

Offences relating to Information

A briefing by **Families Need Fathers, Resolution, The Centre for Separated Families, Jewish Unity for Multiple Parenting** and **Mothers Apart from their Children** on Clause 45 of the Welfare Reform Bill



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WELFARE REFORM BILL: OFFENCES RELATING TO INFORMATION

Signed by;

- Families Need Fathers
- Resolution
- The Centre for Separated Families
- Jewish Unity for Multiple Parenting
- Mothers Apart from their Children

SUGGESTED AMENDMENT

Delete Clause 45 (p 49, line 32 – p 50, line 10),

KEY POINTS

Clause 45:

- Is drafted far too widely;
- criminalises the failure to provide information inappropriately;
- and is unnecessary, given the existing powers of the Child Maintenance and Enforcement Commission (CMEC)

Background

1. Section 14A(3A) of the Child Support Act 1991 (c. 48) simply provided that the Secretary of State may by regulations make provision authorising the disclosure by him or by child support officers, in such circumstances **as may be prescribed**, of such information held by them for purposes of this Act as may be prescribed. The Government's proposed amendment would make the failure by either parent to inform CMEC of a change of address, or any other change of circumstances, into a criminal offence.
2. The reference to 'any other change of circumstances' covers every eventuality. How is the individual concerned to judge whether some change in circumstances should be reported to CMEC? Even if spelt out in Regulations and guidance, it would be unreasonable to expect a member of the general public to know when a change should or should not be reported to CMEC. It is appreciated that regulations may provide some guidance as to the circumstances in which an offence is committed. However, there are considerable concerns that simply providing that a person should report 'any other change of circumstances' is extremely wide. It could lead to the position where a member of the general public unwittingly commits an offence.

3. Additionally, this proposed addition to the 1991 Act is surprising, when it has been made clear that the Commission wishes to streamline its future caseload by restricting other change of circumstances reviews, for example, if the White Paper proposal is followed, by only varying payments where income has altered by 25% or more. Under these proposals, whilst it would seem to be the case, on present plans, that the non resident parent will be unable to have a calculation reconsidered unless there is a considerable income change, the parent will still be under a duty to report all change of circumstances, presumably including small income changes. This would make nonsense of the provision. The workload that would be produced as a result of this addition will be so extensive, the Commission will be prevented from being able to deal with their caseload effectively.
4. Child support is a highly sensitive subject, intertwined all too often with wider difficulties between estranged parents. To seek to criminalise one parent would not be in the best interests of the child, or be likely to increase either parent's cooperation with CMEC.
5. The Department has provided no evidence that these additional sanctions are needed. The Child Maintenance and Other Payments Act 2008 gave CMEC an impressive range of sanctions to use against non-payers, ranging from the confiscation of driving licences and travel documents (with the court's consent) through detachment of earnings to imposing curfews (again, with the court's consent). As such, it is not entirely clear what it is this additional provision would achieve, except for an increased administrative workload, which would defeat one of the main objectives of the Commission, namely to provide an effective and swift assessment process.
6. In defending the provision at Commons Committee Stage, the Minister promised wide consultations and said the Government's intention was only to cover a narrow range of information that the Commission deemed important to its work. This promise is welcome, but it would still be better if the Government proposed an amendment that was much more precise, with a power to make secondary legislation if it proved too restrictive.