

EXPLANATORY MEMORANDUM TO
THE CHILD SUPPORT INFORMATION REGULATIONS 2008

2008 No. 2551

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations are a consolidation and rewrite of the Child Support (Information, Evidence and Disclosure) Regulations 1992. They apply to old and current scheme maintenance applications.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 These regulations are subject to negative resolution procedure and are made under powers in the Child Support Act 1991 (“the 1991 Act”).

4.2 The child support scheme in the 1991 Act was substantially amended by the Child Support, Pensions and Social Security Act 2000 (“the 2000 Act”). Some of the amendments are fully in force, whilst others have so far been brought into force for the purposes of specified cases only. This means there are effectively two schemes.

4.3 In this memorandum, the child support scheme in force prior to the amendments to the 1991 Act made by the 2000 Act is referred to as “the old scheme” and the child support scheme in force following those amendments is referred to as “the current scheme”.

4.4 Further amendments to child support legislation have been made by the Child Maintenance and Other Payments Act 2008 (“the 2008 Act”). Only a limited number of provisions in the 2008 Act have as yet been commenced. The old and current scheme provisions thereby continue to have effect.

4.5 Statutory Instruments entitled:

- The Child Support (Miscellaneous Amendments) Regulations 2008; and
 - The Child Support (Consequential Provisions) Regulations 2008
- Are also due to be published in October 2008.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

Policy

7.1 Child Support legislation is focused around the general principle that all parents take financial responsibility for all of their children. Child maintenance is an amount of money that parents who do not normally live with the children concerned (referred to as “absent parent” in the old scheme and “non-resident parent” in the current scheme) pay as a contribution to the upkeep of their children (these are called “qualifying children”).

7.2 In the old scheme, a formula is used to work out how much child maintenance is payable by the absent parent. It takes into account the number and ages of the qualifying children. The ability of both parents to contribute towards child maintenance is calculated unless the parent with care (the main provider of day-to-day care of the qualifying children) is in receipt of benefit. Ability to pay is calculated by looking at the income available to parents after making allowances for their basic day-to-day expenses. Absent parents are normally expected to pay at least a minimum amount of maintenance for their children (currently £6.00 a week), but there are some exceptions, including those in receipt of certain sickness and disability benefits.

7.3 In the current scheme, the child maintenance calculation is based on a simple system of rates depending on the non-resident parent’s weekly net income or benefit status. The amount of child maintenance depends on:

- the number of qualifying children the child maintenance is for;
- the non-resident parent’s income and circumstances; and
- the number of other children living with the non-resident parent (these are called “relevant other children”).

In most cases the amount of maintenance is worked out as a percentage of the non-resident parent’s income – 15% for one qualifying child, 20% for two children and 25% for three or more children. For non-resident parents who do not earn very much or who are in receipt of certain benefits, the reduced rate or flat rate (usually £5 a week) is used. Some non-resident parents, such as students and those on benefit sharing the care of a qualifying child, may pay nothing.

7.4 The 1991 Act allows the Secretary of State to make a deduction from earnings order, whereby child support maintenance is collected direct from a non-resident parent’s earnings, without the need for a court order. This is usually in circumstances where the non-resident parent has failed to make payments or otherwise is refusing to co-operate with the Child Support Agency (“the Agency”). A deduction from earnings order may be made in respect of ongoing maintenance, arrears of maintenance, or both.

7.5 The 2008 Act establishes the Child Maintenance and Enforcement Commission (“the Commission”), a Non Departmental Public Body, which will assume responsibility for the delivery of the child maintenance system, including the functions currently exercised by the Agency (in particular, calculating, collecting and enforcing child maintenance liabilities).

7.6 The overall objective of the Commission is:

- To maximize the number of those children who live apart from one or both of their parents for whom effective maintenance arrangements are in place.

This main objective will be supported by two subsidiary objectives:

- To encourage and support the making and keeping by parents of appropriate voluntary maintenance arrangements, and
- To support the making of statutory maintenance arrangements, which includes ensuring that parents comply with their responsibilities.

7.7 The introduction of the Commission is a fundamental reform. The Commission will be led by an independent Board, operating at arm's length from Ministers.

7.8 The 2008 Act requires the Commission to develop services that deliver the best outcomes for children by focusing on maximising the number of effective child maintenance arrangements in place – which is the Commission's overarching objective. This objective, supported by other reforms being taken forward in the 2008 Act, including removing the link between the statutory maintenance service and the benefits system (by repealing Section 6 of the 1991 Act), which will enable and empower parents to decide whether a voluntary maintenance arrangement or the statutory maintenance service is best for them.

7.9 The Commission will be responsible for providing information and support to parents to help them decide the most effective type of arrangement for them. Alongside these new functions the Commission will also be required to provide a more effective statutory maintenance service when parents choose for the Commission to assess, collect and enforce payments instead of making a voluntary maintenance arrangement.

7.10 A date for the transfer of child support functions from the Department of Work and Pensions to the Commission has yet to be confirmed.

Regulations

The consolidation and rewrite

7.11 These draft regulations replace the Child Support (Information, Evidence and Disclosure) Regulations 1992 ("the IED Regulations"), which are made under various powers in the 1991 Act relating to the provision of information required for child support purposes and the disclosure of information held for those purposes. The IED Regulations have been much amended over the years. These regulations consolidate those amendments and includes some necessary simplification and restructuring.

7.12 The regulations also incorporate some further policy changes –

- the addition of gas and electricity providers to the list of organisations required to provide information to the Agency (where requested to do so); and
- a new requirement for the NRP to notify a change of address.

7.13 The main change from the IED Regulations is that the list of purposes for which information may be requested in regulation 3 has been replaced with provisions describing purposes in the same terms as the following powers in the 1991 Act:

sections 4(4) and 7(5) (provision for the applicant to be asked for information) and section 14 (provision for requiring other persons to provide information).

7.14 The current IED Regulations prescribe the persons from whom information can be sought and specify one or more specific purposes in relation to each (e.g. identification, trace, calculation and enforcement). This is quite cumbersome and not always consistent e.g. the non-resident parent's employer can be asked for information for the purposes of identification, trace, calculation, collection and enforcement, but a person for whom the non-resident parent provides services under a contract for services can only be asked for information for the purposes of identification or trace. The information that can currently be sought from the prison service is, under the IED Regulations, limited to trace, whereas the information that can be sought from local authorities covers the full range of purposes.

7.15 The new regulations, apart from one exception (see below) apply the general formulation to all categories of person. In most cases there is no appreciable widening of the obligation as a wide range of purposes has been already been specified.

