the maintenance liability and allowance for second families are based on a percentage of the non-resident parent's net income; 15 per cent for one child, 20 per cent for two children and 25 per cent for three or more qualifying children. The effect of this is to ensure that a non-resident parent is only assessed for child support on the basis of that proportion of their income not included in the allowance for second families. In the old scheme, an allowance for the non-resident parent's new family is made in the 'protected income' calculation.

2. The legal framework which governs the transition of cases from the old scheme to the current scheme is contained in Article 3 of the Child Support, Pensions and Social Security Act 2000 (Commencement No 12) Order 2003, and the Child Support (Transitional Provisions) Regulations 2000.

This legislation will allow the conversion of an old scheme case in certain tightly prescribed criteria. Those criteria apply where a new application for maintenance is made which has a relevant “link” to a current scheme case, i.e. the non-resident parent is in some way financially associated to it. For all other cases on the old scheme there is currently no legal mechanism which will allow transfer to the current system.

3. The original Child Support Computer System (CSCS) designed to support the original child maintenance scheme was introduced in 1993. With the implementation of the 2003 reforms a second IT system, Child Support 2 (CS2), was introduced for the administration of cases on the new scheme. This was developed and maintained by Electronic Data Systems Corporation (EDS). As part of the 2003 reforms, all new applications for child maintenance from 3 March 2003 onwards are administered using CS2.

The problems encountered by the CSA following the launch of the 2003 reforms, which were well documented and widely publicised at the time, related to the new computer system introduced to manage the new statutory maintenance scheme, rather than any failure in the policy underpinning the new maintenance assessment rules. Initially, the intention was to eventually phase out CSCS, migrating existing cases onto both the new scheme of child maintenance and the new IT system. However, as a result of the defects and instability that characterised CS2, Ministers made the decision not to perform the bulk migration of cases on to the new system, which means that the Agency still operates both CSCS and CS2. As a result of this decision the legislation which would have allowed the bulk migration of cases was never brought into force.

The current (2003) statutory child maintenance scheme was introduced to create a simpler method of maintenance calculation. This has resulted in some cases where a non-resident parent may be paying more on the original scheme than the current scheme, or indeed less, as the assessment method of the current scheme means that there are fewer cases where maintenance is not due. Therefore, for every parent who may believe they will gain under the new rules there is a parent who may lose out, this means that for most old scheme case one of the two parents would prefer to have their case calculated under the new rules as it would be financially advantageous to them. Equally, there would be in most cases a parent who would oppose changing schemes. It would clearly not therefore be practical or fair to transfer a case to the new scheme on the basis of parental preference.

The continuing concerns about the performance of the CSA led the Government to ask Sir David Henshaw to review the entire system of child maintenance system in 2006. At the same time some additional investment was made in a three year Operational Improvement Plan in order to stabilise the Agency’s performance until the review was undertaken. Sir David’s subsequent report led to the Government’s White paper and to the Child Maintenance and Other Payments Act 2008, which

makes provision for a new system of child maintenance intended to be in place from 2011.

There will consequently not now be an opportunity to transfer cases from the original child maintenance system to the current system introduced by the reforms in 2003. We recognise that having two schemes running concurrently is not ideal; however a large amount of resources would be needed in order to transfer cases from the original scheme to the current scheme. This would divert resource away from where it is most needed both in supporting the ongoing improvements to the Child Support Agency, and in preparing for the much larger introduction of the new statutory maintenance scheme.

The Child Maintenance and Other Payments Act 2008 set up the Child Maintenance and Enforcement Commission which has now taken responsibility for the Child Support Agency. The Act also made provision for a new information and support service for parents called Child Maintenance Options. This service provides impartial information and support to enable parents to choose the maintenance arrangements which best suit their circumstances – whether private or statutory.

The Child Maintenance and Enforcement Commission expect to introduce the new statutory maintenance scheme in 2011. Clients on the current maintenance scheme will have the opportunity to apply to the new scheme or to move to their own arrangements supported by the Commission's new information and support service, Child Maintenance Options. The Commission expects this process to take around three years after which time both current schemes will close.

For more information please see the Department for Work and Pension's (DWP) publications listed below:

Child Support Agency Operational Improvement Plan 2006-2009, pages 3-4, which can be accessed on the CSA's website at:

<http://www.csa.gov.uk/en/PDF/reports/oip.pdf>;

Sir David Henshaw's report to the Secretary of state for Work and Pensions: Recovering Child Support: routes to responsibility, page 17, available online on the DWP website at:

<http://www.dwp.gov.uk/policy/child-maintenance/sir-david-henshaws-report/>;

A fresh start: child support redesign – the Government's response to Sir David Henshaw, page 15, which can be found on the DWP's website at:

<http://www.dwp.gov.uk/docs/the-governments-response-to-sir-david-henshaw-24-07-06.pdf>; and

The Government's White Paper: *A new system of child maintenance*, pages: 12, 51-56, available on the DWP's website at:

<http://www.dwp.gov.uk/docs/csa-report.pdf>.

You also asked us to publish some information in the public domain. Please note that this kind of request does not fall under the scope of the FOI Act. However, I trust you will find of assistance the publications listed above. You may also want to

refer to Hansard for transcripts of parliamentary debates relating to the child maintenance reforms.

4. Non-resident parent may not request that their cases are moved from the old to the current scheme. As I have said above, transfer between schemes on the basis of parental preference would be neither practical nor fair, and at present there is no legal mechanism by which this could happen.

I hope you find the information you have been provided with helpful. If you have any queries about this letter please contact me quoting the reference number above.

Yours sincerely,

**Child Maintenance and Enforcement Commission
Freedom of Information Act Focal Point**

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing FOI.FocalPoint@childmaintenance.gsi.gov.uk or by writing to Child Maintenance and Enforcement Commission, Freedom of Information Act Focal Point, PO Box 61791, London, SW1P 9NT. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF www.ico.gov.uk