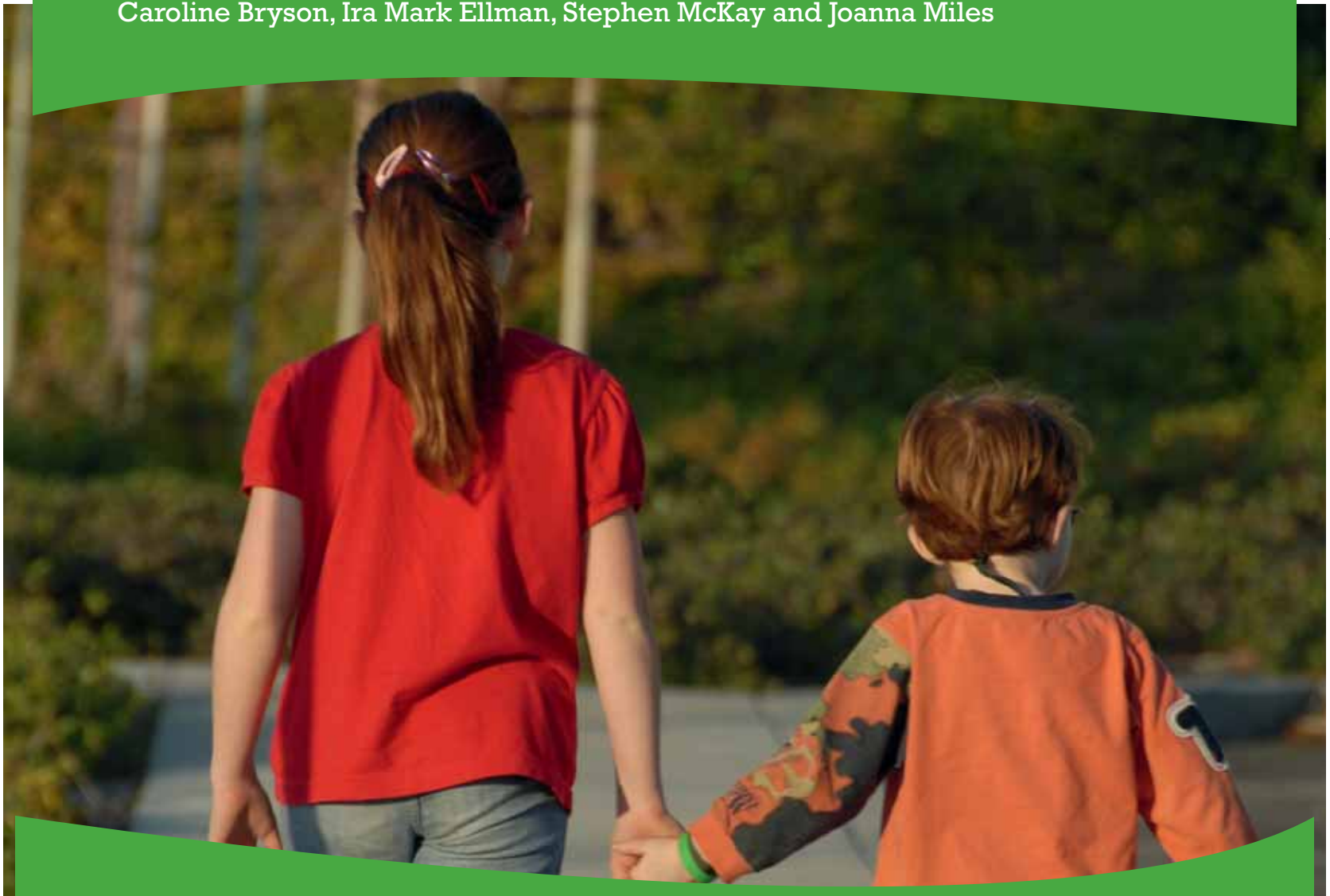


# Child maintenance: how would the British public calculate what the State should require parents to pay?

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[www.nuffieldfoundation.org](http://www.nuffieldfoundation.org)

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#### About the Nuffield Foundation

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## Foreword from the Nuffield Foundation

In 2011 we awarded a grant to the authors of this report to undertake a study of public attitudes towards child maintenance. The aim was to ascertain how much maintenance people thought the state should require non-resident parents to pay in a range of circumstances that vary according to the income of each parent, the amount of time each parent spends with their child(ren) and the post-separation family structures of both parents.

The information was obtained through questions in the 2012 British Social Attitudes survey and the top-level results were reported in June 2013.

This report presents the full findings in detail. The authors analyse the responses and discuss their findings in the context of the current changes to the statutory child maintenance system. These changes are focused on a move away from state intervention towards private arrangements between parents. The findings from this study indicate that this is not in line with public attitudes. If anything, the opposite is true; public opinion appears to favour *greater* state intervention in child maintenance, and most people support a more nuanced approach than the current statutory formula allows. For example, most people want both parents' income taken into account and would require better-off non-resident parents to pay a higher percentage of their income in child maintenance.

This is important if we believe that an effective system for the calculation, payment and enforcement of child maintenance should broadly reflect the values of the British public. A system that better represents what most people want may have a greater chance of ensuring all children receive the support they are entitled to. This argument becomes more compelling when we consider the proportion of the public affected by issues around child maintenance: one in three children experience the separation of their parents during their childhood.

We would like to thank the research team for their delivery of a detailed, thoughtful, and timely piece of work which we believe is sound evidence that cannot be ignored in the future development of child maintenance policy.



**Teresa Williams**, Director of Social Research and Policy

## Key findings

This is the first in-depth study of the British public's views about the child maintenance obligations of parents who do not live with their children, or who do not live with them for most of the time.<sup>1</sup> Family separation and its financial consequences are of immediate relevance to many people: around one in three British children experience parental separation during childhood (OECD, 2014), with a resulting 2.5 million households eligible to claim child maintenance on behalf of 4.5 million children at any one time (Punton-Li, Finch and Burke, 2012). It is thus an important issue, and it is appropriate that the views of the British public should form part of any government's decision-making processes about the financial support of children after separation.

Our findings arrive at a time when the Government is making radical changes to the statutory child maintenance system which are intended to encourage separating and separated families to negotiate and manage their own post-separation arrangements rather than turning to the State. Although revisions to the statutory child maintenance formula are not included within the current reform agenda, the study findings suggest that perhaps they should be, as the public prefers a different formula. That aside, the success of the new system must be judged in part by asking whether the results accord with the values that the British public believes it should reflect. It is also plausible to think that a system better aligned to the British public's beliefs about what the law should require might draw more support.

As part of the 2012 British Social Attitudes survey, over 3,000 members of the British public were presented with a series of vignettes (cases) describing separated families with different financial and family circumstances. In all the vignettes, the mother was the parent with care, and the question was how much child maintenance, if any, the non-resident father should pay. People were asked to imagine that they were responsible for setting the amount of child maintenance that the law should require.<sup>2</sup>

In summary:

- **On average, the amounts that the public thinks the law should require non-resident fathers<sup>3</sup> to pay are higher than those set by the current statutory child maintenance formula.**
- **The public views the role of child maintenance as going beyond simply keeping children from poverty: it expects non-resident fathers to provide amenities beyond a basic minimum, when they can afford to do so.**

<sup>1</sup> Some of these findings were foreshadowed in Bryson et al. (2013a, b), with a considerably fuller presentation in Ellman et al. (2014). However, this paper reports some additional findings not addressed in either of these predecessors.

<sup>2</sup> Our conclusions as to what the public thinks are based on the pattern of their answers across sets of cases with systematically varying facts.

<sup>3</sup> As we did not present any vignettes in which the mother was the non-resident parent, we cannot necessarily assume that the public would set the same child maintenance amounts were the parents' roles reversed. Studies in the US found no significant difference between the maintenance amounts favoured when the parent with care was the mother or the father (Braver et al., 2014).

- The amounts preferred by the public, unlike the current system, take the incomes of both parents into account, as well as the income of mothers' new husbands.
- Like the statutory formula, the public would require non-resident fathers who earn more to pay more in child maintenance. But, unlike the statutory formula (which uses a flat percentage to calculate maintenance obligations), the public adopts a more redistributive approach, with higher-earning fathers paying a higher *percentage* of their income in child maintenance.
- Overall, the public would require child maintenance amounts which go further than the current statutory formula in reducing living standard differences between the households of separated parents.
- The public makes little distinction, when setting child maintenance amounts, between fathers who had been married to the mother, cohabited with her, or who had never lived with her and their child.
- The public does not think that a non-resident father's maintenance obligation should be affected just because he has no contact with his child, but if told his lack of contact is attributable to the mother's resistance, on average the public would require him to pay considerably less (but still something). Conversely, the public would require fathers to pay somewhat more if they chose to have no contact despite the mother having encouraged it.
- On average, the public does not agree with the reduction in maintenance that the statutory formula makes when the child stays with the father for one night per week. For the child who spends an equal number of nights with each parent, the public would reduce the father's maintenance obligation by less than half, unlike the statutory formula. The public's views are consistent with the observation that the mother has fixed expenses, such as maintaining the home, that are not affected by the father's increased time with the child.

Should the government decide to revisit the principles underlying the statutory child maintenance formula, it may wish to take account of the evidence from this study that the British public has a different understanding of the purpose and goals underpinning the child maintenance obligation than the current statutory formula seems to assume. As importantly, the public believes the law should *require* fathers to make maintenance payments to mothers, a view that is not consistent with the current push towards 'family-based' arrangements. In the immediate term, the encouragement of family-based arrangements gives parents scope to make decisions about child maintenance based on their own family circumstances, regardless of what the current law prescribes. In evaluating the reasonableness of the maintenance arrangements that parties

negotiate when left on their own, the public's views about child maintenance are one important benchmark to consider:

| COMPARING THE STATUTORY CHILD MAINTENANCE FORMULA WITH THE VIEWS OF THE PUBLIC                                      |   |
|---|---|
| UK statutory formula  | British public's views  |
| Parent with care's income not considered.   | The child maintenance obligation of a non-resident parent should be higher when the parent with care's income is lower.                     |
| Non-resident parents with different incomes all pay the same <i>percentage</i> of their income in maintenance.      | High-income non-resident parents should pay a higher percentage of their income in maintenance than should low-income non-resident parents. |
| Availability of amenities in child's household depends primarily on parent with care's income.                      | A higher-income non-resident parent should contribute enough to provide some amenities.   |
| Parent with care bears all the costs of joint expenditures which are duplicated because of the parents' separation. | A non-resident parent should contribute to the lower-income parent with care's duplicated joint expenditures.                               |

## Overview

This is the first in-depth study of the British public's views about the child maintenance obligations of parents who do not live with their children, or who do not live with them for most of the time. It maps the monetary amounts the public would require at different parental income levels, as well as whether and how they would take into consideration some of the many circumstances that should arguably bear on the amount of maintenance, such as time spent with each parent, remarriage, new children and prior marital status. The study's experimental design (described on p.8) provides insight into the underlying principles used by the public when deciding on these amounts.