7.16 The case where the current restriction is retained is in relation to persons denying parentage (regulation 5 of the draft). Currently such persons can only be asked to provide information for purposes of identification or determining jurisdiction. It is reasonable that a person's affairs are not investigated until that person is identified as the non-resident parent.

7.17 Another change is the omission of the list in regulation 3(2) IED Regulations prescribing particular information that can be requested. This is more suitable for guidance. The general requirement for information to be needed by the Agency for the relevant purposes should be sufficient protection against unjustified requests.

7.18 These regulations apply to equally to the old and current scheme.

The policy changes

7.19 Gas and electricity companies are included within the list of organisations required to provide the Agency with information about non-resident parents. These organisations will be required to provide information relevant to the collection and enforcement of child maintenance payments and to provide information necessary to facilitate prosecution of non-resident parents (in respect of Section 14A of the 1991 Act) where the non-resident parent has failed to provide the Agency with information.

7.20 Access to data held about individuals by these companies will only be sought where the Agency has been unable to obtain the required information via the other information sources available, e.g. the parent with care of the children, Departmental records, information held by Her Majesty's Revenue and Customs and credit reference agencies. Guidance to staff will reflect this and management checks will ensure that such guidance is adhered to.

7.21 In addition, the 2008 Act introduces Section 14A(3A) into the 1991 Act. This creates a criminal offence where the non-resident parent fails to notify the Agency of a change in address. These regulations introduce the requirement to report such a change, to which the criminal offence in the 1991 Act relates.

Consultation

7.22 The Department for Business Enterprise and Regulatory Reform, the Ministry of Justice, the Information Commissioner's Office and the organisations directly affected by the Information Regulations have been consulted on these amendments. The Agency is committed to working with all these parties to establish practical implementation once the regulations are in place.

Guidance

7.23 The Agency is developing a communication strategy to ensure that its clients are kept informed of the changes, which will include discussions with key stakeholders and amending relevant leaflets and web-based guidance when the changes are due to be brought into force.

Consolidation

7.24 The Law Relating to Child Support is available on the internet at <http://www.dwp.gov.uk/advisers/docs/lawvols/orangvol/> and is generally updated twice-yearly.

Commencement

7.25 Ministers have decided that these regulations should come into force on 27 October 2008 (rather than the common commencement date of 1 October) which will coincide with the repeal of Section 6 of the 1991 Act and will ensure that we have a common commencement date for these provisions.

7.26 Business has been alerted to the fact that these regulations will come into force on a non-commencement date (the relevant data protection and regulatory managers within the affected organisations have been made aware).

8. Impact

8.1 A full impact assessment of the effect that this instrument will have on business is annexed to this Explanatory Memorandum, and is also available alongside the instrument on the OPSI website

8.2 These regulations reduce public sector administration costs – details are set out within the attached impact assessment.

9. Contact

Paul Nash at the Child Support Agency, Caxton House (5th floor), Tothill Street, London, SW1H 9NA, telephone 020 7340 4059, or e-mail paul.nash2@dwp.gsi.gov.uk can answer any queries regarding this instrument.

Summary: Intervention & Options

Department /Agency: Child Support Agency (Department for Work and Pensions)	Title: Impact Assessment of the Child Support Information Regulations 2008	
Stage: Implementation	Version: Final	Date: 9 September 2008
Related Publications:		

Available to view or download at:

<http://www>.

Contact for enquiries: Paul Nash

Telephone: 0207 340 4059

What is the problem under consideration? Why is government intervention necessary?

Many non-resident parents fail to cooperate when they are asked to provide personal details necessary to calculate their child maintenance liability. The Child Support Agency is however able to take enforcement action in these circumstances; and where the Agency has failed to establish a dialogue with the non-resident parent, establishing a “financial link” between a non-resident parent and an address is important. Information held by gas and electricity companies can assist in this purpose. Furthermore, bank account details held by energy companies will enable the Agency to pursue enforcement in the county court, where the non-resident parent has failed to pay maintenance.

What are the policy objectives and the intended effects?

The primary policy objective is to assist the Child Support Agency in securing child maintenance for 40,000 more children, which equates to an additional £70m in child support maintenance collected, and to reduce the number of non-resident parents that avoid their child maintenance liabilities, by improving case compliance to 80%, by March 2009.

What policy options have been considered? Please justify any preferred option.

1. No intervention - continue using current provision to gather information by way of the Data Protection Act 1998 or an inspector visit to employers.
2. To add energy companies to the bodies required to provide the Agency with specific information about a non-resident parent on request.

Option 2 is the preferred option. Option 1 is relatively costly and of limited effectiveness.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

One year from the date of implementation.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Stephen C. TimmsDate: 26 September 2008

Summary: Analysis & Evidence

Policy Option: 2	Description: To add energy companies to the bodies required to provide CSA with specific information about a non-resident parent on request.
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Energy companies would have to bear the administrative cost of providing the Agency with the required information. This is however more than offset by not having to deal with a CSA inspector visit. There is also a cost to the CSA in terms of making the request for information.
	One-off (Transition)	Yrs	
	£ 0	1	
	Average Annual Cost (excluding one-off)		
£ 64,709		Total Cost (PV)	£ 64,709 (1 Year)
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' The Child Support Agency will benefit from reduced costs. Energy companies will benefit from reduced costs, as they will no longer have to deal with inspectorate visits.
	One-off	Yrs	
	£ 0	1	
	Average Annual Benefit (excluding one-off)		
£ 221,520		Total Benefit (PV)	£ 221,520 (1 Year)
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks
 This assumes that there will not be a significant rise in the number of criminal prosecutions and third party debt orders (county court enforcement). Key sensitivities surround ECHR and DPA compliance.

Price Base Year 2008	Time Period Years 1	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ 156,811
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What is the geographic coverage of the policy/option?	United Kingdom			
On what date will the policy be implemented?	27 th October 2008			
Which organisation(s) will enforce the policy?	Child Support Agency			
What is the total annual cost of enforcement for these organisations?	£ Negligible			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ n/a			
What is the value of changes in greenhouse gas emissions?	£ n/a			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ 23,400	Decrease of	£ 46,800
		Net Impact	£ - 23,400

Key: Annual costs and benefits: Constant Prices (Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Objectives

Tackling child poverty is a key priority for the Department for Work and Pensions (DWP), to meet the Government's targets of halving child poverty by 2010 and eradicating it completely by 2020 – this is set out within the Public Service Agreements.

The system administering child maintenance has a key role to play in achieving these goals. The Child Support Agency's Operational Improvement Plan, published in February 2006, sets targets for the Agency, in 2008/09, to help 40,000 more children to benefit from child support maintenance payments (750,000 currently benefit), which equates to an additional £70m in child support maintenance collected (£1 billion was collected in 2007/08), and to reduce the number of non-resident parents that avoid their child maintenance liabilities, by improving case compliance to 80%.

