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SUBJECT

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*From the Private Secretary*

18 July 1990

*Dear Stuart,*

CHILD MAINTENANCE

The Prime Minister chaired a meeting at 11 am on 17 July to discuss child maintenance. Those present were the Lord President of the Council, the Lord Chancellor, the Chancellor of the Duchy of Lancaster, the Secretaries of State for Scotland and Social Security, the Chief Secretary, the Lord Advocate, the Minister of State, Home Office (Mr Patten), and Sir Robin Butler, Mr Owen, Mr Russell and Mrs Bailey (Cabinet Office) and Mr Dunlop (No 10 Policy Unit). The meeting had before it a minute from your Secretary of State dated 12 June, a Report by officials 'Children Come First' and a minute from the Lord Chancellor of 13 July.

Your Secretary of State said the meeting the Prime Minister had chaired on 20 February had commissioned work on a new system to manage child maintenance, with the aim of making assessment simpler and quicker, and collection and enforcement more effective. The Report by officials accompanying his minute thoroughly reviewed the issues, and he was grateful for the work that had been done in a short timescale to achieve this. The Report made a convincing case on both moral and economic grounds for a major change in the arrangements for assessing child maintenance, and demonstrated that an administrative approach was feasible. Much work remained to be done on the detail of the proposal, but he hoped that colleagues would be prepared to agree in principle that an alternative system was a practical proposition.

There were two major issues. First, he proposed that there should be a move from the current arrangements for assessing child maintenance using the courts to an administrative formula. This would be based on income support levels, which built in an automatic method of review. A formula could be precisely drawn so that a judicial decision was not required, and an independent appeal mechanism could be set up. He envisaged that the formula approach would be available to all separating parents, not just those on benefit, at the request of either parent.

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The second major issue was the machinery through which the process of assessment would be carried out, together with the work of collection and enforcement. He recommended that there should be a single administrative unit with all the necessary powers. Such a unit would be a tailor-made Next Steps Agency. The decision on Ministerial responsibility for the Agency was for the Prime Minister. The choice was between the Inland Revenue, which held the personal information that might be needed to trace parents and ascertain their income; and his Department which had a wide experience in dealing with the main client group. On balance he would prefer the Agency to come under his responsibility.

There were three subsidiary issues on which he would welcome colleagues' views, which would be important in presenting the proposals. The first was whether maintenance should be disregarded in the assessment of income support. He believed not, because that would be likely to raise rather than reduce the numbers of lone parents substantially dependent on income support. He considered, however, that there should be some incentives for lone parents receiving maintenance to work, at least on a part time basis, and he had in mind some adjustments to the operation of benefits available for those in work. Secondly, he proposed that benefit recipients liable to pay child maintenance should not have maintenance deducted from their benefit. This was only sufficient to support them in their present circumstances, which might include responsibility for a second family. Thirdly, he proposed that there should be a general requirement on caring parents who were benefit recipients to co-operate with action to obtain maintenance by naming the father of a child, or providing circumstantial detail to assist in identification, in all but exceptional cases. The sanction would be a reduction of up to 20% in the caring parent's adult income support personal allowance.

Finally he proposed an early announcement of the framework of the proposals in the Prime Minister's speech to the 300 Group the following day. He would then commission a White Paper for publication in October with a view to legislation being introduced early in the new year.

The Lord Chancellor said that he welcomed the proposals for a formula-based assessment for child maintenance and a separate agency to deal with collection and enforcement. The arrangements envisaged would, however, have to avoid conflict with the courts' continuing parallel involvement in determining financial and property provision for both children and spouses, and enforcing it. In principle, he would wish the formula assessment to be applied in all cases where couples could not reach agreement about child maintenance, so as to avoid there being two alternative means of settling the issue. There might be special circumstances where it was necessary to refer a case to a separate authority, but he would prefer this to be the courts, rather than a tribunal or commissioner except where the dispute involved a review of the application of the formula. Because the interactions were so complex, he considered that it was essential to consult with the judiciary and professional bodies on the detailed arrangements. This might mean that it was not possible

to draft legislation in time for introduction in the following session, but it was important to get the matter right and to obtain a degree of consensus.