The study findings are pertinent at a time when the statutory child maintenance system is undergoing radical change. The encouragement of family-based arrangements gives parents scope to make decisions about child maintenance based on their own family circumstances, regardless of what the current law prescribes. The private agreements that will result may be driven by extra-legal considerations, and what someone would (or is able to) negotiate in their own case does not necessarily correspond closely either with what they think the current law requires or with what they would, in principle, think is appropriate for someone in their situation. In evaluating the reasonableness of the maintenance arrangements that parties negotiate when left on their own, the public's views about child maintenance are one important benchmark to consider. Of course, the statutory maintenance formula will continue to determine cases where parents apply to the statutory agency for a formal child maintenance calculation, and may be referred to by those setting up family-based arrangements. It is therefore also useful to compare amounts calculated using the current formula to those the British public believes appropriate.

Recent policy changes have not revisited the principles underlying the current statutory child maintenance formula. However, should the government decide to re-examine that issue, the views of the British public should form part of its decision-making: any formula for setting child maintenance obligations is not simply an arithmetical exercise – it necessarily reflects particular value judgments and competing priorities (including its workability and the non-resident parent's ability to pay), and so requires important policy decisions to be made. The views of the British public should surely form part of any government's decision-making process, not least given the immediate relevance of family separation and its financial consequences to many individuals. We might expect that a statutory maintenance system would be more successful in dealing with those who fail to pay for their children if its view of what constitutes acceptable behaviour corresponds with public opinion. This paper provides evidence that the British public would support several changes to the formula, and that these would affect both the levels of maintenance payable and how these sums are calculated.



## Child maintenance policy and practice in the UK

UK law stipulates that, upon application by a parent with main care of children, the parent who does not live with their children (non-resident parent) is required to contribute financially to their everyday living costs through regular child maintenance payments.<sup>4</sup> Maintenance is often crucial to the welfare of children of separated parents, as it can raise substantial proportions of low-income households above the poverty line (Skinner and Meyer, 2006; Skinner and Main, 2013; Bryson et al., 2013c). However, while 2.5 million British households are eligible to receive child maintenance on behalf of 4.5 million children (Punton-Li, Finch and Burke, 2012), far fewer actually receive it. In 2011/12 (prior to recent changes to the statutory system), fewer than half – 43 per cent – of separated families had any kind of arrangement in place for the non-resident parent to pay maintenance (see Appendix Table A). Moreover, non-compliance by some non-resident parents meant that fewer than four in ten – 37 per cent – parents with care received any maintenance, and fewer still – 31 per cent – received the full amount agreed (based on our own new analysis of *Understanding Society*, Wave 3). Moreover, maintenance payments tend to tail-off over time (e.g. Bryson et al., 2013c).

Successive governments have tried in different ways to ensure that non-resident parents fulfil their child maintenance obligations. The Coalition Government oversaw the latest set of reforms, previously put in train under the *Child Maintenance and Other Payments Act 2008*, following recommendations from Sir David Henshaw (Henshaw, 2006). The primary aim of these reforms is to encourage parents to make their own family-based arrangements rather than use the statutory system run by the Child Maintenance Service (CMS; formerly by the Child Support Agency (CSA)). Parents with care are now charged an upfront fee of £20 for using the CMS and both parents are charged ongoing fees if the CMS collects maintenance payments for them (especially the non-resident parent, who pays a 20 per cent fee). Even parents willing to pay to use the CMS must first participate in a conversation with the government-funded Child Maintenance Options Service, which is intended to help them make family-based arrangements. Further support services are being developed and tested to help parents discuss and agree family-based maintenance arrangements (Department for Work and Pensions, 2011).

The impacts of these changes – on the maintenance arrangements that families make (or do not make); on the levels of maintenance that are agreed; and on the sustainability of these arrangements – will not be measurable for some time. In 2011/12, prior to these reforms, 24 per cent of separated families (56 per cent of all those with any arrangement in place) had a *formal* child maintenance arrangement, made via the CSA or the courts. Under such formal arrangements, the level of maintenance that

<sup>4</sup> *Child Support Act 1991*. Child maintenance is payable while the child is in full-time education (up to A levels or equivalent) until the child reaches 20. In limited circumstances, a non-resident parent can be assessed as having a 'nil' assessment (e.g. when he is in prison).

should be paid is set using the statutory formula. In contrast, private arrangements (44 per cent of all arrangements in 2011/12) give a degree of 'choice' about how much maintenance is paid and how (own analysis of *Understanding Society*, Wave 3).

In future, it is expected that more (and more demographically diverse) families will make family-based arrangements. Such arrangements will be made both by families on means-tested benefits, who had previously stayed with the CSA despite the removal in 2008 of their obligation to do so, and by families who had just gone to the CSA as their first point of call. It is also expected that some parents with care, who would previously have turned to the CSA because they were unable to make family-based arrangements, will no longer do so as they will feel unable to pay the application or ongoing collection fees. As the introduction of fees for using the CMS and withdrawal of legal aid for court-based arrangements<sup>5</sup> hinder access to the formal systems (especially for lower-income families), many of these arrangements may be made less 'in the shadow of the law' than formerly. The pre-reform profile of family-based arrangements may therefore not provide a reliable guide to the decisions that will be made about maintenance amounts in current or future family-based arrangements, nor to the factors that will be taken into account in making them.

## The UK child maintenance formula

The current statutory formula for calculating child maintenance originated in 2003. It may still be used by parents making family-based arrangements. This 2003 formula set child maintenance as a percentage of the non-resident parent's income that varied only with the number of children and it took no account of the parent with care's income. It was introduced to replace a more complex and sophisticated formula in the hope that, by simplifying the process, more parents with care would receive at least some maintenance. Until very recently, the calculation was based on the non-resident parent's net income for the current year: 15 per cent for one child, 20 per cent for two children, 25 per cent for three or more children. The calculation now used for applications made via the CMS (and for existing cases<sup>6</sup> which choose to remain within the statutory system) is instead based on the non-resident parent's gross taxable income from the previous tax year, with percentages set to produce maintenance amounts roughly comparable<sup>7</sup> with those required under the prior net scheme – 12, 16 and 19 per cent of gross income.<sup>8</sup> When the non-resident parent or his current partner have other dependent children living in their household, the amount payable is reduced, but no account is taken of the income of either parent's new partner. The amount is also reduced if the children stay with the non-resident parent for at least 52 nights each year. Even non-resident parents on very low incomes are expected to make a minimum contribution (£5pw under the CSA 2003 system, £7pw under the

5 The courts have jurisdiction to order child support only in a narrow range of circumstances, most importantly where the order is made by consent, i.e. based on the parties' agreement: see generally *Child Support Act 1991*, s 8 and s 4(10).

6 Following the Department for Work and Pension's three-year case closure programme.

7 See table A in Appendix to Impact Assessment for The Child Support Maintenance Calculation Regulations 2012, IA No DWP0013 (2012).

8 In our analysis, we make comparisons with the formula using non-resident parents' net income, the system in place at the time of our study.

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newest regulations).<sup>9</sup> Child maintenance is thus not only viewed as providing financial support to the child, but as symbolic of non-resident parents' obligations towards their children.

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## Studying the views of the British public

Over 3,000 members of the British public were presented with a series of vignettes describing separated families with different financial and family circumstances. These questions were asked as part of NatCen Social Research's face-to-face 2012 British Social Attitudes (BSA) survey<sup>10</sup> to a representative sample of adults aged 18 and over living in Great Britain. The method was based on an approach used in a series of studies in the United States (Ellman, Braver and MacCoun, 2009; Braver, Ellman and MacCoun, 2014).

Survey respondents were asked to imagine that they were responsible for setting the amount of child maintenance that the law should require a non-resident father to pay to the mother in each of two distinct vignettes. The first, 'baseline', case was presented to every respondent, but then respondents were randomly assigned to answer one of eleven possible variations for the second vignette. In both the baseline vignette and in all eleven of the variations examining different family circumstances, the mother was the parent with care. The reason for this was not only that it reflects the situation in 92 per cent of separated families (Office for National Statistics, 2012) but that the studies in the United States, on which our methods were based, had found no significant difference between the maintenance amounts respondents favoured when the parent with care was the mother or the father (Braver, Ellman and MacCoun, 2014).

The baseline vignette given to all respondents is set out in Box 1 (overleaf).<sup>11</sup>

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9 Some low-income non-resident parents are required to pay more than this, but calculated at a 'reduced rate'. In very limited circumstances (e.g. prisoners, child-parents), non-resident parents can be assessed as having a £0 liability. For further details see: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/325219/how-we-work-out-child-maintenance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/325219/how-we-work-out-child-maintenance.pdf) (Accessed 11 January 2015).

10 For details about the 2012 British Social Attitudes survey, see: <http://bsa-30.natcen.ac.uk/read-the-report/technical-details.aspx> (Accessed 11 January 2015).

11 In fact, one twelfth of the survey respondents were asked about the case vignette slightly differently. Using the same family circumstances and parental income combinations, they were asked to state how much maintenance they thought was 'fair', rather than (as asked of the other respondents) what 'the law should require'.

## BOX 1: INTRODUCTORY TEXT TO THE SURVEY QUESTIONS

Usually when parents don't live together, their children live mainly with one parent. By law, the other parent should pay child maintenance to the parent with whom the child lives most of the time. But the question is, how much maintenance the law should require the other parent to pay. There are no right or wrong answers on this. We want to know what you think the law should require.

I'm going to tell you about several different situations and ask you to imagine that you are the person who has to decide how much maintenance the law should require the parent to pay in each case. We want you to tell us what you think the amount should be.

I want you to imagine a family in which –

- **There is one child, an eight-year-old boy;**
- **His parents were married for ten years but are now divorced;**
- **He lives mostly with his mother but sees his father twice a week after school, and usually stays with his father overnight once at the weekend.**

The vignette was followed by nine questions, each providing a different combination of the two parents' net incomes. The father's income was £1,000, £2,000 or £3,000 a month, and the mother's was £900, £1,500 or £2,200. There were thus nine ( $3 \times 3$ ) income combinations and hence the nine questions.<sup>12</sup> Every survey respondent was given all nine questions, which asked them to state in pounds the amount of maintenance 'the law should require the father to pay the mother each month, all things considered' for that income combination. Respondents were told that the income figures were the parents' after-tax income, specifically: 'By income, I mean their entire income after tax, including any wages, tax credits, state benefits and any other money coming into the household.' It was not stated whether the parents were in paid work. The three incomes used for each parent approximated appropriate benchmarks. For the mother, the low income approximated the means-tested benefit level for a single parent with one child, with modest assumptions about housing costs; for the father, the low income was the minimum wage for full-time work. The middle-income figure was the gender-appropriate median wage, and the high-income figure was around the 80th percentile wage for each gender. Asking respondents to state the maintenance amount they would favour for nine different income combinations allowed us to see to what extent, if any, parental incomes influenced their judgment when there were factual differences between the cases.

<sup>12</sup> Pilot studies in the US work found that respondents' answers were affected by the sequence in which the income combinations were given; we therefore adopted the American approach and presented the cases in four different counterbalanced orders that were randomly employed among respondents.

