

[LETTER TEMPLATE TO BE PROVIDED BY PRIVATE OFFICE]

Private Members' Bill: "Child Maintenance (Assessment of Parents' Income) Bill 2017-19

The above named Private Members' Bill was introduced by Heidi Allen MP on 28 November 2017 and is currently listed for a second reading on 27 April 2018, having previously been listed for 23 February. I wrote to the Parliamentary Business and Legislation Committee on XX to inform you that it was the Government's intention to oppose the bill.

At that point the full text of the Bill had not been released. Having now had the opportunity to read the Bill in full, and meet with Heidi Allen, I am satisfied we are already taking steps to tackle the issues that the main provisions of this bill seeks to address.

At its core the Bill seeks to introduce provisions that allow for unearned income to be included as part of the standard child maintenance calculation, as well as ensuring that any income derived from an asset can also be considered. This is to prevent a small, but determined, group of Paying Parents from evading their responsibilities.

We have already recognised the need to improve how we calculate maintenance for clients with non-standard income. In our recent consultation on Compliance and Arrears in the Child Maintenance Service we proposed to:

- Bring notional income from assets like coins and gold, income derived from capital and any foreign income into the scope of the maintenance calculation.
- Allow for the paying parents' unearned as well as earned income to be included in the initial calculation, when we are advised about possible unearned income at the point of application. Currently we make the initial calculation on earned income information only. This is because the system has been designed for the majority of people who only have one stream of income. We also propose to amend the information we give receiving parents when they make their application.
- Increase the number of staff in the Financial Investigations Unit (FIU) so we have increased capacity to look into complex cases and ensure that maintenance is not being evaded. The FIU has powers to ensure the maintenance calculation accurately reflects a parent's circumstances and ability to pay. Where it is clear that parents are deliberately hiding their income, we can use our existing powers to prosecute them.

The consultation closed on the 8 February and we are currently considering the responses received. We will be publishing our response shortly.

When I met with Heidi Allen I highlighted that while the Government shared the concerns that lead to the introduction of this Bill, it included clauses that we did not intend to replicate. I was grateful for the opportunity to discuss these with my Honourable friend and would like to briefly summarise the Government's position for the benefit of the Committee.

The Bill seeks to reintroduce variations to the calculation because the lifestyle of the paying parent appears inconsistent with their earnings. We deliberately chose to not to make this a feature of the Child Maintenance Service. This variation was part of the Child Support Agency scheme, and was found to be ineffective. In many cases the lifestyle of the paying parent was supported by debt rather than income and many other such applications were unsuccessful due to insufficient information. We have no plans to reintroduce this approach as it rarely led to an increase in the calculation, and was very resource intensive to administer.

The Bill also seeks to abolish the '12 month rule' which allows paying parents to end court-agreed maintenance payments after 12 months by applying to the Child Maintenance Service. We do not believe this is necessary; the current rule achieves the best balance between allowing existing arrangements to run without limiting a parent's right to make a change, as we believe parents are best placed to make a decision about their child maintenance arrangements. Applying to the Child Maintenance Service includes a conversation with Child Maintenance Options, offering free and impartial advice on a range of possible arrangements, including one which is family based. Where an application is made, liability can be calculated on the most up to date information available from HMRC. This includes anything which may have changed since the court order arrangement was set. In addition it is possible to make an application to the court for an additional 'top up order' in the case of very high earners, an important additional layer of protection.

The draft Bill would require that the Secretary of State present a report on the effectiveness of the Financial Investigations Unit to Parliament. We agree, given the critical role of the Financial Investigations Unit (FIU) in tackling complex cases, that we should be ensuring an account of our activities is widely available. That is why we have recently published new data on the work of the FIU.

This shows that referrals to the FIU have been steadily increasing, with 1550 cases referred between October and December 2017 of which 1225 relate to cases with complex earnings. We will continue to publish this information quarterly as part of our regular statistical publications.

Finally there is a clause which would commence an existing powers to allow disclosure to the Child Maintenance Service of financial information obtained by the court in family proceedings. The CMS can already obtain a wide range of regularly updated information from Her Majesty's Revenue and Customs, and are already proposing additional means of securing relevant information to inform child maintenance calculations. Alongside this we are continuing to increase the number of referrals to our specially trained FIU staff. I believe that this dual approach will make a real difference in complex cases. When I met with Heidi Allen I emphasised that it remains open to us to commence these powers in future should there be a need.

I am copying this letter for information to other members of the PBL, the Prime Minister, First Parliamentary Counsel and Secretaries to the PBL Council.

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Kit Malthouse MP
Minister for Family Support, Housing and Child Maintenance