Amendments to the Child Support Agency's information gathering powers (contained within the Child Support Information Regulations 2008) will help to achieve this goal. The evidence base for this is set out below.

Background

Many non-resident parents seek to evade their responsibilities, and the total amount of outstanding money owed by non-resident parents in respect of their children is around £3.8bn. In many cases the Agency has difficulties gathering information to correctly establish the maintenance liability and recovering maintenance from non-resident parents that have not paid the maintenance due to support their children.

The Child Support Agency is usually able to trace non-resident parents via the parent with care of the child(ren), information held by the Department for Work and Pensions, Her Majesty's Revenue and Customs, credit reference agencies or the Driver and Vehicle Licensing Agency / Prison Service (where the parent with care provides the car registration information or indicates that the non-resident parent may be in prison).

Establishing a "financial link" between the non-resident parent and an address held is necessary before a prosecution – in accordance with Section 14A of the Child Support Act 1991 – should proceed where a non-resident parent has been traced but that person fails to provide information.

At present, this link is established via local authority confirmation that a non-resident parent is paying council tax at the address held.

This type of information is considered the most recognisable level of proof to a Criminal Court that a defendant would have been likely to have received requests for information from the Agency.

In addition, bank account details (most likely held by these organisations because the person pays by direct debit) could be used to facilitate third party debt orders (garnishee proceedings in the county court), and (in the future) deduction orders – essentially an administrative equivalent to existing county court action. The Child Support Agency would only take such forms of

enforcement where the non-resident parent has failed to pay child maintenance and it is not possible to take other forms of enforcement action, such as a Deduction from Earnings Order (where maintenance is taken directly from the non-resident parent's PAYE earnings).

Rationale for Government Intervention

The Government is committed to ensuring that parents fulfil their responsibilities towards their children, but some deliberately evade their responsibilities. It is in the best interests of the child for the Government to enforce the payment of child maintenance in the most efficient way that it can.

In seeking information necessary to facilitate enforcement action, it is estimated that 6600 requests for information are made to local authorities each year. Of these 20% will be successful and 80% not.

Where the Child Support Agency cannot establish a "financial link" to the non-resident parent's address via local authorities, it may make a request to energy companies under Section 29(3) of the Data Protection Act 1998. In the event that the Agency cannot collect information using this route, child support inspectors – invoking Section 15(4A)(c) of the Child Support Act 1991 – are able to gather the information directly. The Child Support Agency estimates 4800 such visits by inspectors each year to energy companies (based on the number of visits in the South East region and multiplied to produce a national average).

The Agency estimates that the number of requests under the amended regulations – which enables the Agency to make requests for information via administrative means – rather than by visit – will be the same.

The aim of the proposed policy is therefore to give the Child Support Agency access to energy company data via administrative means – whereas currently an inspector visit would be needed to gather this information. In effect, the same results would be achieved but cheaper and more efficiently. It would also save the organisations themselves time and effort in dealing with an inspector's visit i.e. they can simply fill in a form confirming whether the non-resident parent's name/ address details match their records – and that the most recent bill had been charged/ paid.

In seeking bank account information to facilitate an application for a third party debt order, the Agency would first seek data via credit reference agencies; but it estimates that credit reference agencies hold bank account information in only 70% of cases, i.e. where the account is linked to a credit application. The Agency therefore requires access to data held by energy companies to act as an alternative data source in these circumstances.

The Child Support Agency anticipates that the number of requests made for this additional data would be subsumed within the number of requests made for information relating to prosecution proceedings (4800 per year).

While we do not anticipate any increase in the 4,800 visits that we estimate inspectors currently make, the ability to request this information via administrative means (rather than via an inspector) will free up the Agency's resources and will enable it to concentrate relative scarce investigative resource into other areas.

Options Considered

1. Do nothing

In some circumstances the Agency is currently able to gather information via the Data Protection Act 1998 or, failing this, by use of an inspector exercising the powers under Section 15(4A)(c) of the Child Support Act 1991. The Agency could continue to use this power.

Advantages:

There would be no administrative changes for the Agency or for energy companies, therefore avoiding the need for implementation costs and familiarisation.

Disadvantages:

The practical limitations and relative costs (to the Agency and the holder of the premises inspected) of this approach limits its enforcement effectiveness.

Taking these factors into account, it is disproportionate to use inspectors on each occasion where the Agency would otherwise wish to exercise a power to request information directly from energy companies.

2. Add energy companies (suppliers of gas and electricity) to the bodies required to provide the Agency with specific information about a non-resident parent on request, for the purposes of taking enforcement action against non-resident parents that have failed to provide information, or pay child support maintenance.

Advantages:

Having this power available as an administrative function would release resources currently required to operate the system of inspection of premises, and would provide for more efficient enforcement processes:

- Prosecution: Energy companies could be required to provide the Agency with information confirming whether the non-resident parent's name/ address details match their records – and confirmation that the most recent bill had been charged/paid; and
- Enforcement: Establishing details of the non-resident parent's specific account information, could improve the Agency's ability to secure a Third Party Debt Order (and Deduction Orders – from April 2009).

The Child Support Information Regulations 2008 provide a ready mechanism for the Agency to require the provision of information.

The collection of data from energy companies is not without precedent. Section 109B(2A)(h) and (i) of the Social Security Administration Act 1992 allows an officer authorised by the Secretary of State to require the provision of information from gas and electricity companies for the purposes of investigating social security fraud.

There is an increased cost to the Agency, although the cost of this will be less than the current use of inspectors to gather such information.

Disadvantages:

This policy will impose administrative costs upon those energy companies that are required to provide the Agency with the information requested, although the Agency will aim to limit such costs – for example by providing pre-paid envelopes for responses or seeking the supply of information via phone or email, there will still be costs in terms of staff time.

[There of course the larger off-setting savings from not having to deal with inspectorate visits]

Analysis of Costs and Benefits/Impact on business – average annual cost

The cost and impact on business of these regulations has been estimated using the Standard Cost Model, which provides a simplified but consistent framework for assessing the administrative costs imposed by regulation on business. Costs have been estimated for a single year, at which point the policy will be reviewed.