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Each of the eleven additional vignettes followed the basic pattern of the baseline case but for one change that was made explicit to respondents. That change involved either the parents' relationship (they had been married, cohabiting, or had only a brief sexual liaison), the father's contact arrangements (varying from shared care to none, with different reasons why), or one parent's remarriage (or marriage, if they had not previously been married). These vignettes are described further below.<sup>13</sup>

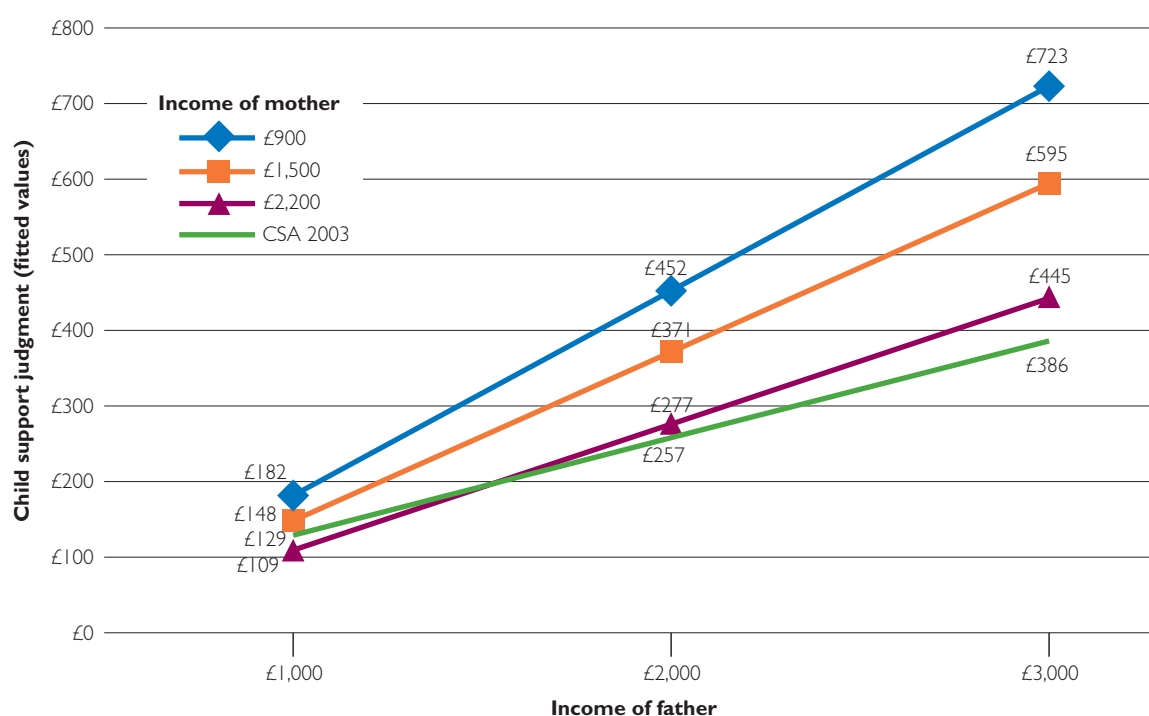
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## How does the British public take account of the parents' incomes?

The 'baseline' vignette captures a 'traditional' post-separation arrangement: the parents were previously married, the son lives primarily with his mother, but the father has regular contact, including overnight stays. **Figure 1** displays the mean monthly maintenance amount the British public would require the father to pay, by law, for each of the nine income combinations put to them.<sup>14</sup> There is a separate line for each of the three maternal incomes, the father's income is on the horizontal axis, and the child maintenance amounts are on the vertical axis. A line joining the three responses for each maternal income helps convey the response pattern. A fourth line shows the maintenance amount set (based on net income) for these same nine cases by the child maintenance legislation under the CSA 2003 system, assuming that all of the father's stated income is assessable for child maintenance purposes.<sup>15</sup> Unlike the survey responses, one line is sufficient for this because the legislative schedule does not vary with the mother's income.


- 
- <sup>13</sup> In addition to these vignettes, the survey respondents were asked to agree or disagree (using a five-point scale in a self-completion format) with ten statements designed to capture any underlying principles they held about the purpose of child maintenance and non-resident parents' financial obligations to their children. Although mentioned on page 13, these are not reported in any detail in this paper.
- <sup>14</sup> References throughout to 'means' are to fitted means, not raw data means. The fitted means, obtained through statistical modelling, are usually a more reliable estimate of the true population mean than are the raw data means. In this study, the fitted and raw data means are actually quite close to one another.
- <sup>15</sup> In plotting the CSA line we make the assumption that all of the stated income of the non-resident parent is assessable for child support; in fact, that is unlikely to be the case at some of our income levels, e.g. where, under the net scheme, certain welfare benefits were not taken into account in calculating the net income to which the 15 per cent rate then applied. This means that, if anything, the 15 per cent line should in some instances be plotted lower than it appears in our charts, widening the gap between the maintenance amounts prescribed by our respondents and the amount required by the law.

Figure 1: Mean monthly child maintenance judgments, baseline vignette



This figure shows a number of key points about the public's beliefs. They believe:

- 1 **The income of the parent with care matters:** if the public thought it did not, their views would display as one line instead of three, as the three lines would be on top of one another. But not only are there three lines, they are not parallel, but 'fan out' – the slope of the line for the lowest-income mother is steeper than for the middle-income mother; which is itself steeper than the line for the highest-income mother. This means the public believes maintenance amounts should rise more rapidly with the father's income when the mother's income is lower. For example, the public would require the middle-income father on £2,000 per month to pay only 14 per cent of his income (£277) to a higher-income mother, which is less than the CSA flat rate of 15 per cent. But they would require him to pay 19 per cent of his income (£371) to a middle-income mother; and 23 per cent of his income (£452) to a low-income mother.
- 2 **Non-resident parents who earn more should pay more child maintenance in both pounds and as a percentage of their income:** Not only do all three lines rise as they move to the right, but converting the public's mean maintenance amounts from pounds to a percentage of the father's income reveals that they favour amounts that are a higher *percentage* of the income of the



higher-income fathers, not just a higher absolute amount. For example, when the mother has an income of £1,500 per month, the public would require the low-income father to pay £148 in maintenance, which is 15 per cent of his income. But for the middle- and high-income fathers, the maintenance amounts of £371 and £595 are 19 per cent and 20 per cent of their income, respectively. So the public finds the CSA rate of 15 per cent (which is here reduced to 13 per cent by virtue of the one overnight stay in the baseline vignette) appropriate only for the single case combining the lowest-income father and highest-income mother that we asked them about. They favour a higher percentage when either the mother's income is lower or the father's income is higher.

- 3 Non-resident parents who are able to should pay sufficient child maintenance to provide their children with amenities beyond a basic minimum.** The public clearly does not believe the function of maintenance is limited to keeping children from poverty. This is clear, because their favoured maintenance amounts continue to increase with paternal income beyond the point at which the child's household income is above any plausible 'poverty line' (such as 60 per cent of median income).

The BSA survey includes demographic information on respondents, and the large sample size allowed us to compare the views of many subgroups represented in our study. The fanning line pattern from which these three basic principles emerge is endorsed by every segment of the population we were able to examine. The age, gender, income, housing tenure, educational qualification and political affiliation of the respondent do not matter. Nor does it matter whether the respondent has children or personal experience of the child maintenance system. That is not to say that responses were identical across subgroups. Women favoured maintenance amounts that were about £20 higher than men, and educational qualifications were associated with an even larger difference, with higher amounts favoured by those with more education, independently of income (which made no difference, controlling for other factors). So the *height* of the lines in the figure is higher for some subgroups than for others, but the *pattern* is unaffected: for every subgroup, the lines fan out in a pattern consistent with these key principles. The data on differences across demographic groups is provided in more detail in Ellman et al. (2014).

The percentages of the non-resident parents' income used by the current system to calculate their maintenance liability are based on the estimated *additional* expenditures an intact family makes when a child is added to the household – what an economist would call the marginal child expenditures (Ellman et al., 2014). But while the added child may occasion a larger dwelling or additional groceries, the expenditures made by the childless household on items such as a home, heat, electricity or a car necessarily continue as well, and now benefit both child and parents. Neither child nor parents are adequately housed with a bedroom alone; they need a bedroom situated in a home that also has a kitchen and a bathroom. So proper care for the child requires that the parent with care has funds

for such 'joint expenditures' (so-called because they benefit all household members) as well as for the marginal child expenditures. A child maintenance amount based only on marginal child expenditures asks nothing from the non-resident parent toward these joint expenditures, which continue after separation no less than before, for both the parent with care and the non-resident parent. Their necessary duplication in both post-separation households is an important reason why separation is expensive. But the impact of this duplication depends on the parents' relative incomes. Parents with similar incomes face similar financial challenges post-separation, and in that case maintenance amounts based exclusively on the marginal child expenditures that the parent with care must make are sensible. (If the father and mother have the same income, and the father pays the mother a maintenance amount based on marginal child expenditures, then the father's and mother's households will each have the same living standard, which seems the appropriate result.) But the situation is quite different when the parents' incomes diverge. The intact family pools resources and the lower-income parent shares the benefit of joint expenditures made mostly from the other parent's income. Separation thus confronts the lower-income parent with much greater financial challenges than the higher-income parent – challenges that also burden the child who lives in the lower-income household. In favouring a system that provides higher maintenance amounts for the lower-income parent with care, the British public, unlike the statutory system, appears to appreciate the need to assist her with the joint household expenditures.<sup>16</sup>

It is also important to emphasise that our respondents were told 'the question is how much maintenance *the law should require* the other parent to pay'. They then provided amounts in response to our explanation that 'We want to know what you think *the law should require*.' (See **Box 1**, on page 10.) So the data we report here tells us what the public believes the law should *require* fathers to pay, not merely what they think fathers *ought* to pay. This interpretation is strengthened by the results in a separate part of the same survey that we do not detail here, in which clear majorities of the respondents agreed that the law should *not* leave child maintenance amounts entirely up to the parents but should, rather, set some minimum amount; and they also disagreed with the statement that 'the law should never force one parent to pay child maintenance to the other' (Bryson et al., 2013a, b).

We summarise the difference between the current law and views of the British public in **Box 2**; further explanation of the basis for this summary is found in Ellman et al. (2014).

<sup>16</sup> Other studies highlight the fact that welfare benefits can protect low-income parents with care from poverty (e.g. Brewer and Nandi, 2014). However, in our study, respondents were told that the parents' incomes included monies from all sources, including welfare benefits, so the maintenance amounts they thought the law should require took into account any benefits that the parent with care received (provided we believe that our respondents paid attention to the definition of income we provided). The findings from our study show that, in a number of respects, the public does not view the role of child maintenance as simply keeping the child out of poverty.