In discussion the following main points were made:

- a. The proposal for a formula-based assessment for child maintenance was welcome. It would both reinforce the lifetime responsibility of parents for their children and provide a clear means for individuals to know the financial implications of those responsibilities. Such systems already operated successfully in other countries.
- b. It would be crucial to ensure that the formula was soundly based. The detailed application of a complex formula would inevitably give rise to appeals and disputes which would need to be resolved through an independent machinery. Further thought needed to be given to the handling of such disputes. In cases where the disagreement related to the application of the formula itself, it might be appropriate to use existing machinery, for example the Social Security appeals procedure, to resolve it. In other cases, for example where a dispute related to factual matters, it might be necessary to go to Court. A new tribunal might be difficult to administer and to staff, and it would mean an additional layer of bureaucracy.
- c. In principle, there should be a strong presumption in favour of using the administrative formula in cases of dispute, though there should be no bar to private agreements about maintenance. If the formula was to be widely applied in this way, it should be presented as a clear means of working out financial responsibilities. But it was recognised that the formula could not cover every case.
- d. The creation of a new Child Support Agency would make the collection and enforcement of maintenance quicker and more effective. It could be used by all separated couples, with those not on benefit paying a fee. It was recognised that some start-up costs would be involved, and that the Agency would be a large and complex organisation. It would be necessary to constrain its scale and costs as far as possible.
- e. While there was a case for making the Agency the responsibility of the Inland Revenue, which held much of the relevant information on individual parents, experience in the United States was that this approach might not be successful. There would be no problem for the Inland Revenue in providing information about names and addresses to a DSS agency, and DSS staff already had invaluable experience of this kind of work. DSS should therefore assume responsibility for its management.
- f. It was not right for maintenance to be disregarded in assessing income support. Otherwise, lone parents would retain an incentive to remain on income support rather than take up work, and those in the community who maintained

their own children would be obliged also to subsidise the responsibilities of others. Incentives based on benefits for those who work would assist those lone mothers willing to help themselves. The proposals in the Report seemed relatively generous; the detailed arrangements would have to be negotiated in the Survey.

g. Equally, it was right for benefit recipients liable to pay child maintenance to have at least a nominal payment deducted from benefit, in the same way that fines for criminal offences were deducted. While it was difficult presentationally to draw the analogy between maintenance and a fine, and there might need to be exceptions to the rule, renegeing on the responsibilities of parenthood was a serious matter which should be treated appropriately.

h. A lone mother claiming benefit must be prepared to name the father of her child in all but exceptional cases. There would have to be a right of appeal, and if necessary scientific tests should be used to establish paternity. There would be a sanction of a 20% deduction in benefit for non co-operation in this respect. A larger deduction might risk having to put children in care, which would not be desirable. Recent changes in DSS administrative procedures had already led to fewer refusals by lone mothers to name the father.

i. The complex interaction between the work of the new Agency and the continuing role of the courts in matrimonial matters made consultation with the judiciary and professional bodies essential. The success of the new system might depend on how well the interface with the courts operated. The revised procedures for enforcing maintenance agreements would reduce the workload of magistrates' courts. One objective of consultation would be to identify the cheapest and most effective way of going to law in cases where the administrative appeals machinery was inappropriate.

j. It was important to keep up the momentum in developing the Government's policy in this area. Detailed proposals should be announced quickly. It would be unfortunate if legislation could not be ready for introduction in the next session, and that should remain the clear aim.

The Prime Minister, summing up the discussion, said that the proposals for a formula-based assessment of child maintenance to be administered by a new Child Support Agency and with wide application were very welcome. Officials should be congratulated for the thorough Report they had prepared on a short timescale. Subject to the points raised in discussion, your Secretary of State's proposals, including the detailed matters referred to in paragraph 8.7 of the Report, were approved as a basis for working up the detailed arrangements. It would be necessary to consult with the judiciary and the professional bodies as soon as possible on the important issue of the interface between the role of the new Agency and the continuing role of the courts. It would be best if possible to publish the White Paper before the Party

Conference, but it should certainly be produced before the end of this Parliamentary Session with a view to the introduction of a Bill in the new year. She would announce the essence of the Government's policy on child maintenance in her speech to the 300 Group the following day.

I am copying this letter to Tim Sutton (Lord President's Office), Jim Gallagher (Scottish Office), Sara Dent (Home Office), Robert Canniff (Chancellor of the Duchy of Lancaster's Office), Paul Stockton (Office of the Lord Chancellor), Stephen Pope (Northern Ireland Office), Lawrence Conway (Welsh Office), Claire Craig (Mr. Patten's Office, Home Office), Alan Maxwell (Lord Advocate's Office).

*Yours sincerely,*

*Caroline*

CAROLINE SLOCOCK

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