Costs – formula used

Administrative cost = internal costs (£) + external costs (£)

Internal costs = Price (£) x Quantity + overheads (non-wage costs)

Price = tariff x time

Quantity = population x frequency

Overheads = (Price x Quantity) x 30%

Tariff is the hourly wage costs for activities carried out

Time is the amount of time required to complete the activity

Population is the number of businesses affected (the costs have been estimated for the sector as a whole)

Frequency is the number of times that an activity must be completed each year by a business

The information used within the calculation below represents an average of the cost details provided by the energy companies

Current Costs – per annum

Price	=	£15 * 0.50	=	£7.50
Quantity	=	4,800 x 1	=	4,800
Overheads	=	£36,000 x 30%	=	£10,800
Internal costs	=	£7.50 x 4,800 + £10,800	=	£46,800

Anticipated Costs – per annum

Price	=	£15 x 0.25	=	£3.75
Quantity	=	4,800 x 1	=	4,800
Overheads	=	£18,000 x 30%	=	£5,400
Internal costs	=	£3.75 x 4,800 + £5,400	=	£23,400

External costs – there are no external costs associated with these regulations

Administrative cost = £23,400

Over 1 year this represents a cost (at Present Value) of £23,400

Impact on the public sector

Powers to require energy companies to provide the Agency with specific information upon request would strengthen the Agency's ability to seek prosecution action (confirming a "financial link" to an address held by the Agency where the case reaches court) and enable greater use

enforcement powers (third party debt orders – leading to the administrative deduction order from April 2009).

There will also be a financial benefit as the administrative cost of the new procedure will be lower than the use of inspectors visits.

Please note that the tariff information within the “current cost” field (£14 per hour) reflects the fact that inspectors are more highly paid than Agency caseworkers.

Current Cost

Price	=	£14 x 2	=	£28
Quantity	=	4,800 x 1	=	4,800
Overheads	=	£134,400 x 30%	=	£40,320
Internal costs	=	£28 x 4,800 + £40,320	=	£174,720

Anticipated Cost

Price	=	£8.28 x 0.8	=	£6.62
Quantity	=	4,800 x 1	=	4,800
Overheads	=	£31,776 x 30%	=	£9,533
Internal costs	=	£6.62 x 4,800 + £9,533	=	£41,309

Potential Saving

£174,720 - £41,309 = **£133,411**

Over 1 year this represents a benefit (at Present Value) of £133,411

Risk, uncertainty and unintended consequences

The financial impact on the private sector is based on the assumption that the number of criminal prosecutions and use of third party debt orders remains steady, and as a consequence 4800 requests will be made to energy companies each year, on average. The increased focus on enforcement in the final year of the Agency’s Operational Improvement Plan may increase the number of these activities, which in turn could lead to a greater need for data. However, information to facilitate these actions is available from other sources and guidance to staff (enforced by management checks) will make clear that they should be used first.

Implementation

It is envisaged that, if the Agency had reason to believe that a particular energy company held information about a non-resident parent, it will be able to request the information in the same way that it currently does for employers, i.e. issuing a form to the company in question, highlighting the legal authority for making the request and specifying what information about the non-resident parent is needed. In practice it is likely to confirm the name and address of the non-resident parent and that the non-resident parent is receiving a bill for energy services at that address, and that the bill is being paid. It may also request further information, such as bank account numbers.

The Agency would ask the energy companies to return the form within seven working days, providing a pre-paid envelope or email address for this purpose (or alternatively negotiating a system using email or phone contact).

These arrangements would be subject to further consultation with the Energy Retail Association and its members; and will be kept under review to ensure that it remained effective for both the Agency and those responding to information requests.

Volumes

Prosecution - In seeking information necessary to facilitate a criminal prosecution, it is estimated that 6600 requests for information are made to local authorities each year, of these 20% will be successful and 80% not.

Where the Child Support Agency cannot establish a “financial link” to the non-resident parent’s address via local authorities, it may make a request to energy companies under Section 29(3) of the Data Protection Act 1998. In the event that the Agency cannot collect information using this route, child support inspectors – invoking Section 15(4A)(c) of the Child Support Act 1991 – are able to visit the premises of energy companies in order obtain the necessary information directly. The Child Support Agency estimates 4800 such visits by inspectors each year.

The Agency therefore estimates the same number of requests under the amended regulations – which enables the Agency to make requests for information via administrative means – rather than relying on visits by inspectors.

Enforcement - In seeking bank account information to facilitate an application for a third party debt order, the Agency would first seek data via credit reference agencies; but it estimates that credit reference agencies hold bank account information in only 70% of cases (because bank account data is normally only held by credit reference agencies where it is linked to a credit application). The Agency therefore requires access to data held by energy companies to act as an alternative data source in these circumstances.

The Child Support Agency anticipates that the number of requests made for this additional data would be subsumed within the number of requests made for information relating to prosecution proceedings (4800 per year in total).

Policy Enforcement

The Agency will be responsible for enforcing this policy. The proposed changes would place a legal obligation on energy companies to give the Agency information it requires. Under Section 14A(2) and (3) of the Child Support Act 1991 it is an offence for any person required to provide information to:

- Make a statement or representation which he or she knows to be false;
- Deliberately provide false information or allow others to provide it; or
- Fail to provide information when the Agency asks for it.

A person found guilty of an above offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale – currently £1,000.

Monitoring and review

The policy will be subject to regular monitoring (following implementation) in order to measure the numbers and costs involved against the estimates provided within the impact assessment. Furthermore, we will undertake a full review at the end of the first year and consider any adjustments to the new policy that may therefore be needed.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	No
Privacy	No	Yes

Annexes

Human Rights

There is a small risk of challenge under Article 8 of the European Convention on Human Rights (right to private and family life). However, we believe that the policy is justifiable in the wider public interest and the interests of the parent with care and qualifying children in ensuring that non-resident parents meet their financial obligations to their children.

Equalities Impact Assessment (Initial Screening)

Summary of Child Support (Miscellaneous Amendment) and Information Regulations 2008

1. The proposed regulations package is concerned with two broad areas of child support policy; disclosure of information and a number of technical amendments (contained in separate Statutory Instruments). The Child Support Agency (Agency) is now in the final year of its Operational Improvement Plan (2006-2009), which aims to improve the Agency's performance in getting money to children. These amendments are intended to support the Operational Improvement Plan strategy and the Child Maintenance and Other Payments Act 2008.
2. It is proposed that the following amendments should be made to existing child support regulations:

Information Regulations

- Energy companies (gas and electricity suppliers) should be included within the list of organisations required to provide the Agency with information about non-resident parents. Including these companies within the Information Regulations will allow the Agency to enhance enforcement activities and prosecute non-compliant non-resident parents for failing to provide information;
- The addition of a further form of information offence, to include the requirement of the non-resident parent to notify the Agency of a change of address.
- The Information Regulations have undergone a consolidation and rewrite – the list of organisations required to provide information (and for what purpose they can be contacted) should be simplified and redefined – although this does not amount to any expansion, over and above the changes proposed in the first bullet point. (In theory however the more general list of purposes for which information can be requested could be classed as an expansion – but in practice this would not be the case. While broader legal gateways to access information would exist – we would undertake a consultation exercise before making any actual changes). The redrafting of the Information Regulations will provide clarity and better understanding to support staff and those affected by the regulations;

Miscellaneous Amendment Regulations

- Maintenance calculation and special cases regulations should be amended in terms of the way in which bonus/ commission payments are treated. Amendments will ensure that the regulations reflect the original intent of the policy to include bonus and commission payments as earnings.