## 14 Child maintenance: how would the British public calculate what the State should require parents to pay?



## BOX 2: COMPARING THE STATUTORY CHILD MAINTENANCE FORMULA WITH THE VIEWS OF THE PUBLIC

| UK statutory formula  | British public's views  |
|---|---|
| Parent with care's income not considered.   | The child maintenance obligation of a non-resident parent should be higher when the parent with care's income is lower.                     |
| Non-resident parents with different incomes all pay the same <i>percentage</i> of their income in maintenance.      | High-income non-resident parents should pay a higher percentage of their income in maintenance than should low-income non-resident parents. |
| Availability of amenities in child's household depends primarily on parent with care's income.                      | A higher-income non-resident parent should contribute enough to provide some amenities.   |
| Parent with care bears all the costs of joint expenditures which are duplicated because of the parents' separation. | A non-resident parent should contribute to the lower-income parent with care's duplicated joint expenditures.                               |

## How far do the British public's judgments affect the relative standards of living of parents with care and non-resident parents?

One of course expects that larger households require more income than smaller households in order to achieve the same living standard. 'Equivalence scales' are commonly used to estimate the incomes that households with different compositions require to achieve the same living standard. There are several such equivalence scales and their precise construction is inevitably subject to debate, but living standard comparisons across households are an important policy tool. The version used in official statistics on Households Below Average Income (HBAI; Department for Work and Pensions 2014) is the modified OECD scale, and is as good a choice as any. For the limited range of family types used in our own study, the key components of this equivalence scale are: 0.67 for the first adult; 0.33 for additional household members who are aged 14 or older; and 0.20 for children below the age of 14. One can total the numbers for any given household, and the resulting totals show the relative cost of providing the same living standard. A childless couple, at 1 (0.67 plus 0.33) can serve as a benchmark. One can then see that an intact family with two parents and one child requires 1.2 (0.67+0.33+0.2) times the income of the childless couple to enjoy the same living standard – or 120 per cent of the childless couple's income. The two households of the specific separated family in our baseline vignette, by contrast, together need 154 per cent of the childless couple's income: 0.87 for mother and

child (0.67+0.2), plus 0.67 for the father living alone,<sup>17</sup> adding to 1.54. So in order to retain the same standard of living as when the family was intact, the two households of the separated family need a combined 128 per cent of that previous income (i.e. 1.54 rather than 1.2). This starkly illustrates that however child maintenance is calculated, it is not possible for *both* households to maintain the same standard of living post-separation as when the family was intact, assuming that their incomes have not changed.

In **Table 1**,<sup>18</sup> we use our baseline family (with their nine income combinations) to illustrate how the living standards of the two households compare to what they would have been were the family intact<sup>19</sup> and, importantly, how far child maintenance can alter the post-separation living standards of either household. Column 3 shows

**TABLE 1: EQUIVALENT NET MONTHLY INCOMES FOR PARENT WITH CARE MOTHER AND NON-RESIDENT FATHER, IF TOGETHER AND IF LIVING SEPARATELY**

| Cash amounts |             |                             | Parents' post-separation incomes as a percentage of income needed to maintain the intact-household living standard |                               |                                    |                     |                               |                                     |
|--------------|-------------|-----------------------------|--|-------------------------------|------------------------------------|---------------------|-------------------------------|-------------------------------------|
| 1<br>Mother  | 2<br>Father | 3<br>Intact income:<br>=1+2 | 4<br>Mother – sep'd  | 5<br>Mother – sep'd, plus CSA | 6<br>Mother – sep'd plus public CM | 7<br>Father – sep'd | 8<br>Father – sep'd minus CSA | 9<br>Father – sep'd minus public CM |
| £900         | £1,000      | £1,900                      | 65%  | 73%                           | 79%                                | 94%                 | 82%                           | 77%                                 |
| £900         | £2,000      | £2,900                      | 43%  | 53%                           | 64%                                | <b>124%</b>         | <b>108%</b>                   | 96%                                 |
| £900         | £3,000      | £3,900                      | 32%  | 44%                           | 57%                                | <b>138%</b>         | <b>120%</b>                   | <b>105%</b>                         |
| £1,500       | £1,000      | £2,500                      | 83%  | 89%                           | 91%                                | 72%                 | 62%                           | 61%                                 |
| £1,500       | £2,000      | £3,500                      | 59%  | 68%                           | 74%                                | <b>102%</b>         | 89%                           | 83%                                 |
| £1,500       | £3,000      | £4,500                      | 46%  | 56%                           | 64%                                | <b>119%</b>         | <b>104%</b>                   | 96%                                 |
| £2,200       | £1,000      | £3,200                      | 95%  | 100%                          | 100%                               | 56%                 | 49%                           | 50%                                 |
| £2,200       | £2,000      | £4,200                      | 72%  | 80%                           | 81%                                | 85%                 | 74%                           | 73%                                 |
| £2,200       | £3,000      | £5,200                      | 58%  | 67%                           | 70%                                | <b>103%</b>         | 90%                           | 88%                                 |

<sup>17</sup> Following the practice of HBAI, we do not allocate fractions of the child to each household but include the 'full 0.2' in the household with the mother. This is certainly open to challenge, and in practice the needs of the separated family where there is a degree of shared care are likely to be even higher than shown here – see discussions relating to the shared care example.

<sup>18</sup> We did not provide respondents with a breakdown of the sources of income for each parent. It is certainly possible that for the lower-income mother it will have been assumed that the bulk of income was coming from benefits rather than earnings, and hence this would not necessarily have been additional to the income of the father when the couple was hypothetically intact, although the intact version of that family would have been entitled to some elements of state support depending on other circumstances.

<sup>19</sup> In practice, the two incomes of the parents were proposed when living apart, and the situation when together would depend on the sources of that income (which were not given). If the incomes are derived from earnings, then the intact family income would essentially be the same as the two separated incomes; if, instead, the income of the mother (and in particular the two lower-income mothers) comprised mixes of benefits and incomes, then the intact income shown here is overstated. We did not want, however, to focus on the issues around the idea of a 'couple penalty' within the benefits system.

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the combined household incomes that the families would have had if they had been intact. The subsequent columns (4 to 9) express the *living standard* of each parent's post-separation household as a percentage of the income that would be needed in order to retain that same living standard (their 'equivalised' household incomes). So, taking into account the fact that households of different sizes need different incomes to achieve the same living standard (as described above), how far does each parent's income go towards achieving the living standard they would have had, had the family been intact? Columns 4 and 7 show the living standard of each parent should no child maintenance be paid. Columns 5 and 8 show how these change if the father pays child maintenance as required by the statutory formula. Columns 6 and 9 show the living standards of each parent if we apply the levels of maintenance that the British public would require by law. One must of course keep in mind that these calculations assume the facts of our baseline case, in which no new adults or children are introduced into either parent's post-separation household.

Without maintenance, the living standards of the mother and child (column 4) are consistently (and sometimes dramatically) lower than they would be were the family intact. The living standard of a low-income mother previously married to a high-income father is only a third (32 per cent) of what it would be if they were together. For other parents whose incomes are more similar, the mother's living standard is at least three-fifths of what it would be were they together. However, for the father the story is more mixed. The lowest-earning father comes out worse off than the mother in the two cases in which she earns more than him. And, of course, this discrepancy gets more exaggerated when he pays child maintenance to that mother. In the most extreme case, where the father earns £1,000 a month and the mother £2,200, his living standard plummets to half that of the intact family, while the mother's remains the same, regardless of whose schedule we apply – the CSA's or our respondents' (compare columns 5 and 6 to 8 and 9, for this income combination). Of course, these are relatively unusual cases. In the more common cases in which the father earns more than the mother, his living standard generally comes closer to that of the intact family, both before and after any child maintenance payment, under either schedule. (The one exception is the father earning £1,000 and mother earning £900, where they come out about the same under our respondents' maintenance schedule.) The father does dramatically better than the mother when there are substantial income disparities in his favour, even after child maintenance payments are taken into account. At the most extreme, compare columns 5 and 6 with columns 8 and 9, for the case of the father who earns £3,000 and the mother who earns £900. Under the CSA formula, he comes out at 120 per cent of the intact family living standard while the mother is at 44 per cent, and even under our respondents' more generous maintenance schedule, the comparable figures are 105 per cent and 57 per cent.

**Figure 2** offers an alternative presentation of the same information as a chart, comparing the living standards of the maternal and paternal households after separation, assuming that maintenance payments are made either (a) in the amounts

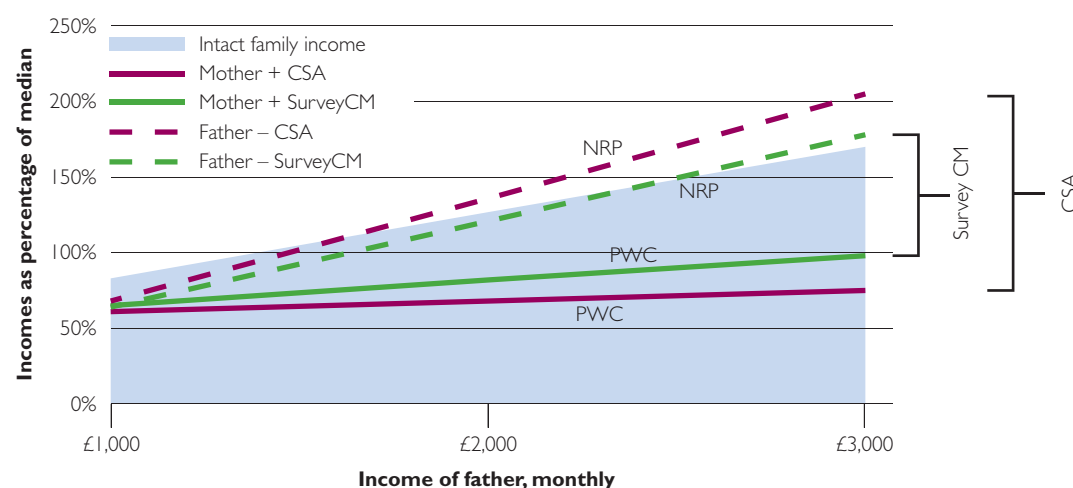
favoured by our respondents, or (b) in the amounts called for under the CSA guidelines. The comparison is made by showing the equivalised incomes of each household as a percentage of the same benchmark, the median UK household income in 2012/13. The living standard of the intact family, pre-separation, is also shown in blue background, providing an additional benchmark against which to consider the situation of each post-separation household. (The intact family is assumed to have an income equal to the sum of the two parental incomes.) **Figure 2** presents separate charts for the low-, middle- and high-income mothers described in our vignettes; the three paternal incomes from the vignettes are on the horizontal axis. (This presentation is based on a presentation of data from Arizona in Ellman (2012).)

One can see that for the low- and middle-income mothers (Figures 2A and 2B), the child maintenance amounts proposed by our survey respondents do more to narrow the post-separation living standard gap between the mother and the father, especially (or mainly) when the father's income is middle or high. Figure 2C provides a reminder that the baseline judgments for high-income mothers are quite close to the CSA schema.

