



Professor Nick Hopkins  
The Law Commission  
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52 Queen Anne's Gate  
London  
SW1H 9AG

23 July 2018

Dear Professor Hopkins,

### LAW COMMISSION REPORT ON ENFORCEMENT OF FAMILY FINANCIAL ORDERS

Further to Dominic Raab's letter to you of 17 August last year, I am writing to provide the Government's full response to the recommendations made in the Law Commission's report, *Enforcement of Family Financial Orders*, published on 14 December 2016. I apologise that it has taken 18 months to provide you with a response, however the report was full and comprehensive and required careful consideration of your recommendations for reform.

The Government shares your concerns about the complexity of the current enforcement system which is open to exploitation by those debtors who choose not to comply with a court order, and we also accept that more should be done to assist those debtors who cannot pay.

The Government has considered carefully your 63 recommendations for reform. As your report explained, many of these do not require primary legislation to implement and could be taken forward through changes to court rules and by creating a clear and comprehensive procedural framework for enforcement which is easier for litigants in person and practitioners to navigate.

I have therefore asked my officials to work with the senior family judiciary, Family Procedure Rule Committee and HMCTS to explore amendments to the Family Procedure Rules 2010 and to operational procedures in line with your recommendations. In broad terms this will involve:

- Introduction of a free-standing comprehensive procedure for enforcement within the Family Procedure Rules 2010 and inviting the President of the Family Division to issue a supporting Practice Direction
- Introducing and / or amending guidance notes for users and practitioners about the court process
- Streamlining operational processes (for example charging orders) as far as it is possible
- Exploring operational changes in relation to types of judges (including lay justices and their powers) for dealing with enforcement applications
- Amendments to court forms or, if more appropriate, the introduction of new court forms

The Family Procedure Rule Committee's expertise will enable procedural rules to be developed which are clear and accessible to all court users, particularly litigants in person. The Government hopes these

reforms will enable those persons with a court order in their favour to effectively enforce these orders and obtain the money they are due.

I have also considered very carefully your recommendations which my officials assess require changes to primary legislation, namely:

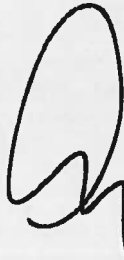
- Introduce pension sharing orders and pension attachment orders on enforcement applications
- Amendments to the scope of third party debt orders
- Amendments to the Matrimonial Causes Act 1973 to extend the power for orders for sale and the period of which arrears can be enforced without permission from the court
- Introduction of "coercive orders" for those debtors that can pay but deliberately choose to ignore a court order involving disqualification from driving and prohibiting travel outside the UK.

This also includes your recommendation to commence the provisions for information requests and information orders as provided for in the Tribunals, Courts and Enforcement Act 2007. However, your proposals go beyond commencing these provisions and suggest additional modifications and limitations on the operational processes to enable its operation in the family court.

As you will recognise, the demands on parliamentary time currently are significant. I propose that the work on creating a clear and comprehensive procedural framework should be taken forward as a first phase of reform before coming to a final view on whether additional measures are required to make the system of enforcement more effective, with the use of primary legislative powers. In considering the potential impacts on individuals of disqualification from driving, it is desirable to explore how this approach is working in relation to child maintenance arrears, to ensure any new measures introduced deliver the best outcomes for children and families and to minimise the potential for unintended consequences. It would also be desirable for the Government to consider together the unimplemented provision prohibiting travel outside the UK in relation to enforcing child maintenance and your proposal to adopt a similar approach in enforcing financial orders.

Due to the complexity of this area of law, I cannot give any indication of how long it will take to implement reforms to the existing process. However, I view this work as important and I will support the Family Procedure Rule Committee in progressing it in a timely manner.

Yours sincerely

A handwritten signature in black ink, appearing to be 'L. Frazer', written in a cursive style.

**LUCY FRAZER QC MP**