

23.03.21

**6 Deputy G.P. Southern of the Minister for Social Security regarding child maintenance (OQ.45/2023)**

Considering the provisions relating to child maintenance contained in the French Civil Code and the progress of the Child Support (Enforcement) Bill now on its Third Reading in the U.K., both of which target the ease with which child maintenance can be recovered, will the Minister agree to review the current means for recovery of maintenance under income support regulations with a view to improvement, and if not, why not?

**Deputy E. Millar of St. John, St. Lawrence and Trinity (The Minister for Social Security):**

The Deputy's question makes reference to U.K. and French systems which in this context are not relevant in Jersey. I believe that Jersey's legal system is fundamentally different to the U.K. and France in this area to the extent that our legal system lacks simple and effective enforcement provisions for the payment of child maintenance. I do not believe that the income support legislation is an appropriate place to introduce such powers.

**3.6.1 Deputy G.P. Southern:**

Does the Minister accept that there is no mechanism existing in Jersey to bring money to maintenance awards in ... I have lost this question. Will the Minister accept that there is no mechanism for social security to register this money as missing and to recover it?

**Deputy E. Millar:**

I do not entirely understand or follow the Deputy's question. I believe Jersey does have a mechanism for a person who has a maintenance order to seek to enforce that: they can do so through the Petty Debts Court. They can also do so, I believe, in appropriate circumstances, through the Royal Court where the order has been made by the Royal Court. I do not believe it is necessarily appropriate for Social Security to go and seek to recover child maintenance payments on behalf of customers. That is not necessarily the best use of taxpayers' funds. It would need the introduction of very new, very far-reaching and sweeping powers to me and my department. I am not sure that would be supported by this Assembly and, again, it is not necessarily Social ... if child maintenance is not paid, there may be families who are not on income support who are not receiving maintenance that should, and income support is not an appropriate place for those powers.

**3.6.2 Deputy S.Y. Mézec:**

Does the Minister accept that there may well be people who are facing hardship because of the non-payments of child maintenance which either they feel unable to pursue or cannot pursue, and during the time where they are not receiving that, may face extra hardship? Does she not think it would be helpful, whether it is in legislation or some other mechanism, for income support to have an ability to assist them with chasing that payment? She talks about the costs that there may be to taxpayers from that but ultimately it could save us money if they are receiving child maintenance and not having to receive other benefits to make up for it.

**Deputy E. Millar:**

I think the Deputy's question possibly proceeds on a misunderstanding that people who are due child maintenance do not receive income support. Parents can access income support benefits even when they are due to receive maintenance. We do expect them to try to enforce the payment of the maintenance, whether that is informally through discussion or formally through the courts.

Where someone is entitled to receive money from an absent parent, I do not think it is inappropriate to expect the absent parent to pay nor for the taxpayer to subsidise the absent parent's responsibilities in respect of their, his or her family. We do support income support and if it is quite clear that monies cannot be recovered from the other parent, that that will be taken into account in assessing the income support level payable to the non-receiving payment parent.

### **3.6.3 Deputy S.Y. Mézec:**

I do not think I at all suggested that those in receipt of child maintenance, or who ought to be in receipt of child maintenance, were not eligible for income support. What I was suggesting is that your income support entitlement will be balanced against other income sources you may have, such as child maintenance, but if that payment is not being made to you because the person who owes it to you is not fulfilling their responsibilities there, a person can face hardship and ultimately a child will face hardship in that situation where they are not being paid and having to rely on a reduced income support payment in the meantime. Does the Minister not think it would be helpful in those situations where a person is facing hardship through someone else's non-payment of child maintenance to help them chase it so that their household income as a whole is what it ought to be, that partial income support payment and the child maintenance that they are owed?

### **Deputy E. Millar:**

I am not sure I do agree that if powers are needed to help people it sits with income support. Anybody who requires to enforce a maintenance order and needs support should be given that support but I think that may arise through another process. There are significant issues, as has been the case in the U.K., I believe, with things like the Child Support Agency, the Child Maintenance Agency which has been very, very controversial where that body has stepped in to try to enforce a payment for maintenance against parents, which is a very difficult area for a Government to become involved in. I do believe we could perhaps talk to the Magistrate about improving the processes down there to make it easier for people to get enforcement orders and to then enforce those orders against the non-paying parent but I am not at all convinced that this sits with me as Minister and within the income support legislation.

### **3.6.4 Deputy C.S. Alves:**

Can the Minister comment on whether she thinks the 25 per cent disregard on child maintenance is appropriate? If so, why; if not, why?

### **Deputy E. Millar:**

Child maintenance is treated, I believe, as any other form of income. We treat other sources of income as it is an income and we allow to incentivise people to continue to receive other forms of income. We do disregard some of that income as 26 per cent and not 25 per cent. I do not think that we should make child maintenance any different from any other source of income.

### **3.6.5 Deputy C.S. Alves:**

Will this form part of her review at all?

### **Deputy E. Millar:**

We are reviewing the asset and income disregards as part of the review but I cannot give any confirmation as to what the outcome of that will be.

### **3.6.6 Deputy G.P. Southern:**

Is it the case that the resident parents, should they not be actively chasing maintenance payments, will get charged as if that maintenance was being paid and will be penalised thereby?

### **Deputy E. Millar:**

I do not believe that to be the case. I think, as I have said before, we do expect people to try to recover maintenance. I believe, however, where it is very clear that the maintenance cannot be recovered, for example, if the non-paying parent is themselves on benefit, I think we recognise the circuitous nature of trying to enforce that. But we do expect people to enforce, I think, where it is quite clear that that person cannot enforce if the non-paying partner is out of Island, for example, that that parent is not then penalised in their income support calculation.