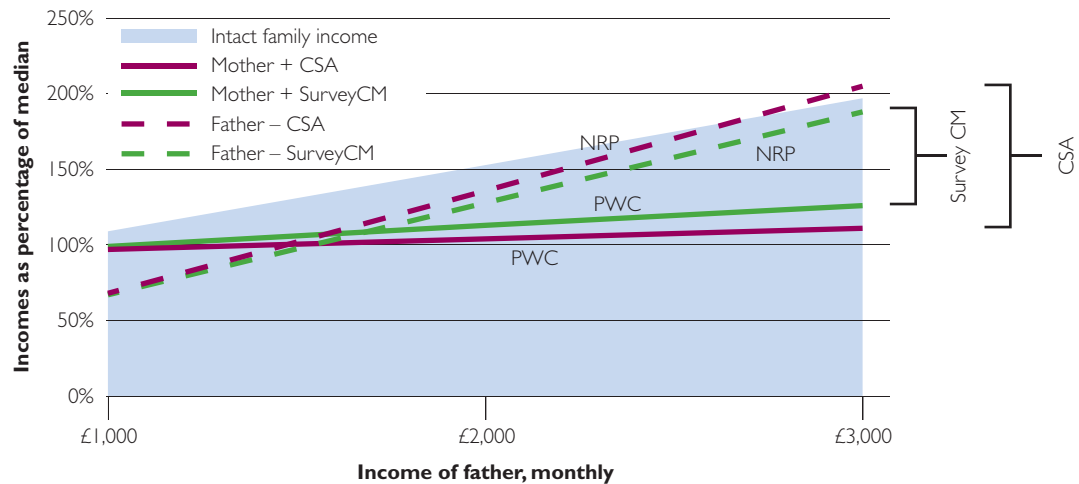
Figure 2: Income of intact family, and of maternal and paternal households after separation, assuming child maintenance payments favoured by respondents or under the CSA guidelines, shown as a percentage of the income required to achieve the same living standard as the median UK family, for three different maternal incomes

CSA: Child Support Agency; NRP: non-resident parent; PWC: parent with care; CM: child maintenance.  
Red lines: payments made according to CSA schedule; green lines: payments made according to respondents' schedule.

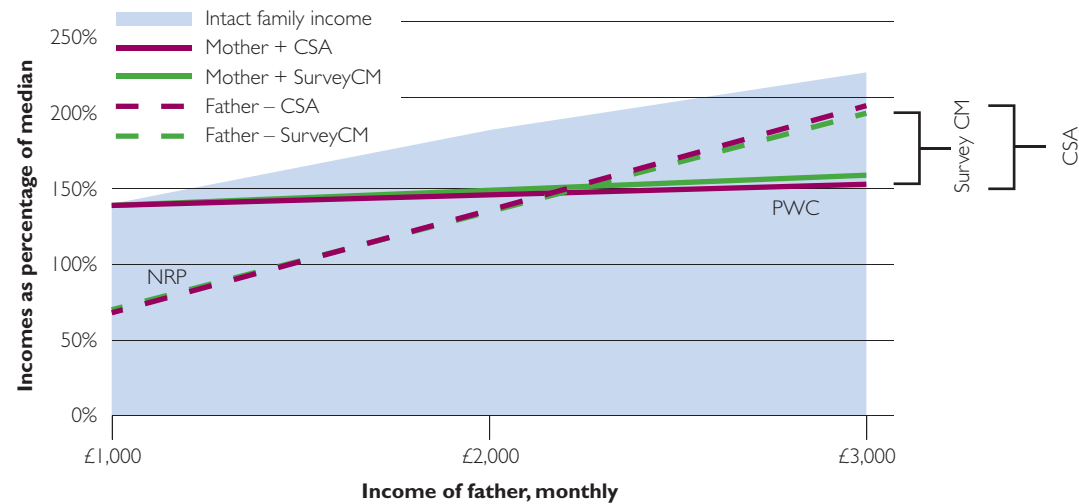
#### A. Low-income mother (£900 monthly)




B. Middle-income mother (£1,500 monthly)



C. High-income mother (£2,200 monthly)



One might summarise these comparisons by saying that the CSA support schedule does very little to rebalance the outcomes, so that the lower-earning parent, mother or father, remains worse off than the higher-earning one, with the difference in their outcomes growing with the disparity in their incomes. Because the mother is usually the lower-earning parent, she is also the parent who most often has a reduced income in these comparisons. Our respondents' maintenance schedule reduces these parental disparities more, but they still remain. Non-resident fathers paying maintenance under the CSA schedule enjoy a living standard higher than that of mother and child in six of the nine cases we considered, and in three they are better off than the intact family. A non-resident father paying maintenance in the amounts our respondents would require is better off than the mother in five of the nine cases we put, and better off than the intact family in just one. No child maintenance schedule, of course, can leave separated parents as well off as intact families with the



same incomes. Under our respondents' schedule there are seven cases in which *both* separated parents (and hence, the child) have a lower living standard when apart than they would together, even after maintenance is paid. And the schedule still leaves a considerable drop from the intact family living standard for the mother and child for cases with the largest parental-income discrepancy. Where their incomes are similar, the public's child maintenance amounts bring the parents' living standards within 10 percentage points.

These key findings highlight the financial difficulties most families face at separation, the fact that they are usually greater for the mother and child than for the non-resident father, the limited effect the CSA schedule has in addressing that imbalance, and the possibility of addressing it somewhat more fully by moving to the kind of maintenance schedule the British public favours.

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## How does the British public amend its judgments when asked about different family situations?

We now consider how our survey respondents responded, in setting maintenance amounts, to vignettes that changed a variety of family circumstances from the situation in the baseline case. We compare the public's views with current law and policy as to the effect (if any) of:

- Changes in the amount of time the non-resident father spends with his child, including cases in which both parents accept an arrangement in which he does not see his child at all.
- The father's refusal to see his child or the mother's refusal to allow him to see his child.
- Differences in the parents' relationship when the child was conceived (married, cohabiting or fleeting).
- The father's remarriage, and his having a new child.
- The mother's marriage to a new husband, with a higher or lower income.

In the following analysis, we compare the responses given to each variant case with the baseline scenario responses from the same group of respondents. We focus on the key messages, but there is a strong statistical foundation underlying each analysis.<sup>20</sup>

## Does the British public make a link between a non-resident father's child maintenance obligations and the amount of time he spends with his child?

UK law largely makes no link between a non-resident parent's child maintenance obligations and the extent of contact with any children. In particular, the father must pay maintenance at the prescribed level even if he never sees his child and regardless of the reason for his not doing so. Child arrangements orders for the child to spend time with the non-resident parent are not 'enforceable' by the suspension or reduction of child maintenance awards. This is not merely a theoretical point: it affects large numbers of families. Around 35 per cent of parents with care say their child has no contact with the non-resident parent, although only 15 per cent of non-resident parents say that they have no contact with their children (Peacey and Hunt, 2009).

However, the statutory child maintenance formula does reduce the maintenance liability by one-seventh where the child stays overnight with the non-resident parent for at least 52 nights of the year, or an average of once a week. Our baseline vignette assumed such a parenting schedule, and our comparisons to the CSA amounts took this statutory reduction into account. The statutory scheme provides for greater reductions as the number of overnights increases: each further tranche of 52 nights a year yields an additional one-seventh reduction, until 50/50 contact is reached, at which point the liability is slightly more than halved.<sup>21</sup> Under the latest CMS rules, if it is possible to say that the parents provide equal day-to-day care for the child, neither parent is classified as 'non-resident' and no child maintenance is payable at all. However, such precise equality is difficult to show. The reductions in maintenance are proportional to the reductions in overnights, as 52 days is a seventh of the year, although implementing it in 52-night tranches means it is a rather rough approximation for any of the many possible arrangements near the border

<sup>20</sup> The fitted values for each scenario, as shown in the graphs, are based on hierarchical linear models (HLMs). In each HLM for a specific vignette against the baseline (for that group) there are terms for the constant, the father's income, the mother's income and the father–mother income interaction. There are also interaction terms for the particular vignette on the constant term, father's income, mother's income and the father–mother income interaction. In all cases in the paper (except the father declining contact, with no statistically strong effects from the interaction terms) the interaction with the father's income is statistically significant, usually to a strong degree ( $p = 0.003$  is the weakest). In no cases is there an interaction effect via the mother's income – or at least not directly. For the mother remarrying a high earner, there is an effect via the father–mother income interaction term; as is also the case for the mother blocking contact ( $p = 0.05$ ).

<sup>21</sup> Calculated as 50 per cent of the standard CSA assessment, minus a further £7 for each child; for details see: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/319134/how-is-child-maintenance-worked-out.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319134/how-is-child-maintenance-worked-out.pdf) (Accessed 11 January 2015).

between tranches.<sup>22</sup> But however the adjustment is made, one could argue that it encourages non-resident parents to seek more overnights, and parents with care to resist them.

The reductions are based on an assumption that direct expenditures on the child shift from the parent with care to the non-resident parent as the non-resident parent takes on more overnights. This is plausible with respect to variable costs, such as groceries. But there are also fixed costs, such as the child's housing. The non-resident parent who often has the child overnight may well incur those in increasing amounts as the number of overnights increases. The more time the child spends with him, the more likely he may feel the need to provide the child with his or her own space, and to duplicate other child expenditures as well, rather than to constantly move clothing, toys, bicycles, and the like between households. Yet these additional expenditures for the non-resident parent do not reduce the costs of the parent with care. It is rather that when both parents have a substantial number of overnights, total costs rise because of such duplication. Reducing the maintenance amount to reflect all the additional costs the non-resident parent incurs effectively puts all the added costs of such duplication onto the parent with care. Conversely, a non-resident parent could argue that a one-seventh reduction in his maintenance liability is not sufficient to cover the additional costs of accommodation appropriate for the child to stay overnight. Several US states have considered or adopted visitation adjustments that take this problem into account by allocating these increased costs between the parents in proportion to their incomes.<sup>23</sup>

So does the British public agree with the statutory adjustment for overnights? After being asked about the baseline family with its relatively 'traditional' contact arrangement, three random subsets of survey respondents were each asked about a second family situation, identical to the baseline save for a difference in the contact arrangements. **Box 3** lists the contact arrangement for each of these second families and the corresponding statutory maintenance adjustment.

<sup>22</sup> See Child Support Maintenance Calculation Regulations 2012, reg. 50.

<sup>23</sup> The fullest description and explanation of such an adjustment is contained in the report of an Arizona committee that proposed its adoption in that state. *Final Report And Recommendations Of The Child Support Guidelines Review Committee*, submitted to the Arizona Judicial Council March 25, 2010, at page 32. Versions of the Arizona proposal have been adopted in Indiana and New Jersey.