- An amendment to extend the categories of decision that can be revised, under Section 16 of the Child Support Act 1991, so as to include decisions not to make a maintenance calculation. This will allow correction of an erroneous decision without the need for an appeal.
- Collection and enforcement regulations should be amended to allow for a Deduction from Earnings Order to be applied more effectively where the non-resident parent has more than one employer. Amending the regulations will allow the Agency to maximise collection by apportioning the amount for multiple employers and provide the same level of flexibility across both child maintenance schemes.
- Collection and enforcement regulations should be further amended so that, from October 2008, non resident parents who have not already agreed a method of paying their child maintenance to the Agency can be offered the choice of either a direct debit or a Deduction from Earnings Order (DEO) as a basic method of payment. The change will not affect those non-resident parents who are able to agree to pay the parent with care (parent with care) directly through a maintenance direct arrangement or those who have their child maintenance deducted through their benefit.

Initially, the non-resident parent will have the choice of paying maintenance via a direct debit or DEO. Where the Agency is satisfied that payments cannot be made by direct debit the non-resident parent will be asked to choose a DEO. If the non-resident parent makes representations that there is good reason for a DEO not to be used the Agency will need to consider this before issuing a DEO. There will also be a right of appeal to a Magistrates' court or the Sheriff in Scotland (the DEO will not be made until all appeal rights/ time limits have expired).

- The Child Support (Maintenance Calculation Procedure) Regulations 2000 and the Child Support (Maintenance Assessment Procedure regulations 1992 should be amended to allow the alignment of the maintenance period of an old application with that of a new application against the same non resident parent.

As a result of the repeal of section 6 of the Child Support Act 1991 (which removed the compulsion for parents with care on benefit to use the Agency to make a maintenance arrangement), all applications will be made on a voluntary basis. This allows parents to make an independent arrangement without applying to the Agency, or where they are unable to reach agreement, either parent can make an application to the Agency under section 4 of the 1991 Act. We anticipate that there will be a higher incidence of repeat applications under these new arrangements in cases where maintenance is not paid under a private arrangement.

This will ensure that there is consistency in the days included in the maintenance period for the non resident parent regardless of the number of applications that are made.

Number of people affected

3. The current Child Support Agency caseload is 1,361,900 (correct at March 2008). Non-resident parents – to whom the amended regulations mainly relate – are in the majority men (94%). These figures are available to the Child Support Agency via existing

management information.

4. 89% of non-resident parents are of white ethnic origin. 25% of non-resident parents have a long-standing illness or disability, i.e. a condition lasting longer than 12 months. These figures have been obtained from the “Relationship Separation and Child Support Study”, published this year.
5. The total number of cases in which these proposals may actually be applied is likely to be significantly smaller than the overall caseload. In terms of the amendments to the Information Regulations; we estimate making (each year) 4800 requests for information to energy companies. This is based on current use of inspectors’ powers.
6. We cannot quantify the number of cases where the more technical amendments to regulations would have an effect, but they will only apply in very specific instances and are being introduced to improve the administration of the child maintenance system.
7. The much greater impact on men is a direct consequence of more fathers living apart from their children than mothers – this is reflected in the Agency’s overall caseload. We do not have any information to suggest that ethnic minority or disabled clients will be disproportionately affected.

Scale and cost

8. There are no significant public sector cost implications to the proposed amendments (an overall saving is expected in terms of the information regulations); and of the relatively minor costs associated (technical amendments to customer leaflets, business procedures etc) there is no evidence to suggest that there will be any disproportionate impact on gender, race or disability.

Profile

9. The proposed regulations attract the negative Parliamentary procedure; i.e. they are extremely unlikely to be the subject of debate or vote. Although customer forms require technical amendments, and child support special interest groups – such as One Parent Families and Gingerbread – will be alerted to the regulations (when they are published) we have no plans for detailed consultation/ communication beyond this and the Regulatory and Privacy Impact Assessments – since there is no significant change of policy being proposed. We would therefore judge the potential for adverse media coverage to be very limited.

Overall impact on people

10. The proposed changes to the Information Regulations do, in theory, represent a level of intrusion into the non-resident parent’s privacy. However, they will only be utilised where it is necessary and proportionate to do so, i.e. information held by the further organisations (that we propose should be included within the regulations) and ensuring that the non-resident parent informs the agency of a change of address, will aid the Child Support Agency in the implementation of its statutory functions.
11. It should be noted that there is no evidence to suggest that there will be any disproportionate impact on gender, race or disability – all non-resident parents may be affected by the proposed changes to the disclosure regulations.

Conclusion

12. These proposals are comprised of a consolidation of the information regulations and minor and technical amendments to other areas of secondary legislation, there is no evidence to support a disproportionate impact on ethnic minority or disabled groups; and we contend that the high impact on men is a direct consequence of the make up of the Child Support Agency's overall caseload and is therefore justifiable.
13. Based on the outcome of the initial screening, we do not consider it necessary to carry out a full impact assessment at this time. We will keep this under review and may proceed to the full impact assessment as the various regulations are implemented.

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Privacy Impact Assessment: Small Scale

Child Support Information Regulations 2008

Overview

- 1.1 Section 14 of the Child Support Act 1991 enables the Secretary of State to prescribe, in regulations, persons and organisations required to provide information for purposes relating to the administration of child support. A Privacy Impact Assessment (small scale) is needed in order to gauge the impact of amending these regulations. **See Annex A for details of the "initial screening" exercise.**
- 1.2 As part of a more general re-write (with the aim of streamlining and simplifying legislation), we are intending to repeal the Child Support (Information, Evidence and Disclosure) Regulations 1992 (SI 1992/ 1812) – which, amongst other functions, made provision for the disclosure of information to the Child Support Agency (Agency) by outside bodies – and establish the Child Maintenance Information Regulations 2008.
- 1.3 These new regulations will place a statutory duty on gas and electricity companies to provide information, about their clients, to the Agency for the purposes of recovering previously unpaid child maintenance and prosecuting those non-resident parents (NRP) that fail to co-operate. The previous regulations contained no provision for the disclosure of information from these organisations. **See Annex B for a more detailed description.**
- 1.4 It should be noted that, in accordance with Section 15(4A)(c) of the Child Support Act 1991, a child support inspector may visit any company or organisation (where we have reason to suggest that the company in question provides services to the NRP) in order to obtain any information for any purpose under the Child Support Act 1991.