## 22 Child maintenance: how would the British public calculate what the State should require parents to pay?



### BOX 3: STATUTORY CHILD MAINTENANCE FORMULA FOR THE DIFFERENT CONTACT VIGNETTES

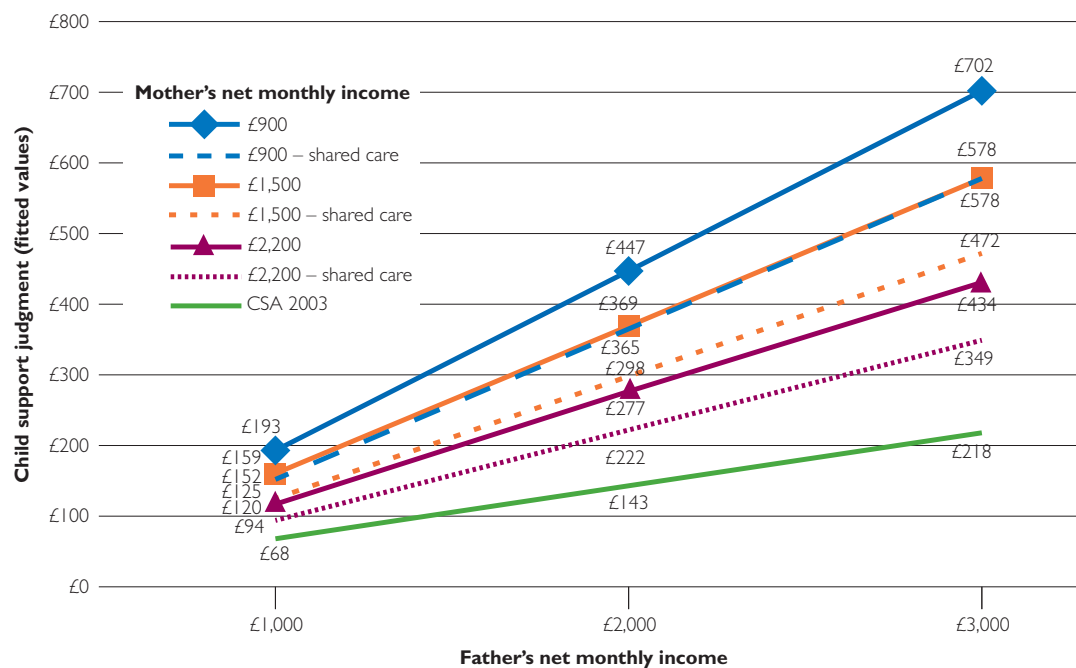
| Contact situation in the vignette   | Statutory adjustment in standard cases   |
|---|--|
| <i>Baseline: Non-resident father sees his child twice during the week and his child stays overnight once at the weekend</i> | <i>Statutory amount reduced by 1/7</i>   |
| Non-resident father sees his child twice during the week and once at the weekend, but the child does not stay overnight     | No adjustment  |
| Non-resident father looks after his child for half of the time (alternate weeks), sharing the care equally with the mother  | Amount reduced by just over half, or sometimes to zero if it is clear that there is no non-resident parent |
| Non-resident father has no had no contact with his child in the past year   | No adjustment  |

The mean monthly maintenance payment our respondents favoured for the no-overnight case was £384 per month, compared to £381 per month baseline with overnight stay. These amounts are not statistically significantly different. On the other hand, when the father has the son half of the time, the public thinks that his maintenance obligation should be 20 per cent less: an average of £295 each month (**Figure 3**). Ninety-four per cent of respondents made some adjustment to their baseline figures in the equal care vignette, though only 39 per cent made adjustments for all nine income combinations they were given. The average percentage reduction compared with the baseline, looking at individual responses (i.e. not weighting for the size of the maintenance required), was closer to 40 per cent.

Because we did not ask about cases in which the father had the son for more than 52 nights but less than half the time, we do not know at what point the father's share of care would be large enough to trigger most respondents to adjust their maintenance amounts, or to what extent their adjustments are proportional to the care arrangement.

Nevertheless, the public's treatment of the shared-care cases suggests that they do not favour the strictly proportional reductions set by the CSA schedule. The statutory calculation essentially halves the non-resident parent's maintenance obligation when the child spends the same number of nights per year with each parent, but the public reduces the father's obligation by only 40 per cent, on average (with a smaller, 20 per cent, reduction in aggregate amounts). Only one in eight (12 per cent) simply halved the amount they gave in the baseline scenario. Moreover, under the current law the child maintenance obligation is eliminated entirely if the parents provide precisely equal levels of day-to-day care for the child, a position taken by only 19 per cent of our respondents in the shared-care case. This difference may result in part from the

Figure 3: Mean monthly child maintenance judgments – equal care vignette, compared to baseline vignette



fact that our respondents were given both parents' incomes, while the CSA schedule takes no account of the income of the parent with care. Eliminating child maintenance when care is equally shared seems sensible if the parents are equal earners, but not if one earns noticeably more than the other. But that distinction cannot be made in a system that does not consider the parent with care's income. A regression analysis in the equally shared-care case confirms that both parental incomes matter to our respondents; moreover, their reductions for shared care increase in amount with the father's income, but the amount deducted is even higher when the mother's income is lower. There is, of course, more room for reductions the higher the father's income, because the baseline maintenance amounts are higher in those cases. We cannot know for sure what our respondents would have done in a case with equally shared care and equal parental incomes, because we gave them no cases of equal-earning parents. But as can be seen from **Figure 3**, the public would not eliminate the child maintenance obligation entirely in any of the cases they considered.

## Does the British public make a link between a non-resident father's child maintenance obligations and whether he spends any time with his child, as well as the reasons for not doing so?

There was no significant difference between the maintenance amounts favoured by the British public in the baseline vignette and the no-contact vignette. This result is consistent with current UK law. However, several studies show that at least some separated parents themselves do link maintenance and contact, leading to conflict about and trade-offs between the two (e.g. Bryson et al., 2013c; Wikeley et al., 2008; Peacey and Hunt, 2009). This study finds the British public also connects the two in at least some cases in which an explanation is provided for the father's lack of contact. Two explanations were considered. After responding to the baseline vignette, one subset of survey respondents were asked to set maintenance amounts in a case in which 'the mother has encouraged the father to see his son, again and again, but the father hasn't done so, for no good reason'. A second was asked about a case in which 'the father has tried to see his son again and again, but the mother has refused to let him, for no good reason'. The results for these two vignettes are shown in **Figures 4 and 5**, respectively.

Figure 4 Mean monthly child maintenance judgments – father declining contact compared to baseline vignette

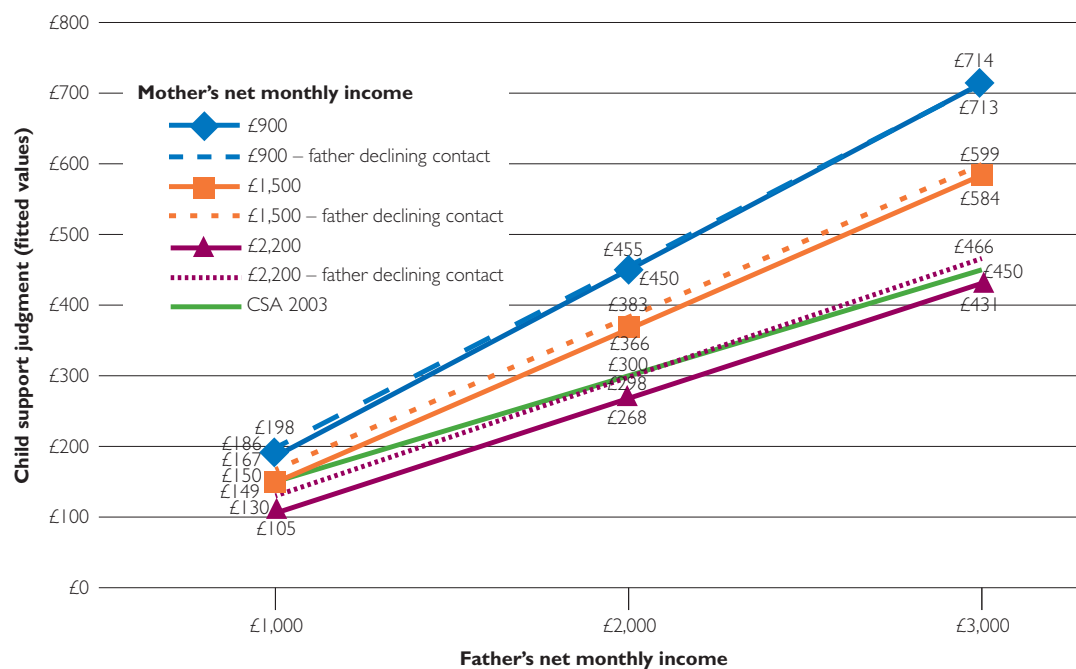
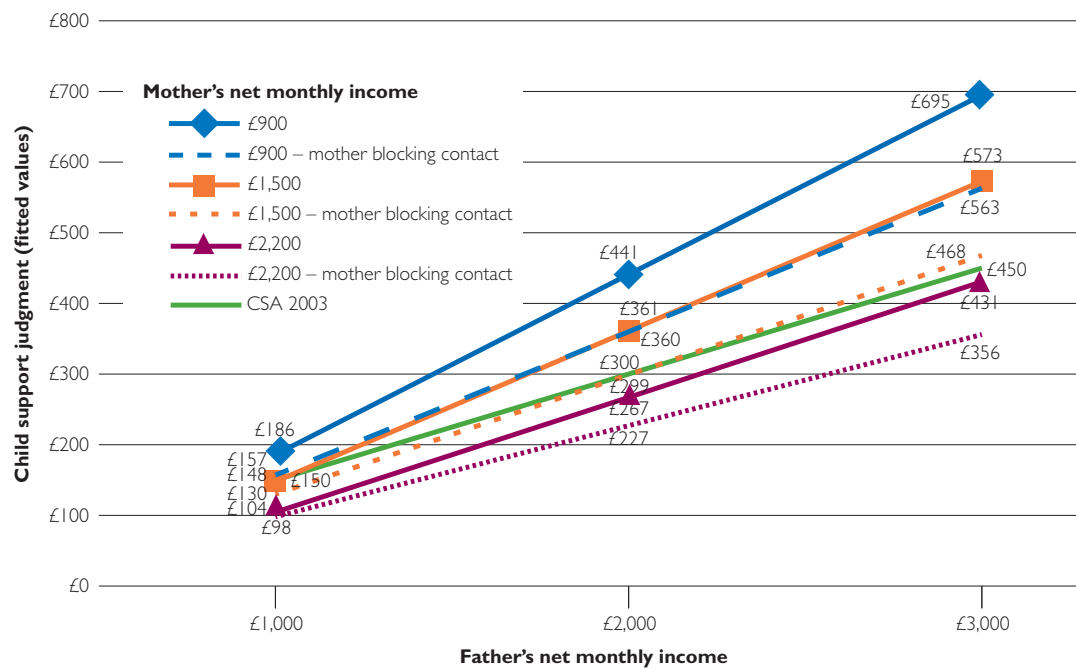


Figure 5 Mean monthly child maintenance judgments – mother unreasonably blocking father's contact, compared to baseline vignette



Statistical analysis confirms the impression from **Figure 4** that there is no significant difference between the maintenance amounts our respondents favour in the baseline case, and the case in which the father declines contact. It is not surprising that the British public believes non-resident parents cannot reduce their maintenance obligation by refusing to see their children; indeed, one might have wondered whether they would increase the maintenance obligation in such cases. But on average, they did neither.