Privacy Issues

- 2.1 Article 8 of the European Convention on Human Rights (right to private and family life) is engaged by the intended regulations. In accordance with the new regulations, the following information, about the NRP, is likely to be requested from the above named organisations:

- Confirmation that the NRP's name and address matches the Agency's records;
 - Evidence that the NRP has been charged for services at the address held, and that payment has subsequently been made (the Agency does not need an actual copy of the bill – just written confirmation from the service provider); and
 - Details relating to the NRP's bank account, i.e. branch name, sort code and account number. (We will not require any details relating to income or salary – the account information will be validated with the bank or building society correctly, prior applying to court for a third party debt order, for example).
- 2.2 The information required is intrusive in nature, but personal financial information, about the NRP, is necessary for the calculation, collection and enforcement of child maintenance payments. The NRP is legally required to provide earnings relating to his or her employment, household etc and to pay child maintenance (and provide the Agency with any information necessary in order to collect payment). The NRP's confidentiality will only be breached, i.e. a request for information made to a third party, in the event that the NRP fails to disclose information to the Agency voluntarily and/ or fails to pay child maintenance.
- 2.3 Information about the NRP will be held on relevant customer records which would be accessible to Agency staff as and when specific action needs to be taken. Inability to confirm that the information supplied is correct will result in its removal from all records.
- 2.4 In addition, a number of security procedures are in place in terms of data processing:
- all staff receive security awareness training;
 - physical files are held securely;
 - system access controls and audit trails exist to monitor use of the computer system on which these records will be held (where validated); and
 - those computer systems comply with the Department for Work and Pensions' Information Systems Security Standards (ISSS).
- 2.5 The Agency will continue to consult with the organisations directly affected by the intended change to regulations, the relevant Govt Departments and the Information Commissioner's Office – **see Annex C**. The Agency considers that all relevant concerns will be identified by this route. We do not therefore consider a full, public consultation to be necessary; and the relevant primary power – Section 14 of the Child Support Act 1991 – is already in existence and Parliament has given its approval to the Secretary of State making regulations requiring organisations to provide information to the Agency, to aid in the implementation of its statutory objectives.

Business Case

- 3.1 Tackling child poverty is a key priority for the Department for Work and Pensions (DWP), which is in the frontline in efforts to meet the Government's targets of halving child poverty by 2010 and ending it completely by 2020 – this is set out within the Public Service Agreements.
- 3.2 The system administering child maintenance has a key role to play in achieving these goals. The Child Maintenance and Other Payments Act 2008 (which received Royal Assent in June) establishes the Child Maintenance and Enforcement Commission (the Commission), a Non Departmental Public Body (NDPB), which will take on responsibility for the delivery of the child maintenance system, including the functions currently exercised by the Child Support Agency (in particular, calculating, collecting and enforcing child maintenance liabilities) in the near future.

- 3.3 The Commission will be required to focus on maximising the number of effective child maintenance arrangements in place – which is the Commission’s overarching objective. This objective, supported by other reforms being taken forward in the 2008 Act, including removing the link between the statutory maintenance service and the benefits system, will enable and empower parents to decide whether a voluntary maintenance arrangement or the statutory maintenance service is best for them. Alongside these new functions the Commission will also be required to provide a more effective statutory maintenance service when parents choose for the Commission to assess, collect and enforce payments instead of making a voluntary maintenance arrangement.
- 3.4 In addition, the Agency’s Operational Improvement Plan, published in February 2006, sets targets for the Agency, during 2008/09, to help 40,000 more children to benefit from child support maintenance payments (750,000 currently benefit), which equates to an additional £70m in child support maintenance collected in this financial year (£1 billion was collected in 2007/08), and to reduce the number of non-resident parents that avoid their child maintenance liabilities, by improving case compliance to 80%.
- 3.5 Amendments to the Child Support Agency’s information gathering powers (contained within the Child Maintenance Information Regulations 2008) could help to achieve this goal:
- 3.6 Many NRPs seek to evade their responsibilities, and the total amount of outstanding money owed by NRPs in respect of their children is around £3.8bn. In many cases the Agency has difficulties gathering information to correctly establish the maintenance liability and recovering maintenance from NRPs that have not paid the maintenance due to support their children.
- 3.7 The Agency is usually able to trace non-resident parents via the parent with care of the child(ren), information held by the DWP, Her Majesty’s Revenue and Customs, credit reference agencies or the Driver and Vehicle Licensing Agency / Prison Service (where the parent with care provides the car registration information or indicates that the non-resident parent may be in prison). The legal gateway for the supply of this information is set out within the current information, evidence and disclosure regulations; and Schedule 2 to the Child Support Act 1991.
- 3.8 It is where the Agency has traced the NRP, but that person fails to provide information and a prosecution – in accordance with Section 14A of the Child Support Act 1991 is appropriate – the Agency must establish a “financial link” between the NRP and the address held before a case can go to court. This is seen by solicitors as the most legally acceptable argument where the Agency has failed to establish a dialogue with the NRP.
- 3.9 At present, this confirmation is established via the local authorities (confirmation that the NRP is paying council tax at the address held).
- 3.10 This type of information is considered the most recognisable level of proof to a Magistrates’ Court that a defendant would have been likely to have received our requests for information. In most cases, this prevents the NRP from claiming that he or she did not reside at the address held by the Agency or did not receive correspondence.
- 3.11 In addition, bank account details (most likely held by these organisations because the person pays by direct debit) could be used to facilitate third party debt orders (garnishee proceedings in the county court), and (in the future) deduction orders – essentially an administrative equivalent to existing county court action. Where the Agency asks the court to impose a third party debt order, it needs financial information about the NRP (bank account details and confirmation that he or she has the funds available).

- 3.12 The Agency would only take such action where the NRP has failed to pay child maintenance and it is not possible to take other forms of enforcement, such as a Deduction from Earnings Order (where maintenance is taken directly from the non-resident parent's PAYE earnings). [The Deduction from Earnings Order can be imposed administratively, i.e. without court involvement. The third party debt order is a court-based process, albeit that orders can be made in the NRP's absence]
- 3.13 In seeking information necessary to facilitate a criminal prosecution, it is estimated that 6600 requests for information are made to local authorities each year, of these 20% will be successful and 80% not. There are various reasons that local authorities would not hold the required information about the NRP, e.g. he or she is not the council tax payer at the address held, or local authority records are not up to date (the NRP may frequently change address).
- 3.14 Where the Agency cannot establish a "financial link" to the NRP's address via local authorities, it may make a request to energy companies under Section 29(3) of the Data Protection Act 1998. In the event that the Agency cannot collect information using this route, child support inspectors – invoking Section 15(4A)(c) of the Child Support Act 1991 – are able to gather the information directly. The Agency estimates 4800 such requests by inspectors each year to energy companies.
- 3.15 The Agency therefore estimates the same number of requests under the amended regulations – which enables the Agency to make requests for information via administrative means, rather than relying on the Data Protection Act or inspectors.
- 3.16 The primary aim of the policy is to widen the Agency's information gathering powers to further enhance performance; via robust use of criminal prosecution and enforcement powers. Under the amended regulations, the Agency will secure access to energy company data via administratively, i.e. a written or emailed request for information citing the legal authority within the amended regulations, whereas as inspector would be needed to gather this information currently (by visiting the premises of the company in question) in the event that information cannot be requested via the Data Protection Act). In effect, the same results would be achieved but cheaper and more efficiently. It would also save the organisations themselves time and effort in dealing with an inspector's request, i.e. they can simply fill in a form confirming whether the non-resident parent's name/ address details match their records – and that the most recent bill had been charged/ paid.
- 3.17 In seeking bank account information to facilitate an application for a third party debt order, the Agency would first seek data via credit reference agencies; but it estimates that credit reference agencies hold bank account information in only 70% of cases, i.e. where the account is linked to a credit application. The Agency therefore requires access to data held by energy companies to act as an alternative data source in these circumstances.
- 3.18 The Agency anticipates that the number of requests made for this additional data would be subsumed within the number of requests made for information relating to prosecution proceedings (4800 per year to energy companies). This number of requests must be put into the context of the Agency's overall caseload of 1.3 million, i.e. in only 0.37% of cases is the Agency likely to seek data from these sources.

Alternatives Considered

4.1 **Do nothing.**

- 4.2 In some circumstances the Agency is currently able to gather information via the Data Protection Act 1998, or failing this, by use of an inspector, exercising the powers under Section 15(4A)(c) of the Child Support Act 1991. The Agency could continue to use this power.
- 4.3 **Advantages:**
- 4.4 There would be no administrative changes for the Agency or for energy companies, therefore avoiding the need for implementation costs and training.
- 4.5 **Disadvantages:**
- 4.6 The effectiveness of this approach is limited because (where information is not supplied under the Data Protection Act) it requires an inspector to become involved, which is costly, time consuming and not always successful.
- 4.7 The practical limitations and relative costs (to the Agency and the holder of the premises inspected) of this approach would prohibit its use and effectiveness in ensuring that criminal prosecutions (in accordance with Section 14A of the Child Support Act) can be sought and/ or third party debt orders imposed swiftly, via the county courts.
- 4.8 Taking these factors into account, it is disproportionate to use inspectors on each occasion where the Agency would otherwise wish to exercise a power to request information directly from energy companies.
- 4.9 **Add energy companies (suppliers of gas and electricity) to the bodies required to provide the Agency with specific information about a NRP on request, for the purposes of prosecuting NRPs that have failed to provide information, or for the enforcement of the NRP's liability for child support maintenance.**
- 4.10 **Advantages**
- 4.11 Having this power available as an administrative function would release resources and expenditure currently required to operate the system of inspection of premises, and support the prosecution and enforcement processes:
- Prosecution: Energy companies could be required to provide the Agency with information confirming whether the non-resident parent's name/ address details match their records – and confirmation that the most recent bill had been charged/ paid; and
 - Enforcement: Establishing details of the non-resident parent's specific account information, could improve the Agency's ability to secure a Third Party Debt Order (and Deduction Orders – from spring 2009).
- 4.12 The Child Support Information Regulations 2008 provide a ready mechanism for the Agency to require the provision of information.
- 4.13 The collection of data from energy companies is not without precedent. Section 109B(2A)(h) and (i) of the Social Security Administration Act 1992 allows an officer authorised by the Secretary of State to require the provision of information from gas and electricity companies for the purposes of investigating social security fraud.
- 4.14 **Disadvantages:**

- 4.15 This policy will impose administrative costs upon those energy companies that are required to provide the Agency with the information requested, although the Agency will aim to reduce such costs – for example by providing pre-paid envelopes for responses or negotiating the supply of information via email – there will still be costs in terms of staff time. There may also be a one-off cost of introducing the new procedure e.g. training.
- 4.16 This will also apply to the Agency, although it is expected that the cost of this will be less than the current use of inspectors to gather such information (where it is not possible to collect information via the Data Protection Act).
- 4.17 [Non legislative options have not been considered – other than in relying on existing legal gateways; see paragraphs 4.1 to 4.8]
- 4.18 **Conclusion**
- 4.19 Our preferred option is to introduce new regulations. Maintaining the status quo (use of inspectors where data protection requests not complied with) is costly and not always successful.

Risks to Privacy and Mitigation

- 5.1 There is a small but significant risk to privacy by enabling the disclosure of customer data by energy companies, to the Agency, in accordance with our preferred option. These risks could materialise in the event that data about the wrong customer was requested by the Agency, or that customer data was disclosed to a third party without authorisation. There are a number of systems in place to minimise such risks:
- Strict procedural guidance will make clear to staff in what instance information from energy companies should be obtained;
 - A management checking regime will ensure that this is enforced;
 - We will agree a secure method of obtaining the information with energy companies themselves;
 - Information received will be checked for accuracy before it is recorded on the Agency's computer system;
 - It is a criminal offence, under Section 50 of the Child Support Act 1991, for any member of the Agency or Commission's staff to unlawfully disclose data to a third party; and
 - Other security procedures are in place (see paragraph 2.4).

Human Rights

- 6.1 Further to the information set out in paragraphs 2.1 to 2.5, there is a small risk of challenge under Article 8 of the European Convention on Human Rights (right to private and family life). However, we believe that the policy is justifiable in the wider public interest and the interests of the parent with care and qualifying children in ensuring that non-resident parents meet their financial obligations to their children.

Design Features

- 7.1 The primary task is to establish the enabling regulations (the legal gateway to the information we are seeking). We will work with the organisations affected at the implementation stage to ensure that requests for information are made only where it is necessary to do, that the minimum amount of information (necessary to support the Agency's statutory objectives) are disclosed and that the relevant security procedures are in place to ensure the safe transfer of data (see paragraph 2.4). It is intended that

strict guidance to staff and a robust management checking regime will ensure that these commitments are adhered to (we will investigate whether audit reports can be maintained in this respect).