The picture is very different where the mother unreasonably stops a father from seeing his child. Here the public imposes a large financial penalty on the mother by reducing the father's maintenance payments, on average, by a third (£243 compared to £367 per month). Twenty-six per cent of the public thinks that the father should not be required to pay any maintenance in this situation. This is the only scenario in which the public would require fathers to pay less than the statutory child maintenance formula for all three fathers' incomes for the highest-income mothers, and for some middle-income mothers. Statistical analysis shows that the penalty imposed on the mother increases with the father's income, especially for lower-income mothers. These are, of course, the cases with the highest maintenance amounts in the first place, and thus have the most room for reductions arising from the mother blocking the father's contact.

## Does the British public think that the parents' previous relationship is relevant to the father's maintenance obligation?

The additional vignette presented to two groups, after having answered the 'baseline' vignette, involved a change in the description of the parents' prior relationship. In the baseline case the parents had divorced after a ten-year marriage. In these two groups, the parents had not been married. One set of respondents was told –

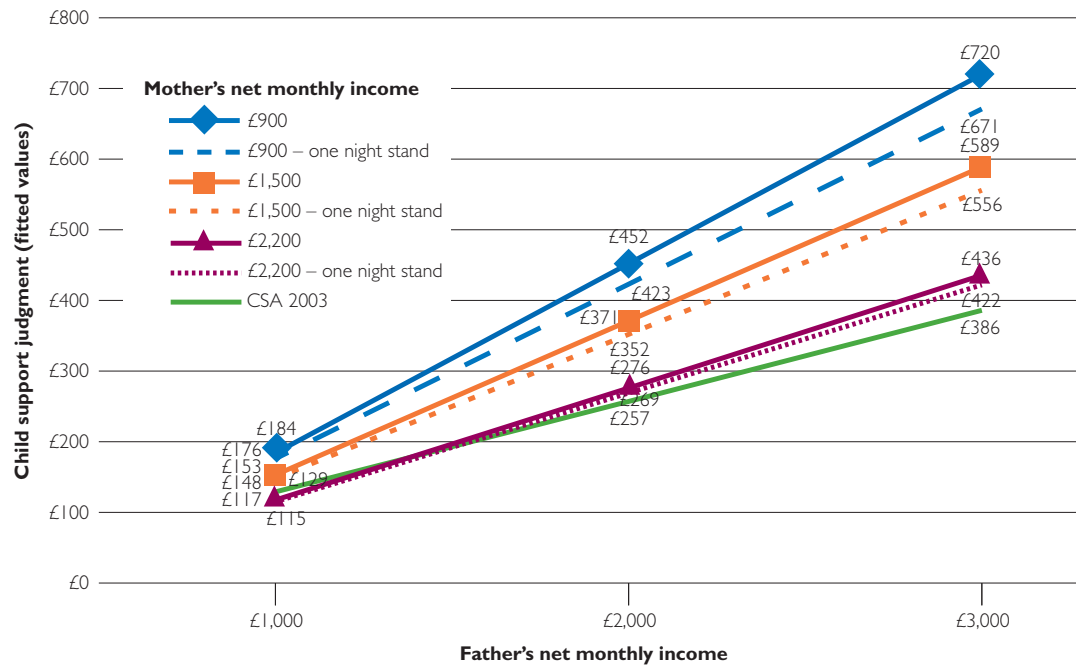
*In this family the parents had never married. They had lived together for ten years and are now separated.*

And the other was told –

*In this family the mother got pregnant by the father on the night they met, but they never lived together, or had any relationship at all after that night.*

UK child support law is based exclusively on parentage; it attaches no significance to the parents' relationship with one another. The British public agrees that it does not matter whether parents had been married; there is no significant difference between the maintenance amounts they would require when cohabiting parents separate, compared to when married parents divorce. On the other hand, the mean maintenance amounts were significantly lower when the parents had had no relationship at all, apart from their single sexual liaison. Respondents apply a lower rate to father's income in the no-relationship case than they do in the baseline. The comparison is shown in **Figure 6**, where one can see that the difference is not large, averaging about nine per cent overall (from £374 each month to £341). Moreover, only relatively small minorities of respondents proposing cuts were responsible for these changes in the mean amounts.

Figure 6 Mean monthly child maintenance judgments – child conceived following a ‘one night stand’ compared to baseline



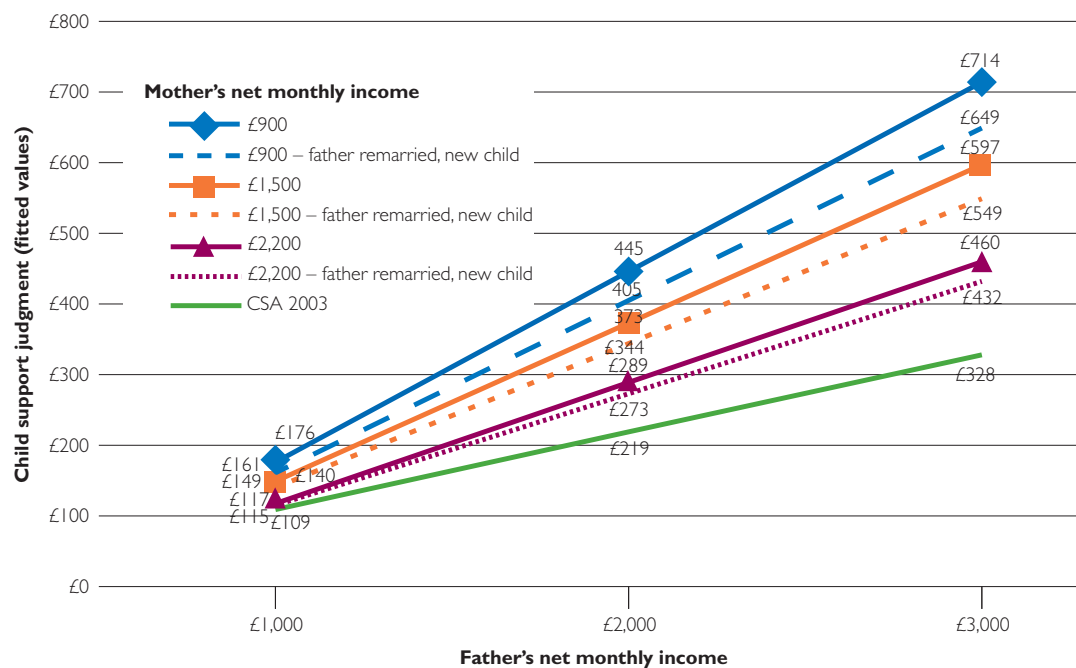
## How should the fact that a non-resident father has a new wife and child have an impact on his child maintenance liability, in the view of the British public?

The current rules permit a lower level of child maintenance when a non-resident parent has a new child or stepchild in his household. This rule invites the question of whether the law should accord any 'priority' between non-resident parents' children. The underpinning policy (and priority) has not always been clear. The most recent iteration of the rule using the non-resident parent's gross income aims to allocate broadly similar amounts of maintenance to both sets of children (though with slightly more reserved for children in his household than is payable in support to the other

children). The vignette we used tested whether it mattered if the father had both a new wife *and* a new child. The statutory formula makes no allowance for the presence of a new partner (or other adult dependant, who might be expected to increase the non-resident parent's costs or, conversely, contribute to the household income). However, the non-resident parent's income used for assessing child maintenance (and hence the maintenance obligation in most cases) is reduced by 15 per cent by the presence of the new child in his household, under the net income calculation used at the time of our survey. For example, for a non-resident parent with a monthly net income of £2,000, his maintenance obligation drops from £300 ( $£2,000 \times 0.15$ ) to £255 ( $£2,000 \times 0.85 \times 0.15$ ) if he has one child in his new household (leaving aside any overnight stays with the relevant child, as happens in our vignettes).

When asked about a case with a new wife and child, on average, our survey respondents made a reduction very close to that which is applied under the statutory formula based on net incomes (**Figure 7**). However, that mean position masks what is a rather larger reduction made by a minority (37 per cent) of respondents who proposed reducing the child maintenance. As in other cases discussed above, the amount of the reduction varied with the father's income: the higher his income, the greater was the reduction. Or put another way, the larger the award in the baseline case, the greater the reduction in the new child and wife case.

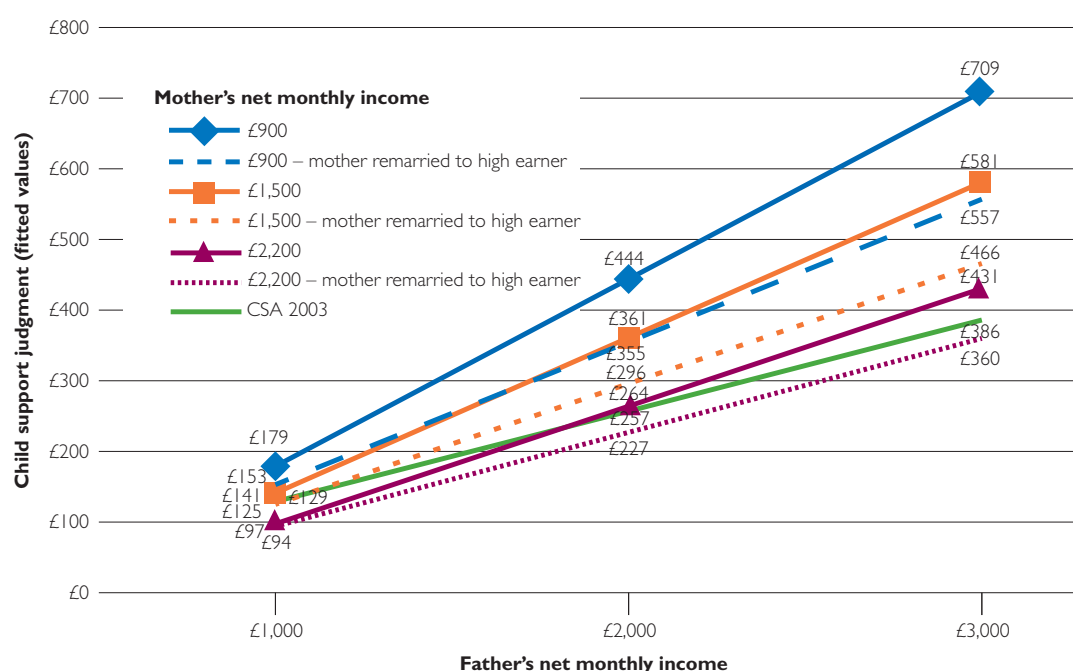
Figure 7 Mean monthly child maintenance judgments – father remarried with new child, compared to baseline



## Does the British public take account of a resident stepfather's income when deciding on a non-resident father's child maintenance obligations?