Public Acceptability

- 8.1 The proposed regulations attract the negative Parliamentary procedure; i.e. they are extremely unlikely to be the subject of debate or vote. Although customer forms require technical amendments, and child support special interest groups – such as One Parent Families and Gingerbread – will be alerted to the regulations (upon publication) we have no plans for detailed consultation/ communication beyond this and the Regulatory Impact Assessment – since there is no significant change of policy being proposed.

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Annex A: Initial Screening

(1) Does the project involve new or inherently privacy-invasive technologies?

No new technologies are required (evasive or otherwise).

(2) Is the justification for the new data-handling unclear or unpublished?

The justification for the new data handling is described below. This has not yet been published; however as it involves a legislative change it will be subject to parliamentary scrutiny.

In summary; we intend to gain access to some client data from utility companies (gas/electric), to enable the Child Support Agency to improve its performance where carrying out statutory functions.

Improving enforcement action is fundamental to the Child Support Agency and its aim to increase the number of children receiving child maintenance. The Secretary of State has set a target of an additional 40,000 children to be in receipt of child maintenance by the end of March 2009 (this equates to an additional £70 million in maintenance collected). Improving the performance of the Child Support Agency is also key to the Government's commitment to half child poverty by 2010 and eradicate it completely by 2020 – this is PSA target 9.

Furthermore, in some instances, a non-compliant non-resident parent will fail to disclose information relevant to the maintenance application. This is a criminal offence, and where this happens, the Child Support Agency may undertake prosecution action in accordance with Section 14A of the Child Support Act 1991. In these circumstances, information from energy companies would be considered the most recognisable level of proof to a Magistrates' Court that a defendant would have been likely to have received our requests for information. Prosecuting non-resident parent's that fail to provide information is intended to bring about compliance.

It is intended that changes within the Information Regulations 2008 will allow the Agency to request information without relying on Section 29(3)(b) of the Data Protection Act 1998 (apprehension or prosecution of offenders) – disclosure in these cases is entirely voluntary – or the subsequent need for child support inspectors (acting in accordance with Section 15(4A)(C) of the Child Support Act 1991) to visit the premises of these organisations in order to obtain the information.

(3) Does the project involve an additional use of an existing identifier?

Yes – we will be using identity details already held in order to obtain information from the utility companies etc.

(4) Does the project involve use of a new identifier for multiple purposes?

Yes – The information obtained from the energy companies etc constitutes an additional identifier, which could be used for any of the purposes described in response to question 6.

(5) Does the project involve new or substantially changed identity authentication requirements that may be intrusive or onerous?

No.

(6) Will the project result in the handling of a significant amount of new data about each person, or significant change in existing data-holdings?

Yes, we will require access to some data held by energy companies to confirm the address of a non-resident parent, where a household bill is being issued. In addition, we will seek access to bank account details of those non-resident parents to facilitate county court enforcement proceedings (Third Party Debt Orders). Bank details that are not currently held by the Agency can be perceived as new data.

(7) Will the project result in the handling of new data about a significant number of people, or a significant change in the population coverage?

The Child Support Agency already holds data on about a significant number of individuals to enable it to fulfil its statutory functions; In terms of requesting information from organisations for prosecution purposes, no new data will be disclosed – it is more a case of seeking to confirm that the address information already held can be supported by evidence from a third party. New data will however be requested in the form of bank account details necessary to support county court enforcement proceedings. We estimate the following number of requests each year to the organisations affected by the new regulations: 4800 requests to energy companies.

(8) Does the project involve new linkage of personal data with data in other collections, or significant change in data linkages?

Data received will be held and contained as current, according to the Department for Work and Pensions (DWP) processes and policies for data retention. All data will be managed in accordance with the Data Protection Act 1998 and will not disclose externally unless the law permit us to do so.

(9) Does the project involve new or changed data collection policies or practices that may be unclear or intrusive?

We feel that the policy objective (described in the answer to question 2) is clear. We are yet to devise practical procedures for collecting the required information but we will develop clear and workable solutions with colleagues and the organisations involved (energy companies) which keep intrusiveness to the necessary minimum.

(10) Does the project involve new or changed data quality assurance processes and standards that may be unclear or unsatisfactory?

No. It is intended that this will be in keeping with DWP policies and practices.

(11) Does the project involve new or changed data security arrangements that may be unclear or unsatisfactory?

As per response at Question 10.

12) Does the project involve new or changed data access or disclosure arrangements that may be unclear or permissive?

As per response at Question 10.

(13) Does the project involve new or changed data retention arrangements that may be unclear or extensive?

As per response at Question 10.

(14) Does the project involve changing the medium of disclosure for publicly available information in such a way that the data becomes more readily accessible than before?

As per response at Question 10.

15) Will the project give rise to new or changed data-handling that is in any way exempt from legislative privacy protections?

No – there are no data protection exemptions within the proposed regulations.

Data will be contained within its original format, in accordance with wider DWP policies and used for the reasons set out in question 2.

Additional Information

We have set out the Child Support Agency's fair processing statement, which makes individuals aware that the Agency may request information about them from third parties:

CSA Fair Processing Statement:

The Department for Work and Pensions collects information for social security, child support, vaccine damage and Veterans Agency (previously War Pensions Agency) purposes. The information we collect about you will depend on the nature of your business with us, but may be used for the Department's purposes.

We may check information provided by you, or information about you provided by a third party, with any information held by us. We may also get the information about you from third parties, or give information to them, to check the accuracy of information; to prevent or detect crime; or to protect public funds in other ways, as permitted by law.

These third parties include other government departments and Local Authorities.

We will not disclose information about you to anyone outside the Department for Work and Pensions unless the law permits us to.

Department for Work and Pensions is the Data Controller for the purposes of the Data Protection Act. If you want to know more about the information we have about you, or the way we use your information, you can ask any Department for Work and Pensions office.

Under Child Support law it is a criminal offence if, when asked, you fail to provide information or knowingly provide wrong information. If a court finds you guilty of such an offence you can be fined up to £1000.

Annex B: Consultation

The intended regulations have been discussed with the:

- Information Commissioner's Office;
- Ministry of Justice;
- Department for Business Enterprise and Regulatory Reform; and the
- Energy Retail Association (including member companies).

Appendix C: Data Protection Act 1998

The intended regulations do not contravene the terms of the Data Protection Act. The regulations establish a legal gateway for the supply of information to the Child Support Agency. Section 35(1) of the Data Protection Act overrides non-disclosure provisions where there is express legal authority for the supply of the information.