Just as the parent with care's own income is irrelevant to the operation of the current statutory formula, so any new partner of hers is irrelevant, whatever his contribution to her household income. The non-resident parent's liability is unchanged. Three of our vignettes sought to measure how far the British public believes a stepfather's income (of differing levels) should affect the non-resident father's maintenance obligations. Given that our respondents give significant weight to the mother's own income in the baseline case, it is perhaps not surprising that they also take the income of a mother's new husband into account. For instance, where both parents are on middle incomes, and the new husband has a monthly net income of £3,000, our survey respondents on average favour maintenance amounts of £296 per month, 18 per cent lower than the £361 they favoured in the baseline case. **Figure 8** compares the amounts favoured at each of the nine income combinations for the baseline case and the case of the remarried mother whose new husband has a high income. One can see the public favours substantially lower maintenance amounts for the remarried mother. The gap

Figure 8 Mean monthly child maintenance judgments – mother has new high-income husband compared to baseline





between the baseline and this remarriage vignette grows with the father's income, as the slopes of the lines are all considerably less steep for the remarried mother. But the public is far from unanimous on this issue: just over half (55 per cent) favour a lower amount for this remarried mother who forms a household with a higher-income new husband (45 per cent if he has a low income). The average position therefore once again masks this difference of view: this minority group make a rather substantial reduction, while a sizeable minority make no change at all.

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## Policy conclusions


The Government is making radical changes to the statutory child maintenance system, intended to encourage separating and separated families to negotiate and manage their own post-separation arrangements rather than turn to the State. Revision of the statutory child maintenance formula, however, is not currently on the reform agenda. Perhaps it should be, as this paper provides evidence that the British public favours changes in the formula's design that would affect the levels of maintenance. Most obviously, the public would prefer a formula that, in calculating the maintenance amount, gave considerable weight to the income of the parent with care.<sup>24</sup> The views of the British public should surely form part of any government's decision-making process, not least given the immediate relevance of family separation and its financial consequences to many individuals.

Previous governments sought to simplify the formula in order to make the statutory system easier to administer; to increase transparency, and attempt to increase the numbers of non-resident parents meeting their maintenance obligations. The decision to simplify the formula in 2003 was driven by administrative challenges arising from IT problems and the high volume of cases (generated by requiring means-tested benefit claimants to use the system). Today, the workload is reduced (partly because benefit claimants are no longer required to use it) and the IT system is improved. What is more, compared with a decade ago, there is much greater potential for parents to directly access online calculators, providing them with a simple process for calculating maintenance obligations. As a result, there may be a case for government to revisit the potential for a formula with at least some greater nuance.<sup>25</sup> A review of the suitability of the current formula should take account of the views of the British public. Any formula for setting child maintenance obligations necessarily reflects particular value judgments that balance the claims of the child for support, the claims of the parent with care for a contribution towards the child's support, and the claims of the non-resident parent for autonomy in deciding how to spend his own earnings (Ellman and Ellman, 2008). This study tells us much about the value judgments that the British public makes in balancing these concerns. The public's judgments are particularly

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<sup>24</sup> Since 1994, the British Social Attitudes survey series has shown strong public support for a maintenance calculation based on the parent with care's income.

<sup>25</sup> While we discuss the potential implications of individual changes to the formula, the combination of one or more of these changes may introduce added complexities, the impact of which would need to be assessed.



relevant in this legal domain, about which so many citizens have direct experience. That is not to suggest the public's views are the only relevant consideration. Among other things, there are practical issues of workability and enforcement. Yet it is also plausible to think a system better aligned with the British public's beliefs about what the law should require might draw more public support.

The Government has no plans at present to revise the formula. It is instead focused on encouraging family-based arrangements that offer parents increased scope to make maintenance arrangements that diverge from the statutory formula, taking into account extra-legal factors. Yet one cannot assume that all maintenance arrangements resulting from these private arrangements are necessarily appropriate. There are many pressures on parents, both interpersonal and external, that research shows affect their negotiations. The success of any system for setting maintenance amounts, including the new system of reliance on family-based arrangements, must be judged in part by asking whether the results accord with the values that we believe these arrangements *should* reflect. In making that judgment, it is surely important to understand the values that the British public believes should apply to these decisions.

The responses of our survey respondents suggest that, were the British public asked to design a child maintenance system, the formula used to calculate child maintenance would be different from the statutory formula currently used in the UK in several respects.

First and most importantly, **the British public would take into consideration both parents' income when fixing an appropriate level of child maintenance.** Both the absolute and the relative incomes of the parents are important in this judgment. This is in stark contrast to the current formula, which is based exclusively on the non-resident parent's income. While the decision in 2003 to move to this sort of simple formula undoubtedly eased the administrative burden on a failing statutory system, the views of the British public may give cause for government to revisit this issue. Further discussions would be required about the administrative challenges of including the income of the parent with care in the formula. Where the CMS is involved, the parent with care has applied for a calculation, so obtaining their income should be straightforward, although regularly updating it would increase the administrative burden. If HMRC records were used as evidence of income for both parents (as they are now for non-resident parents under the new gross income system), then accessing the data should be feasible, although not without resource implications. The public would regard a formula based on both incomes to be fairer, and if separated parents involved in maintenance arrangements took the same view, this might help improve compliance.

Secondly, **the British public's preferred formula is more redistributive in nature than the current formula.** The current formula uses a flat percentage of the non-resident parent's income, whereas the public would increase the percentage


payable by the non-resident parent along with rises in that parent's income. Accommodating this need not be administratively complicated. It would enable children to share more equally the living standards of their non-resident parent. At the other end of the income distribution, a system based on lower-income non-resident parents paying a lower percentage of their income may alleviate the risk that fulfilment of child maintenance obligations puts the non-resident parent in poverty. Careful work would be required to translate this basic principle into practice, but the potential is there.

Thirdly, **the British public would generally set higher statutory maintenance amounts than the current UK formula for non-resident parents with incomes higher than the parent with care.** This result was favoured regardless of the demographic characteristics of respondents. In the case of a low-income non-resident parent paying maintenance to a high-income parent with care, the maintenance level currently required was perceived as being largely appropriate. A formula based on the public's preferences would have positive implications for children's living standards, lifting some children in poorer households above the poverty line. The public favours much more modest increases in the maintenance obligations of lower-income non-resident parents, and there may be good reasons to resist even these relatively small adjustments. Clearly the implications for non-resident parents of any large increase in their obligations must be considered, to ensure that appropriate trade-offs are made.

Last, and related to consideration of the parent with care's income, is the relevance of income brought into the child's household by a step-parent. **The public supports a considerable drop in the maintenance obligation of the non-resident father when the parent-with care mother remarries, particularly when the stepfather has a high income.**<sup>26</sup> (One might wonder whether the public would treat at least some kinds of non-marital repartnering in the same way, but we cannot answer that question from our data, as the vignettes we gave our respondents all involved remarriage.) The public appears to take into consideration the contribution that the step-parent makes to household expenses. Whether or not the public believes step-parents should be legally required to support their stepchildren, it would seem they believe the father's legal obligation should take into account the economic and social reality that they usually do.

**The public supports current rules that reduce payments by non-resident parents who have other children in their new household, as well as reduced payments in 50/50 shared-care cases.** The current child maintenance scheme makes a subtle but significant distinction between the case in which the child spends half his nights with each parent, and the case in which the parents, in

26 Since 1994, the British Social Attitudes survey series has asked respondents whether non-resident fathers should continue to pay child maintenance if the parent with care remarries. Public support for the non-resident father's continuing maintenance obligation has risen over this period, with decreasing (although still substantial) support for the idea that it should be contingent on the income of the stepfather. In 1994, 38 per cent thought it should continue, 15 per cent thought it should stop and 46 per cent thought it should depend on the stepfather's income. The respective figures in 2010 were 56 per cent, eight per cent and 37 per cent.



addition, provide the same amount of day-to-day care (measured directly, rather than by just counting the number of nights spent in each household). In the first case, the maintenance obligation is cut in half; in the second it is eliminated entirely, without regard to the parents' relative incomes. Cases in which parents truly share the hands-on care of their children equally remain relatively rare, although the new statutory presumption of 'parental involvement', though not intended to denote any particular division of the child's time, might nevertheless be perceived as a prompt in that direction.<sup>27</sup> In any event, the British public clearly supports reduced payments, but rejects the elimination of the maintenance obligation in cases of shared care. Their view would seem to follow almost inexorably that any new system must take both parents' incomes into account, as there is no reason why shared care should eliminate the maintenance obligation when the parents' incomes are disparate.

In general **the British public believes fathers who are financially able are responsible for helping to provide their children with amenities as well as a basic level of financial support.** This result is shown by the fact that the public favours maintenance amounts that generally continue to rise with the father's income past the point at which it would provide the child with a basic standard of living.

With family separation affecting the lives of many parents and children, it is appropriate that the views of the British public should form part of any government's decision-making process about the financial support of children after separation. At a point when the Government is making radical changes to the statutory child maintenance system, this study provides timely evidence that the British public would support several changes to the current child maintenance formula which, if complied with, would be based on the incomes of both parents with care and non-resident parents, and would result in increased levels of maintenance liability.

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<sup>27</sup> Children and Families Act, 2014.




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## Appendix

| TABLE A: TYPES OF CHILD MAINTENANCE AGREEMENTS AND WHETHER RECEIVED |           |             |                        |         |
|---|-----------|-------------|------------------------|---------|
|   | Statutory | Court order | Family-based agreement | Overall |
|   | %         | %           | %                      | %       |
| <b>Whether such an agreement exists</b>                             |           |             |                        |         |
| Yes – for self  | n/a       | *           | 1                      | 43      |
| Yes – for children  | 21        | 4           | 19                     |         |
| Yes – for self and children   | n/a       | 1           | 3                      |         |
| No  | 79        | 95          | 77                     | 57      |
| Base (N) parents with children and a living absent parent           | 3,039     | 3,039       | 3,039                  | 3,039   |
| <b>Of which, you usually receive...</b>                             |           |             |                        |         |
| All   | 61†       | 50          | 82                     | 71†     |
| Some  | 15†       | 18          | 13                     | 14†     |
| None  | 24†       | 32          | 5                      | 15      |
| Base (N) with an agreement of each kind                             | 186†      | 155         | 643                    | 894     |

Notes:

\* less than 0.5 per cent but more than zero.

† **Understanding Society** only asks this question where respondents report that maintenance is paid directly to respondent (i.e. Maintenance Direct) rather than through the CSA Collection Service (30 per cent of parent with care respondents reported this to be the case, although CSA statistics suggest that the real figure over the survey period is closer to 13 per cent). CSA statistics suggest that the proportion of Collection Service cases in which any maintenance is paid is similar to the survey figures for the Maintenance Direct cases: in December 2012, no maintenance was being paid in 22 per cent of cases: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/286597/csa\\_qtr\\_summ\\_stats\\_dec13.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286597/csa_qtr_summ_stats_dec13.pdf).

Base is respondents with children where the other biological parent is not present (i.e. parents with care), minus those where that absent parent is deceased.

Source: authors' analysis of *Understanding Society*, Wave 3 data.